

# Congressional Record

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## PROCEEDINGS AND DEBATES

OF THE

FIRST SESSION OF THE  
SIXTY-SEVENTH CONGRESS

OF

THE UNITED STATES  
OF AMERICA

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# Congressional Record.

## PROCEEDINGS AND DEBATES OF THE SIXTY-SEVENTH CONGRESS FIRST SESSION.

### HOUSE OF REPRESENTATIVES.

THURSDAY, November 10, 1921.

The House met at 12 o'clock noon.

The Chaplain, Rev. James Shera Montgomery, D. D., offered the following prayer:

Almighty God, Thou art so patient to listen and so willing to hear. O consider us and let us go forth this day in the mood of high faith and purpose. Move us to deep earnestness to the present duties. If they are hard, O lead the way and enable us to press on with patient hearts and willing hands. Blessed Lord, in yonder place, now a holy retreat, there lies some mother's boy, a soldier lad. O God, take care of him. He once dreamed of long years and of an earthly path beneath cloudless skies and free from the keenness of mortal pain. But now he has shed his blood and died that others might live. We bow in humble gratitude and reverence at his bier, clothed in his country's flag and lit up with the deathless glow of eternal victory. May the diadem of fadeless glory rest upon the pure brow of the unknown mother forever. Grant that the holy bonds that were broken at the battle's front may be united in the kingdom of heavenly glory, ransomed by the love of our Heavenly Father for evermore. Through Jesus Christ our Lord. Amen.

The Journal of the proceedings of yesterday was read and approved.

#### LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted—

To Mr. OLIVER, for 10 days, to attend the celebration of Armistice Day by the Farley Moody Post of the American Legion.

To Mr. VARE (at the request of Mr. McDUFFIE), for two weeks, on account of illness in his family.

#### LEAVE TO WITHDRAW PAPERS—JOSEPH L. BECK.

By unanimous consent, leave of absence was granted to Mr. STRONG of Pennsylvania to withdraw from the files of the House without leaving copies the papers in the case of Joseph L. Beck (H. R. 654), Sixty-seventh Congress, no adverse report having been made thereon.

#### THE UNKNOWN HERO.

Mr. PARRISH. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD on the unknown hero. They will be very short.

The SPEAKER pro tempore (Mr. WALSH). The gentleman from Texas asks unanimous consent to extend his remarks in the RECORD on the unknown hero. Is there objection?

There was no objection.

Mr. PARRISH. Mr. Speaker, in all probability the next few weeks will be the most telling in the history of the world. On Friday next, the 11th day of November, A. D. 1921, the American people, through their representatives and in person, will march with bared heads and tearful eyes to the great Amphitheater in beautiful Arlington, where the body of the unknown American soldier, escorted by living comrades wearing the badges of distinguished valor upon their breasts, will be tenderly laid in its last resting place, and America's tribute will be paid to her unknown dead. Before the tears of sorrow have dried from the eyes of a grateful people—yes; even before that great funeral procession has broken ranks—there will assemble in the Nation's Capital representatives from the leading countries of the world for the purpose of determining officially whether or not this hero died in vain, and I pray God that the spirit of that unknown hero will counsel earnestly with that distinguished body of representatives, and that the prayers of millions of mothers of the world will hover like a sacred benediction over them, to the end that the civilization of the future may be spared the tragedies of war, and that universal peace, with all of its glorious blessings, will become the absorbing hope of the human family.

The Christian church and all fraternal, patriotic, and far-seeing organizations should exert the very last effort of their respective memberships in seeing to it that this conference is a success. It is our burden to make sure that the unknown American hero, typical of all who died in the late struggle, did not give his life in vain, but that when his noble spirit took its flight to the great beyond the mad demon of war as a human institution likewise passed from the earth. If the American dead could only know that such was the fruit of their sacrifice, their immortal spirits, now mingling with the departed saints, would sing a new song in that Heaven of Heavens, and their bodies would sleep in peace within the silence of the tomb.

#### ARMISTICE DAY.

Mr. UPSHAW. Mr. Speaker, I ask unanimous consent to address the House for five minutes on the spiritual lessons of to-morrow.

The SPEAKER pro tempore. The gentleman from Georgia asks unanimous consent to address the House for five minutes on the spiritual lessons of to-morrow. Is there objection?

There was no objection.

Mr. UPSHAW. Mr. Speaker and gentlemen of the House, the profound conviction deepens in my heart that somebody ought to say on the floor of the Nation's Congress, the day before Armistice Day and the meeting of the disarmament parliament, the word that I am humbly and reverently seeking to bring.

Yesterday in the shades of the early evening we listened to the "vocal silence"—the wonderful eloquence of a wonderful silence, during which more than a hundred millions of patriotic Americans paid the tender tribute of grateful tears.

The President of the Nation, the Vice President and Speaker of the House, the Chief Justice of the United States, the Secretary of War, the Secretary of the Navy, and the general in chief of the victorious Expeditionary Forces of America, laid upon the bier of the unknown soldier the flowers that were at once the smile of a Nation and the smile of God. [Applause.]

This morning, just before the great stream of sorrowing citizens began to move by the beloved dust of this unknown hero, it was my honor and priceless privilege to place beside this casket a beautiful floral offering "From the War Mothers of Atlanta and Fulton County, Ga." Who can tell? It may be that the brave soldier boy was the son of some loyal son of the South who followed Robert E. Lee and Stonewall Jackson; it may be that he was the son of some brave son of the North who followed Grant and Sherman in that tragic misunderstanding that eventuated in "the strife of brothers." But this we do know, that since "the Sons of the Blue from the wind-swept North and the Sons of the Gray from the sun-kissed South met on the field of France," and "the spirit of Grant and the spirit of Lee" and the spirit of God met with them all as they met on the field of France, we have—God knows we ought to have—an all-embracing national fellowship that we never knew how to see or feel before. And every citizen worthy the name of patriot will rejoice always and everywhere to do everything possible to cement the sacred fellowship of the once-sundered sections of our common country. [Applause.]

But great as is this contemplation, deep as is this passionate anxiety, I feel constrained to lay upon the hearts of my beloved colleagues and upon every citizen of our beloved country this other vital contemplation: The eyes of the world are upon the United States of America and the disarmament parliament meeting on the day of the world's great jubilee as they have never been before on any other nation or any other hour.

Not only in America but all over the world the churches of the living God are on their knees praying that the leaders of the nations meeting here shall be led by the spirit of God in order that they may do the will of the Prince of Peace. Solemn compacts between men and nations have failed through the weary blood-stained centuries; treaties of peace have failed



while the suffering peoples of the earth have looked on in the agony of despair. I stand here to-day as a humble believer in Him who came preaching "peace on earth, good will to men" and declare my almost desperate conviction that a limitation of armaments itself will fail—for men fought and killed each other before firearms were ever known—all, all will fail, and treaties and agreements among nations will continue to be "scraps of paper" unless the rulers of earth and the people from whose consent they gain their power shall "go back to rock bottom and straighten up with God." All, all will fail without the regenerating and transforming power of the Christ of Calvary, the Prince of Peace, in the hearts of men and women everywhere.

It is related that in that dark and troublous hour just following the American Revolution when Tory and Liberalist were trying to graft their clash of ideas upon the instrument of the unformed Constitution, Benjamin Franklin arose and said:

Mr. Chairman, has it ever occurred to you and the men of this convention that we who are trying to project a Nation into the fellowship of the nations of earth have been very irreverent and shortsighted that we have never asked for help and guidance from the God of Nations? I move you, sir, that some God-fearing man among us be called upon to implead the Throne of Divine Grace that we who are trying to form and build a new-made Nation may be given the conscious fellowship and leadership of Almighty God.

Mr. Speaker, in this anxious and far-reaching hour, I speak in behalf of the empty-hearted mother of that unknown soldier lying yonder beneath the beauty of our flag and the wilderness of flowers and tears; I speak in behalf of 10,000,000 graves and more than 10,000,000 shadowed homes of earth; I speak in behalf of the almost shattered foundations of our cherished civilization, when I declare that nothing would so deeply impress the watching nations of the world as to see the members of the American Congress fall on their knees and cry in confession of sin and contrition of heart—

God of our Fathers be with us yet,  
Lest we forget, lest we forget.

[Applause.]

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. Craven, its Chief Clerk, announced that the Senate had passed bills and joint resolution of the following titles, in which the concurrence of the House of Representatives was requested:

S. 1880. An act providing for the appointment of Warrant Officer Herbert Warren Hardman as captain in the Quartermaster Corps, United States Army, to take rank under the provisions of section 24a of the act of Congress approved June 4, 1920;

S. 29. An act authorizing the Secretary of War to grant to Lloyd E. Gandy, of Spokane, Wash., his heirs and assigns, the right to overflow certain lands on the Fort George Wright Military Reservation, at Spokane, Wash., on such terms and conditions with respect to improvements to be made on the present target range as may be prescribed by the Secretary of War, or in lieu of such improvements to be made on the present target range the Secretary of War may accept a conveyance to the United States of such other lands to be designated by the Secretary of War as may be deemed suitable for a target range in exchange for such overflow lands; that to facilitate the acquisition of the necessary additional lands the Secretary of War is authorized to condemn land necessary and suitable for target-range purposes, such condemnation to be at the expense of said Lloyd E. Gandy, grantee, his heirs and assigns;

S. 2649. An act to extend the benefits of section 260 of the Judicial Code to Walter I. Smith, United States circuit judge; and

S. J. Res. 90. Joint resolution authorizing the Director of Aircraft Production, as holder of stock in the United States Spruce Production Corporation, to vote to sell the assets of the corporation and to impose conditions on such sales.

The message also announced that the Senate had passed with amendment the bill (H. R. 2232) in reference to a national military park on the Plains of Chalmette below the city of New Orleans, in which the concurrence of the House of Representatives was requested.

#### ENROLLED JOINT RESOLUTION SIGNED.

Mr. RICKETTS, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled joint resolution of the following title, when the Speaker signed the same:

H. J. Res. 151. Joint resolution to provide that deferred grazing fees received prior to December 31, 1921, shall be considered as receipts of the fiscal year 1921.

#### SENATE BILLS AND JOINT RESOLUTION REFERRED.

Under clause 2 of Rule XXIV, Senate bills and joint resolution of the following titles were taken from the Speaker's table and referred to their appropriate committees, as indicated below:

S. 1880. An act providing for the appointment of Warrant Officer Herbert Warren Hardman as captain in the Quartermaster Corps, United States Army; to the Committee on Military Affairs.

S. 29. An act authorizing the Secretary of War to grant to Lloyd E. Gandy, of Spokane, Wash., his heirs and assigns, the right to overflow certain lands on the Fort George Wright Military Reservation, at Spokane, Wash., on such terms and conditions with respect to improvements to be made on the present target range as may be prescribed by the Secretary of War, or in lieu of such improvements to be made on the present target range the Secretary of War may accept a conveyance to the United States of such other lands to be designated by the Secretary of War as may be deemed suitable for a target range in exchange for such overflow lands; that to facilitate the acquisition of the necessary additional lands the Secretary of War is authorized to condemn land necessary and suitable for target-range purposes, such condemnation to be at the expense of said Lloyd E. Gandy, grantee, his heirs and assigns; to the Committee on Military Affairs.

S. 2649. An act to extend the benefits of section 260 of the Judicial Code to Walter I. Smith, United States circuit judge; to the Committee on the Judiciary.

S. J. Res. 90. Joint resolution authorizing the Director of Aircraft Production, as holder of stock in the United States Spruce Production Corporation, to vote to sell the assets of the corporation and to impose conditions on such sales; to the Committee on Military Affairs.

#### ENROLLED BILLS SIGNED.

The SPEAKER announced his signature to enrolled bills of the following titles:

S. 904. An act for the relief of Elijah C. Putman;

S. 1408. An act authorizing the Rolph Navigation & Coal Co. to sue the United States to recover damages resulting from collisions;

S. 1894. An act to amend section 26 of an act entitled "An act making appropriations for the current and contingent expenses of the Bureau of Indian Affairs," etc.;

S. 2153. An act authorizing the owners of the steamship *Texas* to bring suit against the United States of America;

S. 513. An act granting a deed of quitclaim and release to J. L. Holmes of certain land in the town of Whitefield, Okla.; and

S. 1283. An act for the relief of the Chicago, Milwaukee & St. Paul Railway Co.; the Chicago, St. Paul, Minneapolis & Omaha Railway Co.; and the St. Louis, Iron Mountain & Southern Railway Co.

#### CORPL. LOMAN.

Mr. MICHAELSON. Mr. Speaker, I ask unanimous consent to proceed out of order for two minutes.

The SPEAKER pro tempore. The gentleman from Illinois asks unanimous consent to proceed out of order for two minutes. Is there objection?

There was no objection.

Mr. MICHAELSON. Mr. Speaker, I notice in the gallery one of my constituents, Corpl. Berger Loman, a hero of the World War. Corpl. Loman was awarded the congressional medal of honor, the croix de guerre with two palms, the medal militaire, the Montenegrin medal, and was cited for the Belgian war cross, the Italian war cross, and the Victoria medal with the four battle fronts. This makes him the most decorated American soldier. [Applause.]

Corpl. Loman enlisted at Chicago in 1917 and served overseas through the entire war. Corpl. Loman during the course of the war captured single-handed and alone in all 140 prisoners, bringing in at one time 70 and at another time 26 and at another time 14, and was the first soldier in the American Army to capture a German major and the first private decorated by Gen. Pershing at Chaumont, France. [Applause.]

At the Meuse-Argonne, with the assistance of another soldier, he turned a German 77 fieldpiece around and fired four shells on the retreating enemy before the company was counter-attacked. This feat broke the entire German line.

Through all these remarkable and heroic exploits Corpl. Loman came through unscathed. [Applause, the Members rising.]

## THE LIMITATION OF ARMAMENTS CONFERENCE.

The SPEAKER pro tempore. The Chair lays before the House the following announcement:

The Clerk read as follows:

At the opening session of the international conference on the limitation of armaments to be held Saturday morning at Memorial Continental Hall, Daughters of the American Revolution Building, located at Seventeenth and D Streets, Members of the House should arrive not later than 10 o'clock, since the doors will be closed at 10.15. Members will be admitted at the entrance on D Street.

## LEAVE TO EXTEND REMARKS.

Mr. CRAMTON. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD on the unknown dead.

The SPEAKER pro tempore. The gentleman from Michigan asks unanimous consent to extend his remarks in the RECORD on the unknown dead. Is there objection?

There was no objection.

## THE UNKNOWN SOLDIER.

Mr. BANKHEAD. Mr. Speaker, I desire to submit a request for unanimous consent, a request which I have never made heretofore during my service. I desire to incorporate in the RECORD a short poem dedicated to the memory of our unknown dead.

The SPEAKER pro tempore. The gentleman from Alabama asks unanimous consent to extend his remarks in the RECORD by inserting a short poem dedicated to the memory of our unknown dead. Is there objection?

There was no objection.

The poem is as follows:

## MILES IGNOTUS.

(By Gustave Frederick Mertins.)

You sought no golden Czeco and no Spicy Isles  
Called you to conquest; but along the drab,  
Unshining way to Duty, and to Death.  
Your feet unwavering went and then you died  
"Somewhere in France," somehow, God only knows.  
O Unknown Soldier! When at Arlington  
The scarlet leaves shall fall beside the gold,  
And russet leaves shall drift above them all,  
Our kindly Mother Earth will claim you once again.  
You shall not lie alone! Spirits of men  
Who died at Wheeler, Sheridan, and Dix,  
At Sherman, Jackson, Lee, and Beauregard—  
Men whom the dark seas claimed—men whom the air  
Released to dizzying death—all, all shall come!  
And there for all who died, the life shall wait,  
The shattering volleys leap, the bugle sing  
A high, clear prayer to God to guard their rest.  
You are our blessed Dead! But are you that alone?  
Time now reverts; I hear a mighty roar  
Of million voices raised to greet the Flag,  
I hear the tramp of columns swinging down the street.  
On wheel, on wing, on eager springing feet,  
On spurning keel, the boys go forth to war.  
I see the look of exaltation as they go,  
And shining in their eyes see once again  
The glance that glorified.  
You are the Spirit of the Flag! You are the Soul  
Of all the boys who went but did not die.  
The clods that fall upon your coffin bones,  
Are sown as seed for one Eternal Truth.  
All else must die! All else must be destroyed!  
O Unknown Soldier! When the pageant winds  
Through storied Arlington, Mortality shall then  
Raise Immortality whose bright light shall tell:  
"One Flag, one Country, and one Hope," till God  
Shall gather in His handiwork and will:  
Only the Infinite shall be.

## HOUR OF MEETING TO-MORROW.

Mr. MONDELL. Mr. Speaker, I ask unanimous consent that when the House adjourns to-day it adjourn to meet at 8.10 o'clock a. m. to-morrow.

The SPEAKER pro tempore. The gentleman from Wyoming asks unanimous consent that when the House adjourns to-day it adjourn to meet at 8.10 o'clock a. m. to-morrow. Is there objection?

Mr. GARNER. Reserving the right to object, may I ask the gentleman if he intends to adjourn from to-morrow until Monday?

Mr. MONDELL. I intend to submit such a request.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wyoming?

There was no objection.

## ADJOURNMENT OVER.

Mr. MONDELL. Mr. Speaker, I ask unanimous consent that when the House adjourns to-morrow it adjourn to meet on Monday next.

The SPEAKER pro tempore. The gentleman from Wyoming asks unanimous consent that when the House adjourns to-morrow it adjourn to meet on Monday next. Is there objection?

There was no objection.

Mr. MONDELL. Mr. Speaker, I ask unanimous consent to address the House for two minutes.

The SPEAKER pro tempore. The gentleman from Wyoming asks unanimous consent to address the House for two minutes. Is there objection?

There was no objection.

Mr. MONDELL. Mr. Speaker, gentlemen have received a mimeograph copy of suggestions made by the officer who is charged with the responsibility of providing for placing the membership of the House in line of march to-morrow, which contains the request that upon adjournment to-morrow Members remain in their seats until the Speaker, the majority and minority floor leaders, the chairmen and ranking members of the Committees on Military Affairs, Naval Affairs, and Foreign Affairs take their places in the aisle and at the head of the column of the House, to be followed by ex-service men.

This suggestion relative to the three committees that I have named was made because of the fact that provision has been made for the seating in boxes at Arlington of the chairmen of the three named committees—War, Navy, and Foreign Affairs.

It has occurred to me that it would be quite proper if in addition to this suggestion made by the officer in charge the chairmen and ranking members of what we know as exclusive committees would also fall in line at the head of the column. Of course, it is optional with gentlemen whether they do it or not; but it would seem to me quite seemly and proper for them to do so. That would include quite a number of committees in addition to the three named by the officer in charge. I submit that suggestion to Members to be followed if they deem it wise and proper to do so.

## THE TAX BILL.

Mr. FORDNEY. Mr. Speaker, there lies on the Speaker's table the bill H. R. 8245, known as the internal revenue tax bill, passed by the Senate, which contains 833 amendments, many of them trivial and not important. I ask unanimous consent, Mr. Speaker, that the bill be taken from the Speaker's table and the House disagree to all the amendments and agree to the conference asked for.

The SPEAKER pro tempore. The gentleman from Michigan asks unanimous consent to take from the Speaker's table the bill H. R. 8245, with Senate amendments, disagree to the Senate amendments, and agree to the conference asked for by the Senate. Is there objection?

Mr. ANDERSON. Reserving the right to object—

Mr. FORDNEY. I want to say that I understand the conferees will state to the House that before agreeing in conference to the amendment with reference to the difference in surtaxes between the House and Senate they will bring that matter back to the House and give the House an opportunity to express itself.

Mr. ANDERSON. I understand the gentleman to say that amendment No. 122 will be brought back in disagreement, thus giving the House an opportunity to vote on it.

Mr. FORDNEY. Yes.

Mr. LITTLE. Reserving the right to object, may I inquire whether the House will have an opportunity to vote on the 50 per cent amendment, aye or no, as to whether they want it or not?

Mr. FORDNEY. That is the purpose, to give the House an opportunity to express itself on whether they want 32 or 50 per cent or any other rate between those two.

Mr. LITTLE. The question is, Will the House have an opportunity to vote aye or no on the 50 per cent or will it be clouded by some rule?

Mr. FORDNEY. No; it will be brought back for the House to express itself as it sees fit on any rate—32 per cent or 50 per cent or any per cent between them.

Mr. LITTLE. Will there be any rule brought in that will take away that right?

Mr. FORDNEY. No; I have said that before any agreement by the conferees the matter will be brought back for the consideration of the House.

Mr. LITTLE. On the question of 50 per cent, aye or no?

Mr. FORDNEY. On any rate—32, 50, or any rate between.

The SPEAKER pro tempore. Is there objection?

Mr. GARRETT of Tennessee. May I ask, Mr. Speaker, to have the request for unanimous consent again stated?

The SPEAKER pro tempore. The request is to take from the Speaker's table the bill H. R. 8245, disagree to all the Senate amendments, and agree to the conference asked for by the Senate. Is there objection?

There was no objection.

Mr. GARRETT of Tennessee. Mr. Speaker, I present a privileged motion.



The Clerk read as follows:

*Resolved*, That the managers on the part of the House be instructed in conference to agree to Senate amendment numbered 122, without amendment.

Mr. LONGWORTH. Mr. Speaker, I reserve a point of order on that.

Mr. GARRETT of Tennessee. Let us dispose of the point of order first.

Mr. LONGWORTH. I would like to hear the gentleman's statement.

Mr. GARRETT of Tennessee. I can not conceive of any point of order.

Mr. LONGWORTH. I will reserve the point of order.

Mr. BANKHEAD. Mr. Speaker, I demand the regular order. The SPEAKER pro tempore. The gentleman from Alabama demands the regular order, and the gentleman from Ohio will state his point of order.

Mr. LONGWORTH. Mr. Speaker, I withdraw the point of order.

Mr. GARRETT of Tennessee. Mr. Speaker, this amendment No. 122 is the well-known amendment dealing with the surtax question. It seems to me that there is no reason why the House may not and should not at this time express its position upon that amendment. The amendment is very well understood. As the revenue bill passed the House the maximum average surtax rates were 32. As it has passed the Senate, the maximum average is 50 per cent. This is a matter of vital and far-reaching importance. The opportunity is now presented for the House to express itself upon that question.

Mr. STAFFORD. Mr. Speaker, will the gentleman yield?

Mr. GARRETT of Tennessee. For a question or for time?

Mr. STAFFORD. For a question.

Mr. GARRETT of Tennessee. I yield to the gentleman.

Mr. STAFFORD. Will not the House have an opportunity to express itself under the agreement stated by the gentleman from Michigan [Mr. FORDNEY]?

Mr. GARRETT of Tennessee. If "eventually, why not now"? [Laughter.]

Mr. STAFFORD. Because as a Republican I have faith in the word of the gentleman from Michigan. I believe that he will present that to the House for its expression of opinion upon that subject before action is taken upon it.

Mr. GARRETT of Tennessee. That may be a satisfactory reason to the gentleman from Wisconsin, and I certainly do not impugn the gentleman from Michigan, but the House legislates and—

Mr. CANNON. Mr. Speaker, will the gentleman from Tennessee yield to me?

Mr. GARRETT of Tennessee. Yes.

Mr. CANNON. I do not know how many more Representatives are in the same situation that I am, but I am not prepared at this time to vote on this matter. I listened to the statement or the request of the gentleman from Michigan [Mr. FORDNEY], and I hope to be prepared later on to express myself upon this proposition. I am not prepared to do so at this time. As I say, I do not know how many men are like unto me, because I do not know whether I am for or against the proposition—I have not read it, I am ashamed to say—and I suspect there are others in the House in the same situation.

Mr. GARRETT of Tennessee. Mr. Speaker, I am very sorry that my friend from Illinois, the legislator of longest experience in the House, is not prepared to vote on this matter, which has been the subject of discussion for so long a time. I know there are many gentlemen on that side of the House in a different situation from the gentleman from Illinois, because we have had every assurance that for many days quite a large number of gentlemen on that side have been prepared to vote on this matter. It is partly for their benefit, I will say, that I am offering this motion now.

Mr. LITTLE. Mr. Speaker, will the gentleman yield?

Mr. GARRETT of Tennessee. Yes.

Mr. LITTLE. I did not very distinctly hear the gentleman's motion as it was read from the desk, but am I right in thinking that if we vote "yea" on his motion we are voting for a 50 per cent surtax?

Mr. GARRETT of Tennessee. The gentleman is correct. Mr. Speaker, I do not desire to consume time. Does any gentleman on the other side desire time? I wish to retain control of the floor to move the previous question.

Mr. GREEN of Iowa. Mr. Speaker, will the gentleman yield?

Mr. GARRETT of Tennessee. Yes; I yield for a question.

Mr. GREEN of Iowa. I wanted to answer the gentleman's question.

Mr. GARRETT of Tennessee. I am not aware of the fact that I had asked any question. However, I yield.

Mr. GREEN of Iowa. The gentleman asked the question, if eventually, why not now?

Mr. GARRETT of Tennessee. Oh, yes; that is correct.

Mr. GREEN of Iowa. I would state this, that if we go into conference uninstructed, we will have a great advantage over going into the conference instructed, so far as the other amendments are concerned. The gentleman is aware of that as well as I, for he has been on a number of conferences.

Mr. GARRETT of Tennessee. Mr. Speaker, I can only say in response to the gentleman from Iowa that according to the statement which has been made by the gentleman from Michigan [Mr. FORDNEY] the conferees will have 832 other amendments on which to trade, and I think they could get along without this one. I am somewhat disappointed in the position of my friend from Iowa about this matter. Does the gentleman from Michigan desire any time?

Mr. FORDNEY. I would like to have five minutes.

Mr. GARRETT of Tennessee. I yield five minutes to the gentleman from Michigan.

Mr. FORDNEY. Mr. Speaker and gentleman of the House, I hope the House will not instruct the conferees on this very important matter. I have already stated to the House that before the conferees would agree on that amendment which relates to the surtax, the all-important amendment to the bill, perhaps, the conferees would come back to the House and give the House an opportunity to express itself upon that amendment. At that time, of course, the conferees could be instructed if the House so desired.

Mr. GARNER. Mr. Speaker, will the gentleman yield?

Mr. FORDNEY. Yes.

Mr. GARNER. If the conferees came back to the House and submitted this particular amendment 122, and the gentleman from Michigan should move that the House recede and concur in the amendment, and some other gentleman should rise in his place and move to recede and concur in the amendment with an amendment, would not the latter motion have precedence, and if we then did concur with an amendment would not that prevent the House from voting directly upon the 50 per cent?

Mr. FORDNEY. My sole purpose, and the purpose of the other conferees, is to bring back that question and give the House full opportunity to express itself upon it, however that might be done under the rule; but I do not want the House to tie the hands of the conferees at this time on a bill of such importance, which carries 833 amendments, many of them of great importance, although perhaps this one is of greatest importance to Members of the House. The conferees should be left free under the circumstances, particularly when it has been agreed that we will come back and give the House an opportunity to express itself upon this amendment.

Mr. REAVIS. Mr. Speaker, will the gentleman yield?

Mr. FORDNEY. Yes.

Mr. REAVIS. I have no desire to participate in instructing the conferees, but I have a very great desire to be permitted to vote in favor of concurring with the Senate amendment. I want the gentleman to be candid with me and tell me whether, if this motion is defeated, the conferees will come back to the House and give us an opportunity to vote squarely upon the Senate amendment—not upon some compromise of it, but on the Senate amendment itself.

Mr. FORDNEY. I should say on the Senate amendment. Perhaps the conferees may come back and say to the House what they believe they may be able to obtain in conference and permit the House to vote on any rate permitted in conference to be considered, from 32 to 50 per cent, or on more, so far as I am concerned.

Mr. REAVIS. Then the conferees, as I understand it, will give the House an opportunity to vote squarely upon the proposition of concurring in the Senate amendment.

Mr. FORDNEY. I should say without doubt that it is the intention of the conferees.

Mr. GREEN of Iowa. Mr. Speaker, will the gentleman yield?

Mr. FORDNEY. Yes.

Mr. GREEN of Iowa. May I have the attention of the gentleman from Nebraska [Mr. REAVIS] for a moment? I will say to the gentleman from Nebraska—and the authorities on the proceedings of the House, the gentleman from Georgia [Mr. CHRIS] and others here I am satisfied will not differ with me—that the conferees having come back here with a disagreement, it will be impossible to prevent the House having a vote on the 50 per cent amendment or anything else they want.

Mr. REAVIS. What I wanted to know is whether the conferees were coming back acting in perfect good faith with those who would oppose the motion of the gentleman from Tennessee [Mr. GARRETT] by giving them an opportunity, before

there is any agreement in conference, to vote squarely on the 50 per cent?

Mr. MONDELL. If the gentleman will allow me, the parliamentary situation is this: A motion is now in order pending the motion made by the gentleman from Tennessee [Mr. GARRETT] to recede and concur with an amendment. That amendment could be made 32 per cent, or any per cent between that and 50 per cent. I do not think such a motion should be made because there has been no opportunity to study the effect on the revenues or on the total revenue needed of any particular per cent of surtax; but when the House has gone to conference and the conferees come back, then the preferential motion is a direct motion to recede and concur. At this time a motion could be made and will be made, if the gentleman from Michigan [Mr. FORDNEY] thinks it wise to make it, to concur with an amendment of 40 per cent or any other amount. But when the bill comes back after having gone before the conference, the preferential motion is to recede and concur. So if the House wants an opportunity to vote squarely on that proposition they will vote down the motion of the gentleman.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. FORDNEY. Mr. Speaker, I ask unanimous consent for two minutes more.

The SPEAKER pro tempore. Is there objection? [After a pause.] The Chair hears none.

Mr. FORDNEY. The gentleman from Wyoming has stated the matter correctly, and I would really prefer that the resolution offered by the gentleman from Tennessee be voted down, and that the House wait until the conferees come back, so that we may take this and other amendments under consideration and see what we may be able to do and then be able to express ourselves to the House when a direct motion is made in the House.

Mr. BROWNE of Wisconsin. Will the gentleman yield for one question?

Mr. FORDNEY. I yield.

Mr. BROWNE of Wisconsin. Before voting on this question I would like to have one good reason advanced why this House, that has heard this discussion and read about it, is not qualified at this time to vote on the question of whether they want a 32 per cent tax or a 50 per cent tax. [Applause.] I have not heard any good reason.

Mr. GARRETT of Tennessee. Mr. Speaker, I yield 10 minutes to the gentleman from Georgia [Mr. CRISP].

Mr. CRISP. Mr. Speaker and gentlemen of the House, very rarely do I trespass upon your time and patience by addressing you, and I would not do it now but for the reason that I realize how important the action you are going to take to-day will be to the already overburdened taxpayers of the country and to the honor and dignity of this House collectively as a coordinate branch of the Government.

Now, gentlemen, this revenue bill, according to my way of thinking, is the most indefensible and inequitable tax bill that has ever been seriously proposed. I think a proper title for it would be, "A bill to shift the burdens of taxation from the backs of the rich to the backs of the poor." The effect of it when enacted into law, and it will be enacted into law because the Republicans have 170 majority, will be to make the rich richer and the poor poorer.

Mr. GREEN of Iowa. Will the gentleman yield?

Mr. CRISP. No; I will not.

In the last campaign, gentlemen, both parties in their platforms and in their speeches told the taxpayers they would reduce taxation and repeal these iniquitous, annoying, nuisance taxes. The Republicans won. This bill fails to keep the promise you made the people. Some of those taxes are repealed, some of them are reduced, but the greatest change in the tax is in the reduction of \$450,000,000 excess-profits taxes paid by the large corporations and to relieve those who are fortunate enough to have big incomes from paying high income surtaxes.

Now, in my judgment, the Senate amendments have greatly improved this bill. It is a better bill than when it passed the House, but there is one particular amendment to which I desire to confine my remarks, and that is amendment No. 122, the surtax amendment. Now, gentlemen, unquestionably the conscience and judgment of a large majority of this House is that these high incomes should pay a surtax of at least 50 per cent. When this bill originally passed the House the Democrats offered a motion to recommit, retaining these surtaxes as high as 65 per cent, and at least 50 of the independent, brave Republicans voted for that motion with the Democrats. It was a Democratic motion. I assume, of course, that those gentlemen still feel the same way. Certainly, if they favored 65 per cent, they can favor 50 per cent, and when you are voting to retain

this amendment at 50 per cent you are voting for a Republican amendment. It was put in in the Senate. If the progressive Republican Senators in the Senate could afford to provide this amendment, why can not the progressive Republicans in this House, who favor it, now vote for it?

Now, gentlemen, I love my chairman, Mr. FORDNEY, and I felt sorry for him when he was on his feet trying to answer some of the questions propounded to him by his colleagues on this side, notably the inquiry of the gentleman from Wisconsin [Mr. BROWNE]. Of course, he could not answer it. If the conferees tie themselves and agree to bring this amendment back, what advantage do they have in conference with trading? Do not the conferees of the Senate know that they are gagged and that they can not do anything? It is but a subterfuge to gain time for the Republican leaders to bring pressure to defeat 50 per cent surtaxes. Now, if you favor the Senate amendment why postpone action on it until the conferees report a disagreement on it. Why march up the hill and then march down again?

Mr. LITTLE. Will the gentleman yield for a question?

Mr. CRISP. I will.

Mr. LITTLE. May I not ask if you mean, if they keep their promise and give us a vote on it, they will not have anything to trade on?

Mr. CRISP. Absolutely not. On any proposition I have implicit confidence in the integrity of the conferees of the House.

But, gentlemen, you know the views of the majority of the conferees of both this body and the other body as to this amendment. You know what in their hearts they favor. They can not trade in conference on this amendment if you send it to them with the obligation to bring it back. My dearly beloved chairman says the conferees would discuss the matter and come back and report to you about what they can get. I tell you you can get 50 per cent right now. [Applause.] The Senate has passed it. If you adopt this resolution, the House conferees are compelled to concur in the Senate amendment just as it passed the Senate. The conferees will have no power to alter or modify it and it will become the law. [Applause.]

Now, gentlemen, as I said, I am sure the conferees will keep their word and report this amendment back, but you know when they come in here with it there are many slips between the cup and lip, and there are many slips in parliamentary law, especially under the rules of the House of Representatives. How much time have I, Mr. Speaker?

The SPEAKER pro tempore. The gentleman has one minute remaining.

Mr. CRISP. Will you give me credit for the time I was interrupted? Will the gentleman from Tennessee give me three minutes more?

Mr. GARRETT of Tennessee. I yield to the gentleman three minutes.

The SPEAKER pro tempore. The gentleman from Georgia is recognized for four minutes.

Mr. CRISP. I want to discuss for a minute the parliamentary features of the situation. Under the rules of the House when a bill is first up for consideration with Senate amendments a motion to concur with an amendment is preferential over a motion to concur straight. But that is past. They can not make that motion now, because this amendment has been disagreed to. When the Houses have disagreed and the conferees report a disagreement, then a motion to recede and concur straight is preferential over a motion to recede and concur with an amendment. But under the rules of the House a motion to recede and concur is divisible, and if it is divided and you vote first on the question to recede, and that prevails, then a motion to concur with an amendment is preferential over a motion to concur straight, so you see it is possible to prevent a vote on concurring in the Senate amendment just as it is now written.

Mr. GREEN of Iowa. Mr. Speaker, will the gentleman yield?

Mr. CRISP. I will not yield now.

Gentlemen, you who want to vote for this 50 per cent amendment, making the possessors of enormous incomes in this country pay \$50,000,000 more taxes than they will have to pay under the House bill, will you take any chance of losing what you want when, if you will vote for this motion to instruct the conferees, the matter is settled, and you absolutely know you will have income taxes of 50 per cent? The question is right up to you, gentlemen.

Now, if you send this back to conference, is not the effect of your action that the great House of Representatives, which our forefathers intended to be the body to prepare and originate legislation to raise revenue, will abdicate its power? In this case you are not abdicating your power to the Senate, a coordinate branch of the Government, but to 10 conferees. Will you do it? [Applause.]

Mr. MONDELL. Mr. Speaker, will the gentleman yield to me?



Mr. CRISP. No; I will not.

If you vote against this motion to instruct, that is the effect of your vote. [Applause.]

The SPEAKER pro tempore. The time of the gentleman from Georgia has expired.

Mr. GARRETT of Tennessee. Mr. Speaker, I yield to the gentleman from Ohio [Mr. LONGWORTH] three minutes.

Mr. MONDELL. The gentleman from Ohio is recognized. I do not want to take his time.

Mr. GARRETT of Tennessee. I yield to the gentleman from Ohio three minutes.

The SPEAKER pro tempore. The gentleman from Ohio is recognized for three minutes.

Mr. LONGWORTH. Mr. Speaker, I want to admonish my colleagues on this side of the House, and particularly those who desire to vote for an income-tax rate greater than that passed by the House, to give heed to that good old adage, "I fear the Greeks bearing gifts." [Applause on the Republican side.]

My friend from Tennessee [Mr. GARRETT] smilingly said a few moments ago that he was offering this amendment largely for the benefit of those gentlemen. We did not make this bill a political bill in the first place. It was made a political measure by gentlemen on that side of the aisle. Now they are undertaking to control this bill. [Applause.] The gentleman from Tennessee has said that he proposes to hold the floor, now that he is in charge, until he desires to move the previous question. He is trying to take you into camp, my friends [applause], and get the credit—such credit as there may be due—in pushing this thing through on his terms and not on our terms. The chairman of this committee has told you, has given you his word, that we, the Republican conferees on the part of this House, will give you an opportunity to vote for any rate you please. [Applause.]

Mr. SINNOTT. Mr. Speaker, will the gentleman yield?

Mr. LONGWORTH. Not now. They are trying to control you and whip you into line to do what they want.

Mr. SINNOTT. As to that adage which the gentleman quoted, is it not also true that "A bird in the hand is worth two in the bush"? [Applause and laughter.]

Mr. LONGWORTH. Well, there is a good deal of difference, I will say to my friend, as to who hands you the bird and what kind of a bird it is. [Applause and laughter.]

I prefer in this instance and regard it as the more appropriate the adage, "Fear the Greeks bearing gifts." [Applause.]

Mr. GARRETT of Tennessee. Mr. Speaker, I desire to yield to the gentleman from Wyoming such time as he desires.

Mr. MONDELL. I do not desire to deprive the gentleman from Iowa [Mr. GREEN] of time.

Mr. GARRETT of Tennessee. I promised these two gentlemen to yield to them. I wish to yield to him. I yield four minutes to the gentleman from Iowa.

The SPEAKER pro tempore. The gentleman from Iowa is recognized for four minutes.

Mr. GREEN of Iowa. Mr. Speaker, the gentleman from Georgia [Mr. CRISP] said he loved our chairman [Mr. FORDNEY]. I think he does have an affection for him. I certainly have an affection for my friend, the gentleman from Georgia. He is a dear personal friend, and I have enjoyed that relationship for a long time. But when he said he felt sorry for the chairman of our committee, that he was not able to answer the question propounded to him and refused to yield to me to ask him a certain question, I felt sorry for my friend, the gentleman from Georgia, and regretted that he felt called upon to criticize the chairman of the Ways and Means Committee for what he had been doing himself.

I felt sorry for him also when he attempted to state the parliamentary situation here to gentlemen on this side, and told you that conferees instructed, with their hands absolutely tied, could make as good a bargain as they could if they were not instructed. Why, I wonder how many times the gentleman from Georgia has talked to the contrary here on the floor. Gentlemen, you have every opportunity guaranteed to you by the conferees of this House. You now have the question to decide whether you as Republicans will control this bill or whether you will turn it over to the Democratic side for them to do with it as they see fit. Vote on this question to-day! Why? Gentlemen may be just as well informed at this time, but the committee is not as well prepared to submit this matter now as it will be later. Is there anyone here who distrusts the conferees, the chairman of the Ways and Means Committee [Mr. FORDNEY], the gentleman from Ohio [Mr. LONGWORTH], and myself? I think not. My friend, the gentleman from Georgia, said he had abundant confidence in the conferees.

Mr. ROSENBLUM. Will the gentleman yield for a question?

Mr. GREEN of Iowa. Yes.

Mr. ROSENBLUM. Is it not a fact that if the conferees agree and the House finally passes anything less than 50 per cent it will be the fault of the House and the conferees?

Mr. GREEN of Iowa. Certainly, if I understand the gentleman correctly.

Mr. ROSENBLUM. The Senate has put it up to 50 per cent.

Mr. GREEN of Iowa. The whole situation is simply this: Will you act for yourselves and with your fellow Republicans as conferees giving you everything that you can possibly get in any way at this time or any future time, or will you act with the Democrats and take what they give rather than to take it from your own conferees? [Applause.]

The SPEAKER pro tempore. The time of the gentleman from Iowa has expired.

Mr. GARRETT of Tennessee. Mr. Speaker, if I am correct in my account of the time, I have 26 minutes remaining.

The SPEAKER pro tempore. The gentleman has 26 minutes remaining.

Mr. GARRETT of Tennessee. I yield four minutes to the gentleman from Wisconsin [Mr. FREAR].

Mr. FREAR. Mr. Speaker and gentlemen, this seems to me to be a matter entirely divorced from politics. It is not a question whether Democrats or Republicans propose it. A Republican Senate has sent to us a proposition for 50 per cent limitation in surtaxes. Why can we not accept it in preference to the 32 per cent limitation as passed by the House. I opposed that rate then and do so now. I support the higher rate. What have you to gain by postponing action? Here is the situation. Let me bring it home to my Republican colleagues. When the soldiers' compensation bill passed the House with a 65 per cent surtax last session, we added 3 per cent to finance the measure, making a surtax of 68 per cent in all, and we voted for it almost unanimously on this side of the House and passed it. That is over twice the rate fixed in the House bill. Who best represents the people now, the Senate or the House? If we could do that then, why can we not accept a 50 per cent limitation that the Senate has now offered? The danger in postponement is suggested by the gentleman from Oregon [Mr. SINNOTT]: We have a bird in hand that is worth two in the bush. Why do we talk about Republican or Democratic leadership at a time like this upon a purely economic proposition? Who cares who offered the proposal to instruct? It is for us to decide what the American people want, and they want to put the burden of taxation on those best able to pay. It is dangerous to shift it on to those least able to pay as proposed by the 32 per cent House rate. Mr. Speaker, I have taken no part in conferences that have been held—I simply speak for myself. I have as high respect for the chairman of the Committee on Ways and Means [Mr. FORDNEY] as anyone has, but I insist that efforts to make retroactive the excess-profits tax repeal and the efforts to put through a dye embargo, and many other propositions under the guise of political expediency, are grave mistakes, and we are leading ourselves, or are being led, into a dangerous, indefensible position. No thinking man can fail to find a warning in the result of the elections held last Tuesday. We had better pay attention to the taxpayer and less to political strategy in the House. Let us vote for what we believe is right and what will help the people of the country. We will do so if we instruct the conferees to support the Senate amendment. [Applause.]

The SPEAKER pro tempore. The gentleman from Wisconsin yields back one minute.

Mr. GARRETT of Tennessee. I yield four minutes to the gentleman from Wisconsin [Mr. BROWNE].

Mr. BROWNE of Wisconsin. Mr. Speaker and gentlemen of the House, I thought I asked a fair question of the chairman of the Committee on Ways and Means when I put the question whether this House was not capable at this time of voting upon whether we should lower the surtaxes down to 32 per cent or accede to the Senate amendment of 50 per cent; but the distinguished chairman of the Committee on Ways and Means made no answer to that question.

Mr. FORDNEY. If the gentleman will permit me, I did not get his question—

Mr. BROWNE of Wisconsin. No satisfactory reason has been advanced why this House at this time, after hearing the discussion for weeks in the House and Senate, is not prepared to vote on the simple proposition whether we shall have a 50 per cent surtax or a 32 per cent surtax. I feel as if I was as prepared to vote on it now as next week or next month, and for fear I may never get an opportunity to vote on the proposition, I want to vote for it now. It looks to me as if the repeal of the excess-profits tax was a tremendous mistake.

But after you have repealed the excess-profits tax and lost \$450,000,000 that would have gone into the Treasury of the United States if you had retained it, and then propose to reduce the surtaxes from 65 per cent to 32 per cent, losing at least \$90,000,000 more to the Treasury, I feel that it is going too far. In reducing taxes you begin at the wrong end and ignore a fundamental proposition that the burdens of government should be borne in proportion to the ability of the citizen. You begin first with the man who gets over \$1,000,000 income and reduce the surtax on his income from 65 per cent down to 32 per cent. You say to the men who have an income of from \$500,000 a year to \$1,000,000 a year, "We will reduce your taxes from 64 down to 32 per cent." You continue right on until you get down to the man receiving an income of \$5,000, \$6,000, \$7,000, \$8,000, or \$9,000 or \$10,000, the man who perhaps needs some reduction, the man who has children to educate, the small-income man, and your reduction on his income practically amounts to nothing.

#### VIOLATION OF FUNDAMENTAL PRINCIPLES.

The reduction of surtaxes as proposed, and the repeal of the excess-profits tax, as I have stated, violate one of the fundamental principles laid down by every authority on taxation:

That the burdens of government should be borne by all of the people, and that every person owes an obligation to pay in proportion to his ability to pay.

The amount of surtaxes for the year 1921, as estimated by the Secretary of the Treasury, Mr. Mellon, amount to \$380,000,000.

#### LOSS IN REVENUE.

By reducing surtaxes, as proposed by the House bill, from 65 per cent to 32 per cent the Government would lose in revenue \$90,000,000. No one pays a surtax who is not receiving an income of over \$5,000 per annum, and then only 1 per cent. This is a progressive tax and increases until a tax of 65 per cent is paid on net incomes that exceed \$1,000,000 per year. One would naturally suppose if taxes were to be reduced that a man with a five and six thousand dollar income would be the man to receive the benefit. But not so. Congress seems more solicitous of the man receiving an income of \$1,000,000 or more a year, and his surtax is reduced from 65 per cent to 32 per cent.

This bill proposes to make the following reduction in surtaxes, to wit—it will be noted that the larger the income the greater the reduction:

On net incomes exceeding \$1,000,000 per year the surtax is reduced from 65 per cent to 32 per cent. (Tax reduced 33 per cent.)

On net incomes from \$500,000 per year to \$1,000,000 the surtax is reduced from 64 per cent to 32 per cent. (Tax reduced 32 per cent.)

On net incomes from \$300,000 per year to \$500,000 per year the surtax is reduced from 63 per cent to 32 per cent. (Tax reduced 31 per cent.)

On net incomes exceeding \$200,000 to \$300,000 per year the tax is reduced from 60 per cent to 32 per cent. (Tax reduced 28 per cent.)

On net incomes exceeding \$150,000 and not exceeding \$200,000 per year the surtax is reduced from 56 per cent to 32 per cent. (Tax reduced 24 per cent.)

On net incomes exceeding \$100,000 and not exceeding \$150,000 per year the surtax is reduced from 52 per cent to 32 per cent. (Tax reduced 20 per cent.)

On net incomes exceeding \$98,000 and not exceeding \$100,000 per year the surtax is reduced from 48 per cent to 32 per cent. (Tax reduced 16 per cent.)

On net incomes exceeding \$96,000 and not exceeding \$98,000 per year the surtax is reduced from 47 per cent to 32 per cent. (Tax reduced 15 per cent.)

On net incomes exceeding \$94,000 and not exceeding \$96,000 the surtax is reduced from 46 per cent to 32 per cent. Tax reduced 14 per cent.)

On net incomes exceeding \$92,000 and not exceeding \$94,000 per year the surtax is reduced from 45 per cent to 32 per cent. (Tax reduced 13 per cent.)

On net incomes exceeding \$90,000 and not exceeding \$92,000 per year the surtax is reduced from 44 per cent to 32 per cent. (Tax reduced 12 per cent.)

On net incomes exceeding \$88,000 and not exceeding \$90,000 per year the surtax is reduced from 43 per cent to 32 per cent. (Tax reduced 11 per cent.)

On net incomes exceeding \$86,000 and not exceeding \$88,000 per year the surtax is reduced from 42 per cent to 32 per cent. (Tax reduced 10 per cent.)

On net incomes exceeding \$84,000 and not exceeding \$86,000 per year the surtax is reduced from 41 per cent to 32 per cent. (Tax reduced 9 per cent.)

On net incomes exceeding \$82,000 and not exceeding \$84,000 per year the surtax is reduced from 40 per cent to 32 per cent. (Tax reduced 8 per cent.)

On net incomes exceeding \$80,000 and not exceeding \$82,000 per year the surtax is reduced from 39 per cent to 32 per cent. (Tax reduced 7 per cent.)

On net incomes exceeding \$78,000 and not exceeding \$80,000 per year the surtax is reduced from 38 per cent to 32 per cent. (Tax reduced 6 per cent.)

On net incomes exceeding \$76,000 and not exceeding \$78,000 per year the surtax is reduced from 37 per cent to 32 per cent. (Tax reduced 5 per cent.)

On net incomes exceeding \$74,000 and not exceeding \$76,000 per year the surtax is reduced from 36 per cent to 32 per cent. (Tax reduced 4 per cent.)

On net incomes exceeding \$72,000 and not exceeding \$74,000 per year the surtax is reduced from 35 per cent to 32 per cent. (Tax reduced 3 per cent.)

On net incomes exceeding \$70,000 and not exceeding \$72,000 per year the surtax is reduced from 34 per cent to 32 per cent. (Tax reduced 2 per cent.)

On net incomes exceeding \$68,000 and not exceeding \$70,000 per year the surtax is reduced from 33 per cent to 32 per cent. (Tax reduced 1 per cent.)

As an illustration of who would be benefited by the reduction of surtaxes, I take the State of Wisconsin, which is an average agricultural State. The following table shows the number of people in the State of Wisconsin who would profit by reduction of surtaxes. (The following table is taken from the last Treasury report, which was for the year 1918:)

Net income class:	Number of returns.
\$400,000 to \$500,000	1
\$300,000 to \$400,000	1
\$200,000 to \$300,000	1
\$150,000 to \$200,000	6
\$100,000 to \$150,000	24
\$90,000 to \$100,000	10
\$80,000 to \$90,000	19
\$70,000 to \$80,000	24
\$60,000 to \$70,000	33
\$50,000 to \$60,000	58
\$40,000 to \$50,000	82
\$30,000 to \$40,000	198
Total	237

The lowering of the surtax would help 237 people in Wisconsin who are getting net incomes of from \$30,000 to \$500,000 per year. The rest of the taxpayers of the State would have to make up in some way the amount of the Government losses in revenue by reason of its generosity toward its citizens who have the big incomes.

#### EXCESS-PROFITS TAX.

This bill proposes to repeal all excess-profits taxes. I believe that this is a very great mistake.

The present revenue law of 1919—section 312 of the act—provides:

That the excess-profits credit shall consist of a specific exemption of \$3,000 plus an amount equal to 8 per cent of the invested capital for the taxable year.

The law further provided that any net income from the taxable year less than \$3,000 shall be exempt from the excess-profits tax.

#### LOSS OF REVENUE.

It is admitted that the Government would collect for the year 1921 at least \$450,000,000 from the excess-profits tax that this bill proposes to repeal. The excess-profits tax does not take a penny away from anyone who is not receiving over 8 per cent interest on his invested capital. One billion four hundred and thirty million dollars from excess-profits taxes were received for the year 1919, and I am informed by the Treasury Department that the excess-profits tax for 1920 will amount to \$850,000,000.

The ruling that corporations must report their inventories at the market prices rather than at cost lowered the amount of taxes paid very materially; otherwise a very much larger amount would have been paid. With returning prosperity and with inventory losses adjusted to the lower price level, the revenue derived from excess profits for the year 1922 will undoubtedly yield a very much larger amount than either of the two preceding years.

With a war debt of \$24,000,000,000 and the annual interest amounting to over \$1,000,000,000, I am not satisfied with the argument presented by the Senate committee justifying the repeal of the excess-profits tax when it announced in its report at the outset "that the time for discussion is past and the time to repeal the excess-profits tax has arrived."



## MANY SMALL CORPORATIONS MISLED.

The average small corporation will pay a much larger tax under the proposed law than under the former law, and many of them have been misled by the propaganda sent out and have joined in the chorus of "Repeal the excess-profits tax." Under the House bill they would pay 12½ per cent flat tax and by the Senate bill 15 per cent tax, retaining the exemption of \$2,000 given by the existing law.

## OFFICIAL FIGURES.

The last Treasury publication Statistics of Incomes for the Year 1918, page 18, shows a total of 202,000 corporations reporting net incomes. Of these, 69,000 had net incomes of less than \$3,000, and therefore paid nothing; 79,000 corporations whose incomes were less than \$10,000 paid excessive-profits taxes of about \$200 on the average. In that year the total excess-profits tax amounted to \$2,500,000,000, more than three-fourths of this, or \$1,955,000,000, was paid by 4,251 corporations reporting \$250,000 or more of net income. In other words, 2 per cent of the corporations reporting net incomes paid over three-fourths of the excess-profits tax, or over \$1,900,000,000.

Mr. Speaker, I can not blindly follow party leaders when they propose legislation that favors the few at the expense of the many and which benefits 2 per cent of the people and is oppressive to 98 per cent of our people.

The same official figures show that 180 corporations are making annually from \$5,000,000 up to \$300,000,000.

With a flat corporation tax of 12½ per cent and no excess-profits tax, corporations making under 10 per cent net income will pay at least 50 per cent more than they formerly paid, and the corporation making from 20 per cent to 50 per cent will pay over 50 per cent less than before.

## OFFICIAL FIGURES SHOW NEED OF EXCESS-PROFITS TAX.

The last report of the revenue commissioners available is for the year 1918. This report shows that the United States Steel Corporation made over \$500,000,000 in net profits. That 180 corporations had net incomes of \$2,554,000,000. These companies would only have paid \$203,000,000 income tax if they had not had to pay an excess-profits tax. Thanks to the excess-profits tax they paid \$848,000,000 in excess profits. These corporations made excessive profits, and some of them as high as 100 per cent, on a large capitalization.

## WEALTHY CORPORATIONS ARE BENEFITED.

We know there are many corporations making large profits to-day, and when normal times return they will make excessive profits. That is why they are fighting the excess-profits tax. The Standard Oil Co. and the many oil companies connected with it made from 30 to 100 per cent before the war. The steel company, the coal companies, the packers, and many other corporations have always made excessive profits.

A short time ago one of the New York papers carried the following financial item which illustrates the effect of abolishing the excess-profits tax:

The \* \* \* Co. is attaching much importance to the proposed tax changes because of the expected benefits to accrue to it. If the tax is changed to 15 per cent on net profits, which is the rate proposed in the new bill now before Congress, it is estimated that earnings available for dividends on the present common stock in 1922 will be equivalent to over \$42 a share. For example, in 1918, when profits available for common were \$2,810,999, taxes amounted to \$1,250,000, whereas on estimated earnings for the next year of \$5,000,000, taxes are forecast at \$771,000.

One would think that very few were making excess profits from some of the debates in Congress. If that were a fact then an excessive-profits tax would certainly do no harm to people who did not have to pay it. The fact is, however, that many of the large corporations are making excessive profits.

Senator KENYON, in the Senate (p. 7410, CONG. REC.), made the following statement:

Before our committee investigating the West Virginia situation a few days ago we had a great coal operator, a fine-appearing gentleman, and he told us about their coal company. We delved into the profits, and the profits were enormous.

His company last year paid an excess-profits tax of \$1,000,000. I asked him if that had injured his company, and he said no. Outside of paying that large excess-profits tax of \$1,000,000 they have paid large dividends. The prices of coal had not been increased to the American people on account of that. It simply meant that if the excess profit of \$1,000,000 was not collected by the Government it would have gone into dividends. That is one picture that stood out in my mind.

On the Monday following that, the other picture came before me. I was called to the anteroom of the Senate by card. There was a man who said he had been a soldier from my State. He was a veteran of the Rainbow Division, that wonderful division which was the rainbow of hope to the people of distracted Europe. He had gone overseas. He was sitting out in this anteroom with 35 cents in his pocket. He was an Iowa boy. He had a sick wife and baby whom he had brought from New York. He had not a cent on earth outside of his 35 cents, and he was hungry.

The Federal Trade Commission of the United States, in its investigation of certain companies in 1918, on page 9 of the

report, gave a statement of what some of the steel companies were making:

	Profits, per cent.
Alan Wood Iron & Steel Co.	52.63
Allegheny Steel Co.	78.92
American Tube & Stamping Co.	40.03
Central Iron & Steel Co.	71.35
Eastern Steel Co.	30.24
Forged Steel Wheel Co.	105.40
Fallansbee Bros. Co.	112.48
Nagle Steel Co.	319.67
West Penn Steel Co.	159.01
West Leechburg Steel Co.	109.05

The report of the Treasury Department, 1917, Senate Document No. 259, shows that some coal companies were making excess profits and that profits as high as 100 per cent were not uncommon on capital stock. The Treasury Department also shows that 185 out of 404 of the coal companies reported upon earned profits on their capital stock of 100 to 7,856 per cent for the year 1917. In other words, nearly one-half of the coal companies paid profits equal to their entire capital stock, and one of the mines paid profits equal to seventy-eight times its capitalization.

The Treasury Department also shows that out of 45 woolen and worsted mills 1 earned 1,770 per cent on its capital stock. In other words, a person having \$100 worth of stock was able to draw \$1,770 profit in a single year. Out of the returns of 45 woolen and worsted mills 17 reported profits of more than 100 per cent on their capital stock.

The report further shows that out of 122 meat packers 30, or 1 out of every 4, made more than 100 per cent profit on their capital stock.

I have quoted from the latest official reports of the Treasury "Statistics of Income," which were in print as shown by the letter of the Commissioner of Internal Revenue, which is as follows:

TREASURY DEPARTMENT,  
Washington, D. C., November 5, 1921.

HON. EDWARD E. BROWNE,  
House of Representatives.

MY DEAR MR. BROWN: Receipt is acknowledged of your request of November 3 for a copy of the latest report entitled "Statistics of Income," and of the one preceding it.

As the 1919 returns are to be ready for distribution very shortly, it is presumed that you desire the 1918 and 1919 reports. The 1918 compilation is being forwarded to you to-day, and as soon as the 1919 compilation is available a copy will be sent you.

Sincerely, yours,

D. H. BLAIR,  
Commissioner of Internal Revenue.

## NO VALID REASON FOR REPEAL OF TAX.

The argument advanced that excess-profits taxes and surtaxes injure business, and that capital will invest in nontaxable bonds, as an excuse for repealing these taxes is not sound. It would be impossible for individuals or corporations having capital invested in business enterprises, manufacturing plants, and other lines of business, both wholesale and retail, to convert such property into capital and invest that capital in bonds. Take the big steel corporations, Standard Oil, and the "Big Four" packing companies. Can any of these companies convert their property into cash and invest it in nontaxable bonds? Certainly not!

The amount of capital that would be withdrawn from business because of the net income of that capital of over 8 per cent was taxed, would be so small that it would be negligible. Nontaxable securities bring only from 3½ to 5 per cent interest and they are limited, while under the excess-profits tax all business is allowed 8 per cent net profit free from the excess-profits tax.

The argument that capital will not invest, that it will not contribute anything toward paying our war debt is not only untenable, but is a selfish, dog-in-the-manger, unpatriotic position to take.

The other standard argument that the ultimate consumer pays the tax is also unsound and so utterly inconsistent with the argument that the excess-profits tax kills business that the two can not be successfully advanced before a public of average intelligence at the same time. A month or two at least should elapse between the presentation of both of these propositions in deference to average intelligence.

## EXCESS-PROFITS TAX NOT THE CAUSE OF HIGH PRICES.

The claim has been made and accepted by some that the excess-profits tax has been the cause of high prices. Wholesale prices had already risen 60 per cent before America had entered the war, and 80 per cent before the excess-profits tax was imposed. In 1919 the tax rates were so greatly reduced that the amount received from excess profits fell from \$2,500,000,000 to \$1,500,000,000. Notwithstanding this lowering of the excess-profits tax prices continued to rise steadily until May, 1920, they stood at 275 per cent of the prewar level. Then with-

out any reduction in the tax rates prices fell steadily until 148 per cent of the prewar level in June, 1921. These facts show clearly that excess-profits taxes or surtaxes had nothing to do with the high prices. Economists without exception have held for a century past that a tax on differential profits has no effect upon prices. The facts prove conclusively that the economists are correct and that excess-profits taxes and kindred taxes have nothing to do with the increased cost of living.

I do not believe in repealing the excess-profits tax or radically reducing surtaxes until our national war debt is paid. This debt is a sacred obligation and the large corporations that profited by the war and doubled and quadrupled their capital should pay according to their ability to pay.

Mr. GARRETT of Tennessee. I yield eight minutes to the gentleman from Wyoming [Mr. MONDELL].

Mr. MONDELL. May I yield two minutes of that to the gentleman from Michigan [Mr. FORDNEY]?

Mr. GARRETT of Tennessee. Certainly.

Mr. MONDELL. I yield two minutes of my time to the gentleman from Michigan [Mr. FORDNEY].

Mr. FORDNEY. Mr. Speaker and gentlemen, the gentleman who just yielded the floor [Mr. BROWNE of Wisconsin] states that the reduction of surtaxes made by the House repeals \$450,000,000 of taxes.

Mr. BROWNE of Wisconsin. Will the gentleman yield? I want to make a correction.

Mr. FORDNEY. Wait a minute. If he couples the \$450,000,000 taxes with the excess-profits tax, he is still in error, because the House bill increases the corporation income tax from 10 per cent to 12½ per cent, and the Senate increased it to 15 per cent—

Mr. BROWNE of Wisconsin. Will the gentleman yield?

Mr. FORDNEY. I decline to yield—to make up the loss by the repeal of the excess-profits tax. These rates will make up that sum. The House provision would repeal less than \$90,000,000 of the surtax, according to the statement of the Treasury Department.

The SPEAKER pro tempore. The time of the gentleman from Michigan has expired.

Mr. BROWNE of Wisconsin. Mr. Speaker, I ask for one minute to make a statement.

The SPEAKER pro tempore. Does the gentleman from Tennessee yield?

Mr. GARRETT of Tennessee. I regret that I can not yield any more time.

The SPEAKER pro tempore. The gentleman from Wyoming is recognized for six minutes.

Mr. MONDELL. Mr. Speaker, taking advantage of a technicality—and it is a pure technicality in this case—the gentleman from Tennessee makes a motion to instruct the conferees to concur in the Senate amendment. It is true that the gentleman from Michigan, when he submitted his request that the bill be sent to conference, did not add the words "without instructions." I was at the moment being interrogated and was not listening to him closely, and supposed that he had used those words, but it seems that those two words were not added. The Chair not having immediately announced the conferees, the gentleman from Tennessee did have his opportunity. I think there is no Member on this side but what understood that if the unanimous-consent request of the gentleman from Michigan to send the bill to conference was agreed to that it was to be without instructions. But it seems after inquiry that the gentleman from Michigan did not use those two words. That gave the gentleman from Tennessee his opportunity.

Now, the question is whether we shall at this time, without having had an opportunity to consider the effect upon this bill of the various surtaxes, determine without that investigation what the maximum surtax shall be at this particular time. I propose to offer a motion at the proper time to lay this motion of the gentleman from Tennessee on the table. If that is carried and the bill goes to conference without instructions there will be an opportunity for Members of the House to vote on this question squarely after the committee of conference has had an opportunity to study the question and determine the exact effect in the matter of revenue and otherwise of the various surtaxes which may be suggested between 32 and 50 per cent. At a later time I think we can vote intelligently. At this time we would be voting without information as a pure matter of guesswork as to the effect on the revenues and on the remainder of the bill, taking the word of another body, without any investigation of the matter whatever; and what is more, transferring the control of the situation to the other side when we have not had sufficient evidence of approval of sound policies on that side to justify us in doing that at this or at any other time. I assure the Members that an opportunity will be given

them on this question after the conferees have had time to study it and deliberate upon it, and to set before the House the effect of the different surtaxes as they may be suggested between the amount fixed by the Senate and the amount fixed by the House. I trust that gentlemen will vote for the motion to table the motion of the gentleman from Tennessee in order that the conferees may go to conference uninstructed, as it was understood by the great majority of Members we were to do when unanimous consent was given.

The SPEAKER pro tempore. The time of the gentleman from Wyoming has expired.

Mr. GARRETT of Tennessee. Mr. Speaker, I yield eight minutes to the gentleman from Texas [Mr. GARNER].

Mr. GARNER. Mr. Speaker, there is just one proposition before this House, and only one, and that every gentleman must decide for himself. That is whether you want 50 per cent surtaxes or 32 per cent or any percentage between those two. If you are in earnest, and I know that some of you are, you are going to take this opportunity to get 50 per cent. If you are not in earnest and still want to make a record so that you could go back and say to your constituents that you wanted 50 per cent, you will follow the course suggested by the chairman of the committee and let it go to conference, and when it comes back make a motion to agree with an amendment at 45 per cent. You will take that and tell the people at home that that was the best you could get.

Now let us see what will happen. You have got 10 members on the conference committee; you have got 3 Republicans from the Senate and 3 Republicans from the House. There is not a single one of them that wants 50 per cent. You have got your bill in the hands of 6 Republicans who were opposed to the 50 per cent, and you have the Secretary of the Treasury backing them up.

Mr. CAMPBELL of Kansas. Will the gentleman yield for a question?

Mr. GARNER. In just a moment. I take the record in the Senate and I take the record in the House for this statement. I say to you Republicans it is not a matter of politics, for, God bless you, it is a matter of the people in this country who want wealth to pay its part rather than the masses to pay all. The West and the South are standing together in this matter, and I do not blame them, for it is natural that they should. Let us see. We go into conference. Mr. FORDNEY sits up at this end of the table and Senator PENROSE at the other end. Mr. COLLIER and myself will be sitting in a back seat, somewhere off here. We will begin to consider the bill, and we will come along finally to amendment No. 122. The question then will be, "What about this?" and somebody will say the best thing to do is to let this pass over, for there is a controversy about that. Very well; we will pass it over, as we do other amendments. We get rid of the nonessentials first, and then finally we come down to the consideration of this particular amendment, and what happens?

In the meantime the Secretary of the Treasury and every other man who is opposed to the 50 per cent proposition who has any influence, brings it to bear upon the Members on the Republican side of the House to get them to agree to a less rate than 50 per cent, and gentlemen know it. Let us deal fairly with each other here.

Mr. FORDNEY, if you want to give the House an opportunity to vote on this, why do not you do it now? What is the reason, Mr. MONDELL, that you are not willing now to have the House vote on this proposition?

Mr. MONDELL. I stated the reason, that up to this time we have no information as to the effect, the general effect, on the revenues of the different surtaxes that have been suggested.

Mr. GARNER. Oh, the gentleman—

Mr. MONDELL. And the gentleman wants to transfer the sovereignty, the control, the jurisdiction from this body to the other body.

Mr. GARNER. Ah, gentlemen, every man in this House knows that I am just as jealous of its rights as any Member, and I yield to no man in that particular.

Mr. MONDELL. The gentleman is not showing it now.

Mr. GARNER. But, gentlemen, this is merely a question of right, not a question of principle other than a question of the principle of right. You have to do one of two or three things. You have to take the 32 per cent or you have to take the 50 per cent, or you have to take some point in between those. Is not that correct?

Mr. CAMPBELL of Kansas. Mr. Speaker, will the gentleman yield?

Mr. GARNER. I yield to the gentleman, although I have only eight minutes.



Mr. CAMPBELL of Kansas. The gentleman from Michigan, the chairman of the committee, stated to the membership of the House that he would bring the question of the surtax back for a vote.

Mr. GARNER. Yes.

Mr. CAMPBELL of Kansas. And give the membership of the House an opportunity to vote on whether they would take the Senate 50 per cent or not. Does not the gentleman from Texas—

Mr. GARNER. Oh, the gentleman from Kansas is the chairman of the Committee on Rules, and I ask him this question and I want him to answer it. If we bring this proposition back here and the gentleman from Michigan moves to recede and concur, and I make a demand for a division and we vote to recede, then can not the gentleman from Kansas move to concur with an amendment, and will not that take precedence? I ask you that question.

Mr. CAMPBELL of Kansas. But I take the word of the gentleman from Michigan, as I would the word of the gentleman from Texas.

Mr. GARNER. And I do also. I take the word of the gentleman from Michigan. I have not said that I would not, but I ask the gentleman this question. If the gentleman from Michigan comes back and moves to concur in the Senate amendment, and then the gentleman from Wyoming demands a division of the question—

Mr. MONDELL. But the gentleman from Wyoming will not do that.

Mr. GARNER. Will the gentleman from Wyoming guarantee that there is no man in the House who will do it?

Mr. MONDELL. It does not matter whether some one does it or not.

Mr. GARNER. But it does.

Mr. MONDELL. It does not. It is perfectly easy to vote down a proposition to divide the question—

Mr. GARNER. Oh, the gentleman is now talking about voting down something. Of course, you have got to vote down something in order to get a direct vote.

Mr. MONDELL. We are going to keep our word. Why, gentlemen on the other side told me repeatedly that they had no objection to sending this bill to conference without instructions.

Mr. GARNER. Mr. Speaker, I ask that I be permitted to keep recognition on the floor when I have it. The gentleman from Wyoming will not tell me that he told me any such thing. I want to clear my skirts now. I keep my agreements, if I have to cut off this right arm to do it. I ask the gentleman from Wyoming in all candor—his colleagues are here—does he intend to adopt the 50 per cent proposition?

Mr. MONDELL. I intend to have a vote upon it.

Mr. GARNER. Ah, ah! The gentleman is going to have a vote on it. The gentleman knows now, just as I said awhile ago, that it will take two weeks to adopt this report in conference.

Mr. MONDELL. The gentleman from Wyoming does not—

Mr. GARNER. Mr. Speaker, I decline to yield. The gentleman wants to take up all of my time. In the meantime the gentleman from Wyoming and other influential gentlemen in this country will be picking them off, until you can count them on these fingers. We got 50 votes on the Republican side of the House on the question to recommit, and that involved a 65 per cent surtax. We ask you now, when it involves 50 per cent surtax, will you join with us, will you do the thing that is in your heart, join with us and adopt once and for all the 50 per cent, put it on the statute books, because if you want it in the law, you have got to do it now, or else you will get 40 per cent or 42 per cent or 43 per cent or even 49 per cent, for they will do anything even to cut it down 1 per cent.

The SPEAKER pro tempore. The time of the gentleman from Texas has expired.

Mr. GARRETT of Tennessee. Mr. Speaker, I should very greatly regret if anyone should draw the conclusion from the remarks of the gentleman from Wyoming [Mr. MONDELL] that there has been on the part of anyone on the Democratic side of the House any breaking of faith, any violation of any agreement.

I do not suppose the gentleman from Wyoming meant to intimate that, but some Members upon my own side wondered just what some of his words might mean. If they meant to intimate such a thing as that, it was unworthy of the gentleman. There has been no shadow of violation. I have said to the gentleman from Michigan [Mr. FORDNEY] and to the gentleman from Wyoming [Mr. MONDELL] from the beginning of discussion about the matter that in so far as it lay within my power I would endeavor to prevent any objection upon this, the Democratic side of the Chamber to this particular bill being sent to

conference by unanimous consent, and there was no objection to it being sent to conference by unanimous consent. It is there now. All that we Democrats did was to exercise unquestioned and unquestionable rights under the rules of the House, with which surely gentlemen on the Republican side are familiar—some of you, at least—to move to instruct the conferees—

Mr. MONDELL. Will the gentleman yield?

Mr. GARRETT of Tennessee. I will.

Mr. MONDELL. Does the gentleman make that statement with the reservation in his mind that if some gentleman failed to say the two words—

Mr. GARRETT of Tennessee. Let me say this, if the gentleman from Michigan [Mr. FORDNEY] had put his request so as to include the words "without instructions," then I can say to the gentleman that it would have been objected to. That would have wholly changed the parliamentary situation. I never would have consented to cut off the right of this House to instruct the conferees, and if you had endeavored by a special rule to have cut them off you would have had one of the liveliest scraps that you have had for many days in this House.

Mr. Speaker. I move the previous question on the resolution.

Mr. MONDELL. Mr. Speaker, I move to lay that motion on the table.

Mr. GARRETT of Tennessee. Mr. Speaker, I make the point of order it is not in order to move to lay the previous question on the table.

The SPEAKER pro tempore. The gentleman from Wyoming [Mr. MONDELL] moves to lay the resolution of the gentleman from Tennessee [Mr. GARRETT] on the table.

Mr. GARRETT of Tennessee. Is that the motion for the previous question?

The SPEAKER pro tempore. The motion to instruct the conferees.

Mr. CRISP. Mr. Speaker, a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. CRISP. Mr. Speaker, under the rules of the House if an amendment to a pending bill is laid on the table, the precedents say it carries with it the principal question, and carries the bill to the table. My inquiry is, This being a motion to instruct, does that same principle obtain?

The SPEAKER pro tempore. In the view of the Chair this is an independent motion operating only on those who shall be made the managers on the part of the House, as a guide for their action, and while it may limit the freedom of action on the part of the conferees, it is not directly and intimately related to the bill which has been sent to conference, in such a manner, as in the opinion of the Chair, would carry the bill to the table. When a motion to reconsider the vote by which a bill is passed is laid on the table it does not carry the bill to the table, and this would seem to be an independent motion of a character which if tabled does not carry with it a bill to which it is related.

Mr. GARRETT of Tennessee. I make the point of order that the motion of the gentleman from Wyoming does not take precedence over the motion for the previous question at this time. I am aware of the fact that the general rule provides the order when questions are under debate in which motions shall be in order, to wit, adjourn, to lay on the table, and the previous question. The rule says such questions shall be determined without debate. At the time the gentleman made that motion this matter was not under debate. Debate had concluded, and I had moved the previous question. It seems to me we would have to dispose of that proposition first under the circumstances.

The SPEAKER pro tempore. Does the gentleman from Wyoming desire to be heard on the point of order?

Mr. MONDELL. I do not desire to take the time of the Chair. I think the matter is perfectly clear. I do not think there is any question about it.

The SPEAKER pro tempore. The Chair will state that the same question arose on June 17, 1909, when Mr. Speaker CANNON ruled that at the close of an hour's debate, the previous question being moved, the Member moving it thereby yielded the floor, and then a Member had the right under the rules to make the preferential motion, the motion to lay the resolution on the table, the same right that he would have had if he had moved to adjourn, and that the motion to lay upon the table takes precedence over the motion for the previous question.

The Chair overrules the point of order made by the gentleman from Tennessee [Mr. GARRETT]. The question is upon the motion to lay the motion to instruct the conferees on the table.

Mr. GARRETT of Tennessee. Mr. Speaker, I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 200, nays 133, answered "present" 3, not voting 96, as follows:

## YEAS—200.

Ackerman	Dickinson	Kreider	Ricketts
Anderson	Dunbar	Larson, Minn.	Riddick
Andrew, Mass.	Dyer	Lawrence	Robertson
Ansorge	Echols	Layton	Robison
Anthony	Elliott	Leatherwood	Rosenberg
Appleby	Ellis	Lee, N. Y.	Rogers
Atkeson	Evans	Lineberger	Rose
Bacharach	Fairfield	Longworth	Rossdale
Beedy	Faust	Luhning	Sanders, Ind.
Begg	Fenn	McArthur	Sanders, N. Y.
Benham	Fess	McCormick	Scott, Mich.
Bird	Focht	McFadden	Scott, Tenn.
Bixler	Fordney	McLaughlin, Mich.	Shaw
Blackeney	Foster	McLaughlin, Nebr.	Siegel
Bland, Ind.	Free	McLaughlin, Pa.	Slemp
Boies	Freeman	MacGregor	Smith, Idaho
Bond	Frothingham	Madden	Smith, Mich.
Bowers	Fuller	Maloney	Snyder
Brennan	Funk	Mapes	Speaks
Brooks, Ill.	Gensman	Merritt	Sprout
Brooks, Pa.	Gerner	Michener	Stafford
Brown, Tenn.	Glynn	Mills	Stephens
Burdick	Gorman	Millsbaugh	Strong, Kans.
Buttrick	Graham, Ill.	Mondell	Strong, Pa.
Burton	Graham, Pa.	Montoya	Summers, Wash.
Cable	Green, Iowa	Moore, Ill.	Taylor, N. J.
Campbell, Kans.	Greene, Mass.	Moore, Ohio	Thompson
Campbell, Pa.	Greene, Vt.	Moore, Ind.	Timberlake
Cannon	Hadley	Morgan	Tincher
Chalmers	Hardy, Colo.	Mudd	Tinkham
Chandler, N. Y.	Haugen	Newton, Minn.	Towner
Chandler, Okla.	Hersey	Newton, Mo.	Treadway
Chindblom	Hickey	Norton	Underhill
Christopherson	Hicks	Olpp	Valle
Clarke, N. Y.	Hill	Osborne	Vestal
Clouse	Himes	Palge	Volk
Codd	Houghton	Parker, N. J.	Ward, N. Y.
Cole, Iowa	Hukriede	Parker, N. Y.	Webster
Cole, Ohio	Hull	Patterson, Mo.	Wheeler
Colton	Husted	Perkins	White, Kans.
Connell	Kearns	Pringle	White, Me.
Connolly, Pa.	Kelley, Mich.	Purnell	Williams
Cooper, Ohio	Ketcham	Radcliffe	Williamson
Coughlin	Kiess	Ransley	Winslow
Crago	Kinkaid	Reavis	Wood, Ind.
Crowther	Kirkpatrick	Reber	Woodward
Dallinger	Kissel	Reece	Wurzbach
Darrow	Kline, Pa.	Reed, N. Y.	Wyant
Dempsey	Knutson	Reed, W. Va.	Yates
Denison	Kraus	Rhodes	Young

## NAYS—133.

Almon	Driver	Larsen, Ga.	Sandlin
Andrews, Nebr.	Dupré	Lazaro	Schall
Arentz	Favrot	Lea, Calif.	Sears
Aswell	Felds	Lee, Ga.	Sinnott
Bankhead	Fisher	Linthicum	Sisson
Barbour	Frear	Little	Smithwick
Beck	Fulmer	Logan	Steagall
Bell	Gallivan	London	Stedman
Black	Garner	Lowrey	Stevenson
Bland, Va.	Garrett, Tenn.	Lyon	Sullivan
Blanton	Griffin	McClintic	Summers, Tex.
Bowling	Hammer	McDuffie	Swank
Box	Hardy, Tex.	McSwain	Sweet
Briggs	Harrison	Martin	Swing
Brinson	Hayden	Montague	Tague
Browne, Wis.	Hoch	Moore, Va.	Taylor, Tenn.
Buchanan	Huddleston	Nelson, A. P.	Ten Eyck
Bulwinkle	Hudspeth	Nelson, J. M.	Thomas
Byrnes, S. C.	Humphreys	O'Brien	Tillman
Byrns, Tenn.	Jacoway	O'Connor	Upshaw
Cantrill	James	Oldfield	Vinson
Clague	Jeffers, Ala.	Overstreet	Volgt
Collier	Johnson, Miss.	Padgett	Walters
Collins	Jones, Tex.	Park, Ga.	Weaver
Connally, Tex.	Keller	Parks, Ark.	Wilson
Cooper, Wis.	Kincheloe	Parrish	Wingo
Cramton	Kindred	Quin	Wise
Cullen	King	Raker	Woodruff
Curry	Klecza	Rankin	Woods, Va.
Davis, Tenn.	Kopp	Rayburn	Wright
Dominick	Kunz	Rosenbloom	Zihlman
Doughton	Lampert	Rucker	
Dowell	Lanham	Sabath	
Drewry	Lankford	Sanders, Tex.	

## ANSWERED "PRESENT"—3.

Butler

Crisp

Pou

## NOT VOTING—96.

Barkley	Fitzgerald	Johnson, Wash.	Morin
Brand	Flood	Jones, Pa.	Mott
Britten	French	Kahn	Murphy
Burke	Gahn	Kelly, Pa.	Nolan
Burroughs	Garrett, Tex.	Kendall	Ogden
Carew	Gilbert	Kennedy	Oliver
Carter	Goldsborough	Kitchin	Patterson, N. J.
Clark, Fla.	Goodykoontz	Kline, N. Y.	Perlman
Classon	Gould	Knight	Peters
Cockran	Griest	Langley	Petersen
Copley	Hawes	Lehlbach	Porter
Daie	Hawley	Luce	Rainey, Ala.
Davis, Minn.	Hays	McKenzie	Rainey, Ill.
Deal	Herrick	McPherson	Ramseyer
Drane	Hogan	Magee	Riordan
Dunn	Hutchinson	Mann	Roach
Edmonds	Ireland	Mansfield	Rouse
Elston	Jeffers, Nebr.	Mead	Ryan
Fairchild	Johnson, Ky.	Michaelson	Shelton
Fish	Johnson, S. Dak.	Miller	Shreve

Sinclair  
Snell  
Steenerson  
Stiness

Stoll  
Taylor, Ark.  
Taylor, Colo.  
Temple

Tilson  
Tyson  
Vare  
Volstead

Walsh  
Ward, N. C.  
Watson  
Watson

So the motion to lay Mr. GARRETT's motion on the table was agreed to.

The Clerk announced the following pairs:

On the vote:

Mr. TILSON (for) with Mr. CRISP (against).  
Mr. BUTLER (for) with Mr. COCKRAN (against).  
Mr. FAIRCHILD (for) with Mr. BRAND (against).  
Mr. LUCE (for) with Mr. GILBERT (against).  
Mr. VARE (for) with Mr. MEAD (against).  
Mr. KENDALL (for) with Mr. CARTER (against).  
Mr. SHREVE (for) with Mr. KITCHIN (against).  
Mr. SHELTON (for) with Mr. FLOOD (against).  
Mr. ROACH (for) with Mr. CAREW (against).  
Mr. PORTER (for) with Mr. TYSON (against).  
Mr. IRELAND (for) with Mr. STOLL (against).  
Mr. PATTERSON of New Jersey with Mr. SINCLAIR (against).  
Mr. GRIEST (for) with Mr. MANSFIELD (against).  
Mr. PERLMAN (for) with Mr. TAYLOR of Arkansas (against).  
Mr. MORIN (for) with Mr. BARKLEY (against).  
Mr. LANGLEY (for) with Mr. CLARK of Florida (against).  
Mr. KAHN (for) with Mr. RIORDAN (against).  
Mr. DUNN (for) with Mr. OLIVER (against).  
Mr. FITZGERALD (for) with Mr. GOLDSBOROUGH (against).  
Mr. HAYS (for) with Mr. DRANE (against).  
Mr. LEHLBACH (for) with Mr. RAINY of Alabama (against).  
Mr. MCPHERSON (for) with Mr. GARRETT of Texas (against).  
Mr. MAGEE (for) with Mr. WARD of North Carolina (against).  
Mr. HUTCHINSON (for) with Mr. DEAL (against).

Until further notice:

Mr. JOHNSON of South Dakota with Mr. HAWES.  
Mr. SNELL with Mr. JOHNSON of Kentucky.  
Mr. KENNEDY with Mr. POU.  
Mr. DAVIS of Minnesota with Mr. RAINY of Illinois.  
Mr. HOGAN with Mr. TAYLOR of Colorado.  
Mr. IRELAND. Mr. Speaker, I desire to vote.

The SPEAKER pro tempore. Was the gentleman in the Hall listening when his name was called?

Mr. IRELAND. I am unable to say positively whether I was here when my name was reached or not.

The SPEAKER pro tempore. The gentleman can not qualify unless he can say he was here when his name was reached.

Mr. STEENERSON. Mr. Speaker, I wish to vote.

The SPEAKER pro tempore. Was the gentleman present and listening when his name was called?

Mr. STEENERSON. I stepped just outside, right here at the door.

The SPEAKER pro tempore. Then the gentleman does not qualify.

Mr. LARSEN of Georgia. Mr. Speaker, I desire to vote.

The SPEAKER pro tempore. Was the gentleman present in the Hall listening when his name was called?

Mr. LARSEN of Georgia. They were on the "Ls" when I came in, right on my name. I did not hear my name called, but I was right here, and I suppose it was called, but I did not hear it.

The SPEAKER pro tempore. The Clerk will call the gentleman's name.

The Clerk called the name of Mr. LARSEN of Georgia, and he answered "nay."

Mr. BUTLER. Mr. Speaker, I voted "aye." I am paired with the gentleman from New York [Mr. COCKRAN]. I wish to withdraw my vote and be recorded "present."

Mr. CRISP. Mr. Speaker, I voted "no," but I recall that I had agreed to pair with the gentleman from Connecticut [Mr. TILSON]. Therefore I wish to change my vote from "nay" to "present."

The result of the vote was announced as above recorded.

The SPEAKER resumed the chair.

The SPEAKER. The Chair appoints as the conferees on the part of the House Mr. FORDNEY, Mr. GREEN of Iowa, Mr. LONGWORTH, Mr. GARNER, and Mr. COLLIER.

Mr. WALSH resumed the chair as Speaker pro tempore.

## LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted to Mr. FLOOD, for three days, on account of important business.

## EMERGENCY TARIFF BILL.

Mr. FORDNEY. Mr. Speaker, I ask unanimous consent that the bill (H. R. 8643) to extend the tariff act approved May 27, 1921, known as the emergency tariff bill, be taken from the Speaker's table and that the Senate amendment be agreed to.



The SPEAKER pro tempore. The gentleman from Michigan calls from the Speaker's table the bill, of which the Clerk will report the title, and moves that the House recede and concur in the Senate amendment.

The Clerk read as follows:

A bill (H. R. 8643) to extend the tariff act approved May 27, 1921.

The Senate amendment was read.

The SPEAKER pro tempore. The question is on concurring in the Senate amendment.

Mr. GARRETT of Tennessee. Mr. Speaker, will the gentleman yield?

Mr. FORDNEY. I yield.

Mr. GARRETT of Tennessee. I want to ask what the Senate amendment is.

Mr. FORDNEY. The Senate amendment is very short. The House limited the time of this emergency tariff bill to February 1. The Senate has stricken out that limitation, and therefore, with the Senate amendment agreed to, the bill remains in force and effect until repealed or superseded by the regular tariff bill.

Mr. GARRETT of Tennessee. In other words, you are making permanent law out of what was an emergency bill, until it is repealed or until the regular tariff bill takes its place.

Mr. FORDNEY. There will be a provision in the regular tariff bill to substitute rates in that bill for the rates provided for in the emergency tariff bill—

Mr. GARRETT of Tennessee. When that passes. [Laughter.]

Mr. FORDNEY. When that passes.

Mr. GARNER. Mr. Speaker, will the gentleman yield?

Mr. FORDNEY. Yes.

Mr. GARNER. Does the gentleman think this will facilitate the passage of the regular tariff bill?

Mr. FORDNEY. I hope so.

Mr. GARNER. I ask the gentleman if he thinks this will facilitate the passage of the regular tariff bill?

Mr. FORDNEY. Oh, ask me something easy. [Laughter.] I am in hopes, Mr. Speaker, that by agreeing to this amendment it will make it impossible for importers to fill our warehouses with foreign-made goods and hold them until an opportunity might be afforded by the fact that when the tariff bill is in conference and likely to pass in two or three days, in one or more days, time might elapse between the limitation of time here and the passage of the other bill and make it possible for men to flood this market with foreign goods now in bonded warehouses. [Applause and cries of "Vote!"]

I yield to the gentleman from Wyoming [Mr. MONDELL].

The SPEAKER pro tempore. The gentleman from Wyoming is recognized for five minutes.

Mr. MONDELL. Mr. Speaker, the measure before us deals with the so-called emergency tariff bill. We are proposing to extend that bill to the time when the emergency shall cease to exist through the passage of a permanent tariff bill. Therefore what we are doing to-day is a perfectly logical thing to do.

The gentleman from Texas [Mr. GARNER] asked the question, "Will or will not the extension of the emergency tariff bill, as suggested, delay the passage of the permanent tariff law?"

Mr. GARNER. If the gentleman will permit, I did not ask that question.

Mr. MONDELL. What was the gentleman's question? I want to answer it if I can.

Mr. GARNER. I asked the gentleman from Michigan if he honestly believed that the passage of this emergency tariff bill will facilitate the passage of the permanent tariff bill, and he answered by saying, "Ask me something easy." [Laughter.]

Mr. MONDELL. I will answer that question and say that in my opinion it will, and I will explain why it will. The warehouses of this country are filled with wool, dyestuffs of various sorts and kinds, and foreign-grown and foreign-produced commodities affected by this bill. It is to the interest of a great many people to have this period if possible, long or short, brief or otherwise, between the date when the emergency tariff no longer controls and before the permanent tariff bill becomes a law. Now, in another body it is the easiest thing in the world to delay action. That has been proven abundantly of late. There is no difficulty whatever in holding up a bill, holding up a conference report, indefinitely. There is a conference report now in the Senate that was agreed upon by the House some two months or more ago, that has not been agreed upon over there. How do we know that the same thing will not happen again?

Mr. GARRETT of Tennessee. Will the gentleman yield?

Mr. MONDELL. Yes.

Mr. GARRETT of Tennessee. Do I understand the gentleman to argue that we ought to adopt the Senate amendment simply because if we disagree and send it to conference the Senate will hold up the conference report?

Mr. MONDELL. Oh, no. I am sorry the gentleman from Tennessee did not give me his attention. I am answering the question of the gentleman from Texas, and giving reasons why the adoption of this amendment will expedite the passage of the permanent tariff bill. It will expedite it because it will remove from the minds and the hearts and the will and the purpose of a great many gentlemen a desire, an inclination, a determination to delay the final enactment of the permanent tariff bill in order to create a hiatus between the time when the temporary tariff law controls and the time when the permanent tariff bill becomes a law. Now, we have avoided all that, and by so doing we have removed the danger of obstructive tactics intended to be helpful to those who might want to import goods that are affected by the emergency tariff bill.

Further than that, those who are in favor of the emergency tariff are also in favor of a permanent tariff, and therefore the friends of the two measures are one and the same, and as they desire the temporary tariff, they desire the permanent tariff even more.

The SPEAKER pro tempore. The time of the gentleman from Wyoming has expired.

Mr. MONDELL. Will the gentleman from Michigan yield me three minutes more?

Mr. FORDNEY. I yield to the gentleman from Wyoming three minutes.

Mr. MONDELL. While I am on my feet let me emphasize the fact that this country desires the speedy enactment of a permanent tariff law [applause], that the Republican membership of this House without an exception desire a speedy enactment of a permanent tariff law, that we have no patience with those either within or without our party—if there be any within—who are preaching the doctrine that this is not the time to enact a permanent tariff law. We are pledged to the American people for the speedy enactment of such a law. This House considered and passed such a law, and this House is as firm in its determination now, in its insistence now, as it ever has been, for the speedy enactment of such a law, and so far as our influence here goes it will be exerted at all times to speed the final enactment of the law which this House passed months ago. [Applause.]

The SPEAKER pro tempore. The question is on the motion of the gentleman from Michigan [Mr. FORDNEY] to concur in the Senate amendment.

The question being taken, on a division (demanded by Mr. GARRETT of Tennessee) there were—ayes 119, noes 47.

Mr. GARRETT of Tennessee. Mr. Speaker, I object to the vote because there is no quorum present.

The SPEAKER pro tempore. The gentleman from Tennessee makes the point of no quorum present. It is clear that there is no quorum present. The Doorkeeper will close the doors. The Sergeant at Arms will notify absentees. Those in favor of concurring in the Senate amendment will, when their names are called, vote "yea," those opposed "nay." The Clerk will call the roll.

The question was taken; and there were—yeas 234, nays 93, answered "present" 2, not voting 103, as follows:

## YEAS—234.

Ackerman	Chalmers	Fairfield	Houghton
Anderson	Chandler, N. Y.	Faust	Hudspeth
Andrew, Mass.	Chandler, Okla.	Favrot	Hukriede
Andrews, Nebr.	Chindblom	Fenn	Hull
Ansorge	Christopherson	Fess	Husted
Anthony	Clague	Focht	Ireland
Appleby	Clarke, N. Y.	Fordney	James
Arentz	Clouse	Foster	Johnson, Wash.
Atkeson	Cole, Iowa	Frear	Kearns
Bacharach	Cole, Ohio	Free	Keller
Barbour	Colton	Freeman	Kelley, Mich.
Beck	Connell	Frithingham	Ketchum
Begg	Connolly, Pa.	Fuller	Kless
Benham	Cooper, Ohio	Funk	King
Bird	Cooper, Wis.	Gensman	Kinkaid
Bixler	Coughlin	Gerner	Kirkpatrick
Blakeney	Crago	Glynn	Kissel
Bland, Ind.	Cramton	Goodykoontz	Klecza
Blanton	Crowther	Graham, Ill.	Kline, Pa.
Boles	Curry	Graham, Pa.	Knutson
Bond	Dallinger	Green, Iowa	Kopp
Bowers	Darrow	Greene, Mass.	Kraus
Brooks, Ill.	Dempsey	Greene, Vt.	Lampert
Brooks, Pa.	Denison	Hadley	Lankford
Brown, Tenn.	Dickinson	Hardy, Colo.	Lawrence
Browne, Wis.	Dowell	Haugen	Layton
Burtess	Dunbar	Hersey	Lea, Calif.
Burton	Dupré	Hickey	Leatherwood
Cable	Echo's	Hicks	Lee, N. Y.
Campbell, Kans.	Elliott	Hill	Lineberger
Campbell, Pa.	Ellis	Himes	Little
Cannon	Evans	Hoch	Longworth

Luhning	Osborne	Rossdale	Tincher
McArthur	Paige	Rouse	Towner
McCormick	Parker, N. J.	Sanders, Ind.	Treadway
McFadden	Parker, N. Y.	Sanders, N. Y.	Vaile
McLaughlin, Mich.	Parrish	Schall	Vestal
McLaughlin, Nebr.	Patterson, Mo.	Scott, Mich.	Voigt
McLaughlin, Pa.	Perkins	Scott, Tenn.	Volk
MacGregor	Pringle	Shaw	Volstead
Madden	Purnell	Siegel	Walters
Maloney	Radcliffe	Sinnot	Ward, N. Y.
Mapes	Raker	Slemp	Webster
Merritt	Ramseyer	Smith, Idaho	Wheeler
Michener	Ransley	Smith, Mich.	White, Kans.
Mills	Reavis	Smithwick	White, Me.
Millsbaugh	Reber	Snyder	Williams
Mondell	Reece	Speaks	Williamson
Montoya	Reed, N. Y.	Sprout	Winslow
Moore, Ill.	Reed, W. Va.	Stephens	Wood, Ind.
Moore, Ohio	Rhodes	Strong, Kans.	Woodruff
Moore, Ind.	Ricketts	Strong, Pa.	Woodyard
Morgan	Riddick	Summers, Wash.	Wurzbach
Mudd	Robertson	Sweet	Wyant
Nelson, A. P.	Robison	Swing	Yates
Nelson, J. M.	Rodenberg	Taylor, N. J.	Young
Newton, Mo.	Rogers	Taylor, Tenn.	Zihman
Norton	Rose	Thompson	
Olpp	Rosenbloom	Timberlake	

## NAYS—93.

Almon	Fields	Logan	Sears
Aswell	Fisher	London	Sisson
Bankhead	Fulmer	Lowrey	Stafford
Bell	Gallivan	Lyon	Stedman
Black	Garner	McEntic	Stevenson
Bland, Va.	Garrett, Tenn.	McDuffie	Sullivan
Bowling	Griffin	McSwain	Sumners, Tex.
Box	Hammer	Montague	Swank
Briggs	Hardy, Tex.	Moore, Va.	Tague
Brinson	Harrison	Newton, Minn.	Taylor, Ark.
Buchanan	Haves	O'Brien	Thomas
Bulwinkle	Hayden	O'Connor	Tillman
Byrnes, S. C.	Huddleston	Oldfield	Tinkham
Byrns, Tenn.	Humphreys	Overstreet	Underhill
Cantrill	Jacoway	Padgett	Upshaw
Collier	Jeffers, Ala.	Park, Ga.	Vinson
Collins	Johnson, Miss.	Parks, Ark.	Weaver
Connally, Tex.	Kincheloe	Pou	Wilson
Cullen	Kindred	Quin	Wingo
Davis, Tenn.	Kunz	Rankin	Woods, Va.
Dominick	Lanham	Rayburn	Wright
Doughton	Larsen, Ga.	Sabath	
Drewry	Lee, Ga.	Sanders, Tex.	
Driver	Lanthicum	Sandlin	

## ANSWERED "PRESENT"—2.

Butler Crisp

## NOT VOTING—103.

Barkley	Flood	Kreider	Rainey, Ala.
Beedy	French	Langley	Rainey, Ill.
Brand	Gahn	Larson, Minn.	Riordan
Brennan	Garrett, Tex.	Lazaro	Roach
Britten	Gilbert	Lehlbach	Rucker
Burdick	Goldsborough	Luce	Ryan
Burke	Gorman	McKenzie	Shelton
Burroughs	Gould	McPherson	Shreve
Carew	Griest	Magee	Shelclair
Carter	Hawley	Mann	Snell
Clark, Fla.	Hays	Mansfield	Steagall
Classon	Herrick	Martin	Steenerson
Cockran	Hogan	Mead	Stiness
Codd	Hutchinson	Michaelson	Stoll
Copley	Jeffers, Nebr.	Miller	Taylor, Colo.
Dale	Johnson, Ky.	Morin	Temple
Davis, Minn.	Johnson, S. Dak.	Mott	Ten Eyck
Deal	Jones, Pa.	Murphy	Tilson
Drane	Jones, Tex.	Nolan	Tyson
Dunn	Kahn	Ogden	Vare
Dyer	Kelly, Pa.	Oliver	Walsh
Edmonds	Kendall	Patterson, N. J.	Ward, N. C.
Elston	Kennedy	Perlman	Wason
Fairchild	Kitchin	Peters	Watson
Fish	Kline, N. Y.	Petersen	Wise
Fitzgerald	Knight	Porter	

So the motion to concur in the Senate amendment was agreed to.

The following additional pairs were announced:

Mr. TILSON (for) with Mr. CRISP (against).  
 Mr. BUTLER (for) with Mr. COCKRAN (against).  
 Mr. VARE (for) with Mr. MEAD (against).  
 Mr. KENDALL (for) with Mr. CARTER (against).  
 Mr. SHREVE (for) with Mr. KITCHIN (against).  
 Mr. SHELTON (for) with Mr. FLOOD (against).  
 Mr. ROACH (for) with Mr. CAREW (against).  
 Mr. PORTER (for) with Mr. TYSON (against).  
 Mr. GRIEST (for) with Mr. MANSFIELD (against).  
 Mr. MORIN (for) with Mr. BARKLEY (against).  
 Mr. LANGLEY (for) with Mr. CLARK of Florida (against).  
 Mr. KAHN (for) with Mr. RIORDAN (against).  
 Mr. DUNN (for) with Mr. OLIVER (against).  
 Mr. FITZGERALD (for) with Mr. GOLDSBOROUGH (against).  
 Mr. HAYS (for) with Mr. DRANE (against).  
 Mr. LEHLBACH (for) with Mr. RAINEY of Alabama (against).  
 Mr. MCPHERSON (for) with Mr. GARRETT of Texas (against).  
 Mr. MAGEE (for) with Mr. WARD of North Carolina (against).  
 Mr. HUTCHINSON (for) with Mr. DEAL (against).  
 Mr. GORMAN (for) with Mr. TEN EYCK (against).

## Additional general pairs:

Mr. FAIRCHILD with Mr. BRAND.  
 Mr. LUCE with Mr. GILBERT.  
 Mr. PATTERSON of New Jersey with Mr. STOLL.  
 Mr. PERLMAN with Mr. WISE.  
 Mr. EDMONDS with Mr. TYSON.  
 Mr. BEEDY with Mr. LAZARO.  
 Mr. KENNEDY with Mr. JONES of Texas.  
 Mr. BRENNAN with Mr. MARTIN.  
 Mr. HOGAN with Mr. TAYLOR of Colorado.  
 Mr. KREIDER with Mr. STEAGALL.  
 Mr. SNELL with Mr. JOHNSON of Kentucky.  
 Mr. GAHN with Mr. RUCKER.  
 Mr. DAVIS of Minnesota with Mr. RAINEY of Illinois.  
 Mr. BUTLER. Mr. Speaker, I voted "aye." I am paired with the gentleman from New York [Mr. COCKRAN], and I therefore withdraw my vote and answer "present."

The result of the vote was announced as above recorded.

Mr. DUPRE. Mr. Speaker, I am authorized to state that my colleagues, Mr. LAZARO and Mr. MARTIN, are unavoidably absent. If they were present, they would have voted "aye."

On motion of Mr. FORDNEY, a motion to reconsider the vote whereby the Senate amendment was agreed to was laid on the table.

## STANDARD HAMPERS AND BASKETS FOR FRUITS AND VEGETABLES.

Mr. VESTAL. Mr. Speaker, I move that the House resolve itself into Committee of the Whole House on the state of the Union for the further consideration of the bill (H. R. 7102) to fix standards for hampers, round-stave baskets, and splint baskets for fruit and vegetables, and for other purposes. Pending that motion I want to ask the gentleman from Arkansas if we can not agree on time for general debate. The gentleman from Arkansas [Mr. WINGO] was recognized in opposition to the bill.

Mr. WINGO. I had just got the floor for an hour when we adjourned.

Mr. VESTAL. Mr. Speaker, I ask unanimous consent that general debate on this bill shall not exceed two hours, including the time used by myself the other day when the bill was under consideration, one half of that time to be controlled by myself and the other half by the gentleman from Arkansas [Mr. WINGO].

The SPEAKER pro tempore. The gentleman from Indiana asks unanimous consent that general debate be limited to two hours, one half to be controlled by himself and the other half by the gentleman from Arkansas [Mr. WINGO], the time already used for general debate to be included. Is there objection?

There was no objection.

The motion of Mr. VESTAL was then agreed to.

Accordingly the House resolved itself into Committee of the Whole House on the state of the Union, with Mr. LONGWORTH in the chair.

Mr. WINGO. Mr. Chairman, I reserve the balance of my time and yield to my colleague, Mr. PARKS, such time as he may desire.

Mr. PARKS of Arkansas. Mr. Chairman, a condition unique in the economic history of this country confronts us to-day. Not since the time when Coxey led his weary hosts across the country to camp under the shadow of the Capitol's dome has unemployment been so rife. At the time the unemployed gathered themselves together under his leadership factories were idle because their products sold on the market below the cost of production. But to-day, with millions of men idle, with some of the breadwinners of the Nation who recently wore the uniform of their country being sold like slaves in the market, the factories are running, the cost of raw material is ridiculously low, and yet the price of practically every article that is necessary to man's comfort is just a little less than it was during the war period. The wages of the laborer have gradually been forced down, until he is compelled to deny himself and family the comforts of life. There are two classes now whose condition is appalling. The farmers and cattle raisers can not sell their products for enough to pay the freight from the field and the ranch to the markets. The press of to-day carries a statement from the Secretary of Agriculture advising the farmers to use their corn for fuel because of its low price and the almost prohibitive price of coal. The profiteer has continued to force down the price of raw material and to maintain the high level of prices of the manufactured article. The producer of raw material, not being organized, is perfectly helpless and has sacrificed his products on a low market. Then, that the profits might continue to be as great as they have been during the past four years, a general cut in wages in every industry has been begun.



Chief among the profiteers are the great railroad systems of the United States. Backed and supported by the Federal Government and sympathized with by the Interstate Commerce Commission, they began an assault upon the wages of their employees while maintaining the high rates of transportation. A continued propaganda has been spread throughout the land by the railroads setting forth their pretended terrible financial condition in an effort to enlist the support of the general public in their campaign for higher rates to themselves and lower wages to their employees.

From time to time applications have been made to the Interstate Commerce Commission by shippers for reduced freight rates. Not only have they been refused but it is said that an application for a reduction in rates on a railroad owned by Henry Ford was refused by this commission. The power to regulate freight and passenger rates rests in the Interstate Commerce Commission, and the power to regulate the wages of the employees of the railroads rests with the United States Railroad Labor Board. Just why both rates and wages should not be handled by one board or commission I can not understand, unless it is to increase the number of men drawing salaries out of the Federal Treasury. A decrease of 12 per cent in the wages of railroad employees was granted by the Labor Board, effective July 1. No corresponding decrease was made in freight or passenger rates, and neither has there been a material decrease in the cost of living. The employees of the railroads, unlike the producers of raw material, were organized. Finally, that they might understand what to expect in the future and doubtless preparatory to adjusting themselves to the 12 per cent cut in their wages, the employees inquired of the railroads if an additional reduction was contemplated, or if the 12 per cent wage reduction would be final if accepted. The answer made to this inquiry was like a challenge; they were told that another decrease in wages would be applied for immediately, and then it was that a strike was ordered. This threatened strike of the railroad employees, that greatly alarmed but did not terrify the people of the country, has been averted, and the world has gone about its affairs again, forgetting, perhaps, what had passed, and careless of the cause that had precipitated it.

Organized labor has been condemned from one end of the country to the other for the order to strike. There was a general uneasiness felt all over the land. While I hold no brief for organized labor, yet I believe sincerely in fair play for him who toils and that a final judgment on any question should be rendered only after all the facts in the case have been fairly and impartially considered.

I come from a district where organized labor possesses little political power, and I have never asked and, so far as I know, I have never received the indorsement of organized labor. I do not desire the support of any organization if I must obtain it by being partial to its interests or unfair to any opposing interest, and I am sure no labor interest will ever expect or desire anything but a square deal from me.

Those who receive the least good and suffer the most from a general strike are neither the employers nor the employees, but are those we usually term "the public." It is not to be doubted that every business interest in existence suffers an irreparable loss when a strike comes, and, indeed, it seems strange to the outsider that both capital and labor can not recognize that the success of one depends upon the cooperation and honest service of the other.

As the danger of a strike is now passed no harm can come from a discussion of this question, but perhaps some good may be done if the facts are laid before the public.

It was not a refusal to accept a reduction of 12 per cent in wages that caused the strike order, but because the railroad executives informed the officers of the employees that in addition to the reduction of 12 per cent already ordered an application would soon be filed with the Labor Board for an additional reduction in wages. That this was an indiscreet and an unwise act at a time when the first reduction had not been accepted can not be disputed. In our haste to lay the blame upon somebody and to do something that will in the future take away the possibility of this danger returning, we have not carefully made a survey of existing conditions.

It has been said—and I presume it is true—that the employees of the railroads are among the highest paid men anywhere to-day. Looking back across the years to the beginning of the life of organized labor and the day of starvation wages, what do we find? Without organized labor, without their battle for a fair and just wage and reasonable hours of work, what would have been the condition of labor to-day? It was only at the command of the Congress of the United States that the railroads equipped their trains with safety appliances for the pro-

tection of the lives and the limbs of those who drive the locomotive, set the brakes, or direct the train. I recall that again these men, seeking to earn their bread in the sweat of their faces—men who were free and not slaves—found it necessary to appeal to the lawmakers, and the Government once more stepped in and said that a man should not be required to work more than 16 hours a day; and then when the day of fast trains with the increased hazards incident thereto came, and with the terrible responsibilities of life and property in the hands of the employees, they again found it necessary to appeal to the Government to say what should be a day's work.

That sometimes the leaders of this great organization have not acted either to the interests of their constituents or to the people's I have no doubt. The fact that legislation has been enacted from time to time at the demand of organized labor; that it has been upheld by the highest courts of the States and of the United States, and is to-day accepted by the railroads, is some evidence of the justness of their contention.

The unions are perhaps less popular to-day than at any time in their history. This began, perhaps, when a general strike or walkout was ordered just before the war, and the press and the people from one end of the land to the other complained that it showed a lack of patriotic spirit to threaten this strike when we were about to engage in war. Every man recalls that up to that hour prices of all commodities and articles of trade had gone up from a hundred to a thousand per cent. Men who were in business of every kind had increased their prices in order to meet the high cost of living and in many instances had added a tremendous profit thereto—one has only to go to the returns made to the income-tax collector to know that this is true—while the man who worked for a fixed wage stood helplessly by and received the full force of the blow of high prices. It was then only that his demand for high wages and his threat of a strike came. Was it right or wrong? The Congress of the United States hastened to acknowledge the justness of the demand and passed the Adamson law, and it remains unchanged upon the statute book to-day. A Democratic Congress enacted the law and it was signed by a Democratic President. A Republican Congress and a Republican President have permitted it to stand.

While the laborer was gaining something and while the Government came to his aid in an effort to prevent poverty and want, it took care of the railroads and tucked them under the protecting wing of the United States Treasury. The history of Government operation of the railroads is too well known to need mention here, but out of all the wreck and destruction and turmoil of the war the railroads alone had behind them the United States Government, which practically guaranteed that no injury should come to them and they were permitted to increase their freight and passenger rates to such an extent as to almost destroy the traffic; and to this hour, with the wages of the employees already reduced, not one penny has been taken from the freight or passenger rates. When the peak of high prices was passed, when business was slowed down, when every business institution under the shining sun took stock of itself—charged off its losses and endeavored to begin anew—the railroads were the only concerns on earth that refused to take their losses along with the rest of us. Then Congress, looking away from the people, forgetting the taxpayer, poured into the coffers of the railroads multiplied millions of dollars of the people's money.

It now seems that the Interstate Commerce Commission, under the constant demand of the public and under the threat of a strike, has waked up and determined that it is time for it to act and has ordered a reduction in freight rates on some commodities in the West. A few short months ago, along with a great many farmers and their representatives, I attended a hearing before the Interstate Commerce Commission and there heard a member of the commission say that the railroads were operated at a loss and nothing could be done to remedy the terrible high freight rate that now exists, and indicated that the world was at the mercy of the railroads.

I have seen the fruit crop of my State almost a total loss to the grower because the freight rate was prohibitive; I saw the melon and vegetable crops confiscated by the railroads; and I appealed to this Government agency in vain.

The lumber industry, which is a great business in my State, giving employment to thousands of people, has been almost destroyed on account of the freight rates. It is estimated that there is a shortage to-day of a million and a half homes, and probably very many more. There are 30,000 sawmills competing for the lumber business and there is only a need for 20,000. Lumber has gone down until it is being sold almost at the cost of production. To-day it costs in freight alone nearly \$600,000,000 a year to move the product of the sawmills from

their yards to the place where the lumber is used. In fact, it costs as much to ship a carload of lumber to its destination as it does to manufacture that lumber and get it ready for shipment, and never in all the history of transportation have the railroads considered any other interests on earth but their own.

From the day the first piece of steel was laid until this hour, they have demanded all from the laborer that physical endurance and the laws of the land would permit; they have taken from the public every ounce of flesh they were able to extract; they have never yielded until they had fought every inch of the way and exhausted every remedy known to the law; they have demanded of communities rights of way, station sites, and bonuses; they have received from the hands of the Government enormous tracts of land to induce them to extend their lines, until to-day their properties are worth twenty billions of dollars.

As an evidence of the way in which the farmers have been pillaged and plundered by the railroad companies, the following was sent me by Mr. R. E. Woods, of the Blevins Board of Trade:

BLEVINS, ARK., September 11, 1921.

HOB. TILMAN B. PARKS, M. C.,

Washington, D. C.

DEAR MR. PARKS: The Blevins Board of Trade has instituted a campaign in behalf of the many truck growers residing along the line of the Prescott & Northwestern Railroad. During the past season the truck business was almost an entire failure in a financial way, owing to the fact that the freight rates were unbearable, and in many cases where cantaloupes and watermelons sold at fair prices in the markets of the North and East, after the freight and charges connected with transportation and marketing had been deducted, there was a deficit. In all of the shipments the freight rates this year have been prohibitive.

In addition to our efforts for the growers locally as stated above, we will cooperate with Hope, Horatio, Highland, and all points interested in the fruit and truck growing of Arkansas, and we hope to be able to show up this matter in its true state, and in so doing have the railroad refund the excessive charges on the 1921 crop and reduce the rate so that hereafter we may be able to market our products with a reasonable profit. Unless this is done the truck business is dead in Arkansas, and that would be a terrible fall to us.

During this season Imperial Valley and other truck-growing sections of the far West marketed their cantaloupes in the same markets with ours and at a profit. Ours sold at top prices all along and we lost money. They had a long railroad haul as compared with ours, and the reason is obvious—they had a reduced freight rate and in addition they received a bonus from the railroads. This is discrimination and we should be protected. Blevins is the center of the truck-growing region and we are asked to take the lead in this matter, which we have consented to do.

Please let us hear from you at once with your advice for procedure, setting it out as fully in detail as you are able to do without inconvenience. Also, we would like to know your feeling toward the move.

With kindest personal regards from the writer, we beg to remain,

Yours, very truly,

R. E. Wood, Secretary.

The town of Blevins, in my home county, is in the center of a large fruit and truck growing area, and the following statement shows that a car of cantaloupes shipped by the Fruit and Truck Growers' Association brought a fancy price on the market, but after the freight was deducted the grower received only \$38.17, while the price paid for the car of melons was \$586.20; another car was shipped to Chicago and sold for \$417, and after deducting the freight, commission, and loading the grower received \$45.74; on a car of cantaloupes shipped to Cincinnati, which sold for \$448.60, after deducting freight, commission, and loading the grower received \$92.63; a shipment of peaches, containing 30 bushels, sold in St. Louis for \$75, which was more than \$2 a bushel, after paying the transportation charges the grower received \$20.

The following shows the returns on car lot and express shipments of fruits and truck, with itemized account showing cost of transportation, commission charges, and net receipts to the grower:

SHIPPED TO PITTSBURGH, PA.

One car of cantaloupes shipped by the Hope Fruit & Truck Growers' Association, sold for	\$586.20
Freight to Pittsburgh, Pa.	361.16
Drayage	17.31
Commission	58.62
Crates, packing, and loading	187.28
Net to grower	38.17

SHIPPED TO CHICAGO, ILL.

One car of cantaloupes shipped by the Hope Fruit & Truck Growers' Association, sold for	\$417.60
Freight, commission, and loading	371.86
Net to grower	45.74

SHIPPED TO CINCINNATI, OHIO.

One car cantaloupes, shipped by Hope Fruit & Truck Growers' Association, sold for	\$448.60
Freight, commission, and loading	355.97
Net to grower	92.63

EXPRESS SHIPMENTS BY THE HOPE FRUIT & TRUCK GROWERS' ASSOCIATION.

30 bushels peaches to St. Joseph, Mo., sold for	\$75.00
Express	43.48
Commission	11.25
Net to grower	20.37
10 bushels peaches, Atchison, Kans., sold for	24.00
Express	14.47
Commission	4.80
Net to growers	4.73
59 bushels beans, peaches, and cucumbers, Topeka, Kans., sold for	125.00
Express	83.20
Commission	12.50
Net to grower	29.30

This is only one instance, but it shows, Mr. Chairman, what is happening everywhere.

But to get back to the question of wages. It must not be forgotten that the average employee of a railway company must spend years in the service before he finally reaches a position as responsible as that of conductor upon a freight or a passenger train, and almost every hour of these years must be spent in a place of danger. Yes; while you and I and the world are safely sleeping after a day's work, these men, who are so severely censured when they stand up for what they deem to be their rights, and even threaten to strike, must go out into the night and into the storm and rain, doing their part to keep the wheels of trade moving and to silence the howl of the wolf at the door. Shall we condemn the man for using the only weapon for his defense that he has?

As much, Mr. Chairman, as a strike discomforts and displeases me, I shall not condemn the railroad laborer until we furnish him a place where his claim can be heard, and not only a place where his claim can be heard but a tribunal that has the power to enforce its decision. We forget that his is not a life of safety and ease. How many go out from their families happy and strong who never come back again, or come back maimed and crippled for life! I never stand by the railroad track and see the great giant engines thunder by that I do not feel that the men who ride in the cabs are continually and heroically facing death in the service of their country.

Let us inquire if he is really overpaid under present conditions. The Labor Board has recently said that the average day's wage for all classes of railway employees is \$4.54. Allowing nothing for sickness or vacations, taking out only the 4 Sabbath days a month, he works 26 days a month and earns \$118.04, or \$1,416.48 for a full year. Naturally, some deduction must be made for sickness. It is easily seen that this is not sufficient to supply a man of family with the necessities of life.

But that I may not misstate the case I will take the statement sent broadcast as propaganda by the Erie Railroad Co. showing the salaries of 20 of the highest paid classes, and the average monthly wage of these is only \$186.79. But turning aside from a statement based upon averages, we will take a concrete case. I recently read a letter from one who had been a passenger conductor continuously for 24 years, and he prior to that time had for many years been serving his apprenticeship in preparation for the place he now holds. This is an excerpt from that letter. He writes:

We are paid \$192 per month of 30 days—\$6.40 per day, or 64 cents per hour, and 10 hours before any overtime accrues. My necessary expenses away from home amount to \$50 per month. Some spend less than this and some more. Many runs compel a man to be away from home three-fourths of the time. We were willing to take the cut of July 1, but certainly can not take another one until the cost of living has gone down. My rent was raised \$20 per month the last year; my shoes, that formerly cost \$5, are now \$10, \$12, and \$15, and not as good, either. Some groceries went down a little, but are now going up again. Gas, electric, and telephone service went up, as did street car fares. Before the war we were paid \$162 per month of 26 days, extra for Sundays, and 15 days per year vacation. We have lost that and work a 30-day month instead of 26. We are expected to be diplomats and Chesterfields, as well as having a perfect knowledge of practical railroading, which we learn in a hard school.

But, Mr. Chairman, there are men in the employ of the railroads who are adding to the cost of operation of the roads much more than the ordinary wage earner, and they are receiving salaries entirely out of proportion to the services rendered. I refer to the officers and attorneys of the roads. Recently I inquired of the Interstate Commerce Commission for a list of the salaries paid by the principal roads, and I was referred to an official statement published by the United States Railroad Labor Board in 1917. Doubtless these salaries are in effect to-day, for nobody ever heard of reducing the salaries of the railroad presidents, general managers, and attorneys. From a list of attorneys and officers of the Pennsylvania Railroad I have selected 20



whose aggregate annual salaries reach the stupendous figure of \$614,450, or an average yearly salary of \$30,722.50 per man. It might be interesting to read a list of those persons in the employ of this road drawing a salary of \$20,000 and up per annum. Listen to this:

Samuel S. Rea, president	\$75,460
James J. Turner, vice president	40,620
W. W. Atterbury, vice president	40,000
W. Heyward Myers, vice president	35,200
Edward B. Taylor, vice president	31,235
G. L. Peck, vice president	30,030
George Dallas Dixon, vice president	30,000
D. T. McCabe, vice president	30,000
B. McKeen, vice president	25,020
W. Heyward Myers, vice president	25,000
J. M. Schoonmaker, vice president	25,000
Henry Tattall, vice president	25,000
James F. Fahnestock, treasurer	20,000
William Newell Bannard, special assistant to general manager	25,000
Thomas Rodd, chief engineer	21,080
Francis I. Gowen, general counsel	30,000
C. B. Heiseman, general counsel	20,000
Henderson & Burr, solicitors	29,700
Loech & Richards, solicitors	25,805
G. S. Patterson, general solicitor	30,000

Surely these gentlemen will not care to strike. They live like lords, and have not only the comforts but the useless luxuries of life.

President Harding receives \$75,000 per annum as head of a great Nation of more than 100,000,000 people, and seems thoroughly satisfied with both his pay and his place. The president of the Pennsylvania Railroad draws an annual salary of \$75,460. Is it any wonder that the Interstate Commerce Commission finds that the dear old poverty-stricken (?) railroads must still be allowed to plunder the American people in order that the higher-ups may live on the fat of the land and dwell in gilded palaces? From the same publication, I will submit another list of officers and attorneys of railroads who are receiving princely salaries at the expense of the outraged shippers and taxpayers. Do you think, Mr. Chairman, that the shipper who sold the car of cantaloupes for \$586.20 and then paid \$361.16 out of this amount for freight on the shipment feels that he is being fairly dealt with when he learns that part of his cantaloupes went to hire a \$75,000 railroad president? Has the man who goes out to fight the battle of life from the top of a box car at \$125 per month a right to complain that he is unfairly dealt with when he knows that a general attorney for the same road rides in a Pullman car on a salary of \$55,000 a year? And what about the cost of living? Does the instance cited by me of the shipper in my home county not show where the greatest item of cost is?

Here I have a list of the salaries paid to the officers and attorneys of the principal trunk-line railroads of this country. It can scarcely be believed, but here it is. Does this add materially to the expense of operating the roads, and how does it affect the cost of living?

	Compensation.
Aishton, Richard H., president, Chicago & North Western	\$50,240.00
Atterbury, W. W., vice president in charge of operations, Pennsylvania	40,000.00
Auch, John F., vice president and traffic manager, Philadelphia & Reading	20,000.00
Baker, Botts, Parker & Garwood, attorneys, Southern Pacific	30,000.00
Bannard, Wm. Newell, special agent to general manager, Pennsylvania	25,060.00
Batchelder, F. C., president, Baltimore & Ohio Chicago Terminal	22,015.00
Bell, M. L., general counsel, Chicago, Rock Island & Pacific Railway Co.	59,486.45
Bernet, J. J., president and general manager, Nashville, Chattanooga & St. Louis	26,906.66
Perry, J. B., consulting engineer, Los Angeles & Salt Lake	23,600.00
Besler, W. G., president and general manager, Central Railroad Co. of New Jersey	50,210.00
Biddle, W. B., president, St. Louis-San Francisco Railroad	39,879.00
Bierd, W. G., president, Chicago & Alton	36,646.55
Biscoe, H. M., vice president, Boston & Albany	20,010.00
Blair, Joseph P., general counsel, Southern Pacific	34,500.00
Bledsoe, Samuel T., assistant general solicitor, Atchison, Topeka & Santa Fe	20,000.00
Blendinger, F. L., vice president, Lehigh Valley	20,120.00
Bond, Hugh L., Jr., general counsel and director, Baltimore & Ohio	25,290.00
Bowes, Frank B., vice president, Illinois Central	20,115.00
Brown, E. N., chairman board of directors, Pere Marquette	21,666.67
Brownell, Geo. F., vice president and general solicitor, Erie	49,610.00
Bruce, Helm, local counsel, Louisville & Nashville	27,770.00
Buckland, Edward G., vice president and general counsel, New York, New Haven & Hartford	22,699.99
Budd, Ralph, assistant to president, Great Northern	20,000.00
Burn, Charles W., general counsel, Northern Pacific	30,000.00
Burnham, C. G., vice president, Chicago, Burlington & Quincy	31,249.98
Bush, B. F., president, Missouri Pacific	44,170.00
Bush, D. L., vice president, Chicago, Milwaukee & St. Paul	20,010.00
Butler, Pierce, counsel of Federal Valuation, Missouri Pacific	45,000.00
Byram, H. E., president, Chicago, Milwaukee & St. Paul	60,000.00
Byram, H. E., vice president, Chicago, Burlington & Quincy	22,500.00

	Compensation.
Calvin, Edgar E., president, Union Pacific	\$35,080.00
Campbell, Benjamin, senior vice president and director, New York, New Haven & Hartford	28,343.33
Capps, Chas. R., first vice president and director, Seaboard Air Line	20,000.00
Carey & Kerr, general counsel, Spokane, Portland & Seattle	22,500.00
Carpenter, Myron J., president, Chicago, Terre Haute & Southeastern	25,040.00
Carter, Ledyard & Milburn, general counsel, Denver & Rio Grande	55,000.00
Carstensen, John, vice president, New York Central	35,000.00
Cary, Robert J., general counsel, New York Central	22,000.00
Chadbourne & Shores, counsel, Denver & Rio Grande	63,000.00
Chambers, Edward, vice president, Atchison, Topeka & Santa Fe	25,000.00
Clark, James T., president, Chicago, St. Paul, Minneapolis & Omaha	25,160.00
Coapman, E. H., vice president, Southern	30,150.00
Cooke, Delos W., vice president, Erie	25,826.67
Cooper, Thomas, assistant to president, Missouri Pacific	25,000.00
Cravath & Henderson, general counsel, St. Louis & San Francisco	20,000.00
Crowley, P. E., operating vice president, New York Central	25,000.00
Daly, C. F., vice president, New York Central	35,000.00
Darlow, E. R., president, Buffalo & Susquehanna	35,300.00
Davis, J. M., vice president, charge of operations and maintenance, Baltimore & Ohio	24,000.00
Dean, Richmond, vice president, Pullman Co.	30,000.00
Depew, Chauncey M., chairman board of directors, New York Central	25,260.00
Dice, Agnew T., president, Philadelphia & Reading	35,000.00
Dickinson, J. M., receiver, Chicago, Rock Island & Pacific	120,732.90
Dixon, Geo. Dallas, vice president in charge of traffic, Pennsylvania	30,000.00
Donelly, Chas., assistant general counsel, Northern Pacific	20,000.00
Doran, Joseph L., general counsel, Norfolk & Western	20,310.00
Earling, A. J., president, Chicago, Milwaukee & St. Paul	75,319.00
Earling, H. B., vice president, Chicago, Milwaukee & St. Paul	20,000.00
Edson, J. A., president, Kansas City Southern	25,000.00
Elliott, Howard, director, president, and chairman, New York, New Haven & Hartford	37,381.69
Evans, W. F., general solicitor, St. Louis & San Francisco	25,000.00
Fahnestock, James F., treasurer, Pennsylvania	20,000.00
Farrell, J. D., president, Union Pacific	30,030.00
Felton, S. M., president, Chicago Great Western	40,259.96
Galloway, Chas. Wm., general manager, Baltimore & Ohio	20,210.00
Gilman, L. C., president, Spokane, Portland & Seattle	30,000.00
Gorman, J. E., president, Chicago, Rock Island & Pacific	47,715.00
Gowan, Marcus L., general counsel, Pennsylvania Railroad	30,000.00
Gowen, Francis I., general counsel, Pennsylvania	30,000.00
Gray, C. R., chairman of board, Western Maryland Railway	32,960.00
Gruber, James M., vice president and general manager, Great Northern	25,000.00
Hannaford, J. M., president, Northern Pacific	50,000.00
Hanson, Burton, general counsel, Chicago, Milwaukee & St. Paul	25,000.00
Harahan, W. J., president, Seaboard Air Line	40,837.00
Harden, A. T., vice president, New York Central	35,020.00
Harris, Albert H., vice president, New York Central	35,560.00
Harrison, Fairfax, president, Southern	50,500.00
Hawkins, W. A., general attorney, El Paso & Southwestern	25,000.00
Heiseman, C. B., general counsel, Pennsylvania Western	20,000.00
Henderson & Burr, solicitors, Pennsylvania System	29,700.00
Herbert, J. M., president, St. Louis Southwestern of Texas	20,343.36
Herrin, William E., vice president and chief counsel, Southern Pacific	38,170.00
Hill, Louis W., chairman, Great Northern	50,000.00
Hillard, Charles W., fourth vice president, St. Louis-San Francisco	20,000.00
Hines, Walker D., director, chairman, Atchison, Topeka & Santa Fe	77,210.00
Holden, Hale, president and director, Chicago, Burlington & Quincy	65,000.00
House, F. E., president and general manager, Duluth & Iron Range	34,045.00
Howard, E. A., vice president, Chicago, Burlington & Quincy	20,000.00
Hughitt, Marvin, sr., chairman board of directors, Chicago & North Western	60,460.00
Hughitt, Marvin, Jr., vice president, Chicago & North Western	25,050.00
Hungerford, L. S., general manager, Pullman Co.	20,000.00
Huntington, C. W., president, Virginian Railway Co.	20,660.00
Huntington, G. R., general manager, Minneapolis, St. Paul & Sault Ste. Marie	20,000.00
Hustis, James H., president, Boston & Maine	35,200.00
Hyser, Edward M., vice president and general counsel, Chicago & North Western Railway	36,260.00
Ingersoll, Howard L., assistant to president, New York Central	20,000.00
Inglis, Wm. W., vice president and manager, Delaware, Lackawanna & Western	30,030.00
Jackson, Wm. J., receiver, Chicago & Eastern Illinois	27,000.00
James, Arthur Curtis, vice president, El Paso & Southwestern	26,650.00
Jeffery, E. T., chairman of board, Denver & Rio Grande	20,166.66
Jeffries, L. E., general counsel, Southern Railway	23,083.32
Jenney, Wm. S., vice president and general counsel, Delaware, Lackawanna & Western Railroad	31,383.98
Johnson, L. E., president, Missouri Pacific	60,090.00
Jungen, C. W., manager, Southern Pacific	21,500.00
Kearney, Ed P., president, Wabash	50,120.00
Keely, E. S., vice president, Chicago, Milwaukee & St. Paul	20,000.00
Kenney, Wm. P., vice president, Great Northern	22,500.00
Kerr, John B., president and general manager-director, New York, Ontario & Western Railway	20,230.00
Kramer, Le Roy, vice president, Pullman Co.	24,000.00
Kruttchnitt, J., chairman of executive committee of board of directors, Southern Pacific Transportation System	88,860.00
Kurn, J. M., president, Detroit, Toledo & Ironton	20,000.00
Lamb, E. T., president, Atlanta, Birmingham & Atlantic	25,110.00

		Compensation.			Compensation.
Lancaster, J. L., president and receiver, Texas & Pacific	\$20,470.00		Ross, Walter L., president and receiver, Toledo, St. Louis & Western	\$25,000.00	
Lathrop, Gardiner, general solicitor, Atchison, Topeka & Santa Fe	25,000.00		Ruhlender, Henry, chairman board of directors, St. Louis & San Francisco	40,000.00	
Lawton-Cunningham, general and division counsel, Central of Georgia	21,000.00		Runnells, John S., president, Pullman Co.	60,500.00	
Ledyard, H. B., chairman board of directors, Michigan Central	30,240.00		Russell, Henry, vice president, Michigan Central	20,095.00	
Levey, Chas. M., president, the Western Pacific	25,420.00		Schaff, Charles E., receiver and president, Missouri, Kansas & Texas	43,000.00	
Levy, Edw. D., first vice president and general manager, St. Louis & San Francisco	27,600.00		Schoonmaker, J. M., vice president, Pennsylvania	25,000.00	
Lincoln, Robt. T., chairman board of directors, Pullman Co.	25,300.00		Schumaker, Thomas M., president, El Paso & Southwestern	60,150.00	
Lindley, E. C., vice president, director, and general manager, Great Northern	20,000.00		Scott, W. B., president, Morgan's Louisiana & Texas Railroad & Steamship	27,245.00	
Loech & Richards, solicitors, Pennsylvania	25,805.00		Segar, C. B., vice president and comptroller, Union Pacific	37,016.87	
Loomis, E. E., president, Lehigh Valley	44,287.18		Sewall, E. D., vice president, Chicago, Milwaukee & St. Paul	20,160.00	
Loomis, N. J., general solicitor, Union Pacific	20,000.00		Seymour, M. V., counsel, St. Paul Union Depot	27,000.00	
Loree, L. F., president, Delaware & Hudson	50,800.00		Scott, William R., vice president and general manager, Southern Pacific	23,766.67	
Lorce, L. F., chairman board and executive committee, Kansas City Southern	30,825.00		Shriver, G. M., vice president, Baltimore & Ohio	30,250.00	
Lovett, A. S., chairman executive committee, Union Pacific	104,104.18		Sloan, George T., first vice president, Northern Pacific	35,120.00	
Lyford, Will H., general counsel to receiver, Chicago & Eastern Illinois	24,040.00		Smith, A. H., president, New York Central	78,360.00	
McAllister, Henry, Jr., general counsel, Denver & Rio Grande	55,000.00		Smith, Milton H., president, Louisville & Nashville	20,639.09	
McCabe, D. T., vice president, Pennsylvania	30,000.00		Spence, L. F., director of traffic, Southern Pacific	36,525.00	
McChesney, W. S., president, Terminal Railroad Association, St. Louis	22,450.00		Spencer, O. M., general counsel, Chicago, Burlington & Quincy	27,123.28	
McCormack, E. O., vice president of traffic, Southern Pacific	30,200.00		Sproule, William, president, Southern Pacific	62,036.67	
McDonald, A. D., vice president and controller, Southern Pacific	26,250.00		Stevens, George W., president, Chesapeake & Ohio	31,873.26	
McDonald, Morris, president, Maine Central	35,735.12		Stone, A. J., vice president, Erie	29,070.00	
McGonagle, William A., president and general manager, Duluth, Missabe & Northern	21,000.00		Storey, W. B., vice president, Atchison, Topeka & Santa Fe	32,950.00	
McKeen, V., vice president, Pennsylvania Lines	25,020.00		Strong, A. H., general attorney, Pennsylvania	20,000.00	
McKenna, E. W., member conference committee, Chicago, Milwaukee & St. Paul	20,000.00		Slade, George T., first vice president, Northern Pacific	35,120.00	
Maher, N. D., vice president of operations, Norfolk & Western	36,350.00		Tatnall, Henry, vice president, Pennsylvania	35,200.00	
Markham, C. H., president, Illinois Central	60,555.00		Taylor, Edw. B., vice president, Pennsylvania Lines West	31,235.00	
Martin, W. L., vice president and traffic manager, Minneapolis, St. Paul & Sault Ste. Marie	20,160.00		Thomas, E. B., chairman of board, Lehigh Valley	50,885.00	
Middleton, J. A., vice president, Lehigh Valley	30,445.00		Thompson, Arthur W., vice president, Baltimore & Ohio	30,510.00	
Minnis, James L., vice president and general solicitor, Wabash	20,833.33		Todd, Percy R., president, Bangor & Aroostook	30,395.00	
Mudge, H. U., president, Denver & Rio Grande	43,232.00		Trabue, Doolan & Cox, district attorneys for Kentucky, Illinois Central	27,720.00	
Myers, W. Heyward, vice president, Pennsylvania	25,000.00		Trusdale, William H., president, Delaware, Lackawanna & Western	75,399.88	
Noonan, William T., president, Buffalo, Rochester & Pittsburgh	50,000.00		Trumbull, Frank, chairman of board, Chesapeake & Ohio	26,738.97	
O'Brien, Boardman, Harper & Fox, counsel, Pennsylvania	26,500.00		Turner, James J., senior vice president, Pennsylvania Lines West	40,620.00	
Pardee, Dwight W., secretary, New York Central	21,500.00		Underwood, F. D., president and chairman executive committee, Erie	77,950.00	
Patterson, G. S., general solicitor, Pennsylvania	30,000.00		Utley, E. H., vice president and general manager, Bessemer & Lake Erie	20,867.12	
Platt, H. V., vice president and general manager, Union Pacific	20,000.00		Warfield, S. Davies, chairman of board, Seaboard Air Line	50,000.00	
Pearson, Edw. J., president, New York, New Haven & Hartford	40,000.00		Waterhouse, Frank, foreign freight agent, Union Pacific	24,000.00	
Peck, G. L., fourth vice president, Pennsylvania	30,030.00		Williams, W. N., vice president, Delaware & Hudson	20,636.66	
Pennington, E., president, Minneapolis, St. Paul & Sault Ste. Marie	52,723.34		Williams, Henry R., vice president, Chicago, Milwaukee & St. Paul	31,117.00	
Peters, Ralph, president, Long Island	30,470.00		Winburn, W. A., president, Central of Georgia	21,855.00	
Pierce, Winslow S., general counsel, Wabash	24,000.00		Winchell, B. L., director of traffic, Union Pacific	36,000.00	
Place, Ira A., vice president, New York Central Lines	35,150.00		Woodworth, James G., second vice president, Northern Pacific	22,500.00	
Potter, Mark W., president, Carolina, Clinchfield & Ohio	20,000.00		Worcester, H. A., vice president and general manager, Cleveland, Cincinnati, Chicago & St. Louis	22,395.00	
Randolph, Epes, president, Arizona Eastern	26,465.00		Young, J. H., president and director, Norfolk Southern	26,020.00	
Rea, Samuel, president, Pennsylvania	75,460.00		McKenney & Flannery, solicitors, Pennsylvania	21,250.00	
Reed, J. H., president and director, Bessemer & Lake Erie	23,562.00				
Ridgway, A. C., vice president, Chicago, Rock Island & Pacific	25,390.00				
Rine, E. M., vice president and general manager, Delaware, Lackawanna & Western	33,373.33				
Ripley, Ed. P., president, Atchison, Topeka & Santa Fe	75,400.00				
Robertson, Alexander, vice president, Missouri Pacific	25,869.55				
Rodd, Thomas, chief engineer, Pennsylvania Lines West	21,080.00				

Average price of the principal articles of food for five cities on certain dates.

Article.	Unit.	Indianapolis, Ind.			Jacksonville, Fla.			Kansas City, Mo.		Little Rock, Ark.		Los Angeles, Calif.		
		Aug. 15—			Aug. 15—			Aug. 13—		Aug. 15—		Aug. 15—		
		1913			1913			1913		1913		1913		
		1913	1920	1921	1913	1920	1921	1913	1920	1913	1920	1913	1920	1921
Sirloin steak	Pound	25.5	44.5	36.9	26.0	40.3	35.0	24.4	43.8	26.3	39.6	35.0	24.0	38.1
Round steak	do.	24.7	43.2	35.7	22.0	38.0	30.8	22.3	39.4	20.6	37.6	31.9	21.0	33.0
Rib roast	do.	18.2	30.6	26.1	23.3	29.7	25.4	18.0	30.9	20.0	32.7	28.7	19.6	31.3
Chuck roast	do.	16.4	27.7	21.0	14.0	23.8	18.8	15.3	23.4	16.3	26.3	20.6	15.8	22.1
Plate beef	do.	12.1	19.1	14.3	10.3	16.8	10.3	12.3	16.5	13.5	21.1	14.3	12.3	16.9
Pork chops	do.	22.7	43.3	36.9	22.3	44.2	36.9	20.9	40.6	22.5	43.7	33.8	25.4	51.5
Bacon	do.	31.0	53.9	42.6	30.3	53.9	41.7	31.3	57.1	38.0	58.2	48.9	33.8	65.0
Ham	do.	31.2	62.8	56.2	28.7	58.8	53.8	30.6	60.6	30.6	63.4	54.2	36.7	70.1
Lamb	do.	20.7	37.1	30.6	19.3	37.0	38.0	18.7	34.4	20.0	42.0	36.4	18.8	35.5
Hens	do.	21.0	42.2	35.8	22.8	42.0	34.8	16.9	38.1	18.3	36.1	30.3	26.8	44.0
Salmon (canned)	do.	31.6	25.9	25.9	34.6	28.1	28.1	36.9	37.0	39.9	37.0	39.9	48.8	44.9
Milk, fresh	Quart	8.0	14.0	12.0	12.4	25.0	20.0	9.1	16.0	10.0	20.0	15.0	10.0	18.0
Milk, evaporated	15 16-ounce can	16.2	16.2	13.4	15.2	13.7	13.7	15.6	16.4	14.7	16.4	14.7	14.0	11.6
Butter	Pound	34.5	64.8	50.6	38.6	70.8	51.2	35.4	65.7	39.0	67.5	45.9	39.5	51.0
Oleomargarine	do.	41.8	29.3	29.3	42.2	29.7	29.7	41.9	41.9	39.0	43.0	31.3	44.8	32.4
Nut margarine	do.	34.8	25.8	25.8	38.5	28.5	28.5	35.1	37.8	28.0	37.8	28.0	35.4	28.7
Cheese	do.	21.0	40.3	34.2	22.5	38.7	31.3	21.8	42.0	23.3	39.6	29.2	19.5	43.4
Lard	do.	15.2	26.4	15.3	15.5	28.3	19.9	16.4	29.9	16.3	28.8	18.5	17.9	30.7
Crisco	do.	34.0	21.1	21.1	35.5	20.8	20.8	37.1	37.1	32.6	20.5	20.5	33.1	21.7
Eggs, strictly fresh	Dozen	24.0	55.1	39.2	34.0	60.7	50.2	25.3	55.8	28.3	56.9	35.7	39.0	62.7
Bread	Pound	5.1	11.6	8.6	6.5	12.7	10.3	6.0	13.4	5.5	11.0	9.5	6.0	10.6
Flour	do.	3.1	8.1	5.3	3.8	9.1	6.5	3.0	7.7	3.5	8.5	5.9	3.6	8.2
Corn meal	do.	2.6	6.4	3.2	2.9	6.0	3.4	2.7	7.7	2.5	6.1	3.1	3.3	8.1
Rolled oats	do.	12.3	9.3	9.3	12.0	11.0	11.0	13.3	12.5	11.7	11.7	11.7	11.5	10.6



Average price of the principal articles of food for five cities on certain dates—Continued.

Article.	Unit.	Indianapolis, Ind.			Jacksonville, Fla.			Kansas City, Mo.		Little Rock, Ark.			Los Angeles, Calif.		
		Aug. 15—			Aug. 15—			Aug. 13—		Aug. 15—		July 15, 1921.	Aug. 15—		
		1913	1920	1921	1913	1920	1921	1913	1920	1913	1920		1913	1920	1921
		Cts.	Cts.	Cts.	Cts.	Cts.	Cts.	Cts.	Cts.	Cts.	Cts.	Cts.	Cts.	Cts.	Cts.
Corn flakes.....	8-ounce package.....	15.2	11.7	.....	15.4	12.9	.....	15.4	.....	14.9	13.1	.....	13.9	12.6	.....
Cream of wheat.....	28-ounce package.....	32.8	31.8	.....	31.4	30.3	.....	30.7	.....	31.3	31.4	.....	29.4	29.1	.....
Macaroni.....	Pound.....	21.7	20.1	.....	22.7	21.0	.....	23.2	.....	21.6	21.8	.....	19.6	17.7	.....
Rice.....	do.....	9.2	19.4	9.1	6.6	15.5	7.6	8.7	19.0	8.3	18.1	7.4	7.7	17.6	9.5
Beans, navy.....	do.....	.....	11.0	7.1	.....	12.8	9.0	.....	12.5	.....	12.0	8.0	.....	10.0	8.0
Potatoes.....	do.....	2.2	5.5	4.8	2.6	6.2	5.4	1.9	4.7	2.0	6.7	4.3	1.8	4.6	3.1
Onions.....	do.....	.....	6.0	5.8	.....	7.2	5.1	.....	5.9	.....	6.5	5.7	.....	4.6	4.1
Cabbage.....	do.....	.....	4.1	7.7	.....	6.4	7.8	.....	4.5	.....	6.5	5.6	.....	4.7	3.9
Beans, baked.....	No. 2 cans.....	16.3	13.3	.....	16.8	13.8	.....	17.1	.....	16.3	13.7	.....	18.5	16.1	.....
Corn, canned.....	do.....	16.9	14.3	.....	20.6	17.0	.....	15.6	.....	18.0	14.8	.....	18.9	17.9	.....
Peas, canned.....	do.....	16.7	14.9	.....	21.9	19.4	.....	17.3	.....	18.7	18.2	.....	19.5	18.4	.....
Tomatoes, canned.....	do.....	.....	15.3	12.5	.....	14.8	11.9	.....	15.4	.....	14.8	11.7	.....	15.4	14.8
Sugar, granulated.....	Pound.....	5.9	22.3	7.6	5.9	25.5	7.6	5.7	22.8	5.8	22.7	8.1	5.6	22.1	7.6
Tea.....	do.....	60.0	85.8	82.2	60.0	90.6	86.2	54.0	84.0	50.0	92.9	91.2	54.5	73.8	69.4
Coffee.....	do.....	30.0	50.6	38.6	34.5	52.8	37.1	27.8	48.3	30.8	52.0	37.6	35.3	45.2	37.5

Mr. Chairman, the business of this country and the property of its people should not be destroyed. A strike ought never to be necessary. I do not believe that Congress should sit by year after year and see these conditions growing worse and propose no remedy. The Interstate Commerce Commission, instead of resolving all the doubts in favor of the railroads, should compel the railroads to reduce both freight and passenger rates to the point where they will return only a reasonable profit. Not until then should the United States Railroad Labor Board reduce the wages of the employees, and then only to that figure where they will receive a fair price for their labor. But I contend, Mr. Chairman, they should begin first with the presidents, attorneys, general managers, and other officers who are drawing princely salaries, and not with the section foreman, the car knocker, and the brakeman. Let Congress lay its restraining hand upon the throats of the profiteers and compel them to pay the expense of the Government. Until this is done I shall not condemn the laborer who strikes in self-defense, and I shall continue to demand that the railroads give to the public and the employee a square deal.

Mr. WINGO. Mr. Chairman, I feel that candor compels me to say that the committee has considerably improved this bill. Since they first offered it, some Congresses ago, they have whittled out many objectionable features, and have got it, with one exception, about as unobjectionable as it could be aside from the power of Congress to pass such a bill. Under the five-minute rule some gentleman will call attention to one provision which I think will be objectionable in the bill, even from the standpoint of the proponents. I am against the whole proposition, but I am always willing, in my humble way, to do anything I can to carry out the express intentions of the framers along the least objectionable lines.

Of course, the real objection is that you are not doing what you claim. I want to help you eradicate the evils that you name in your argument, but I do not approve of the method which you use. I believe under the Constitution we have no authority whatever to pass a bill of this kind.

Under the Constitution we can only fix the standard of weights and measures. Now, the constitutional authority to fix the standard weight measure does not give us authority to undertake to fix the shape or color or texture or the form of a container. We can fix the standard either of weights or measure, and in this instance it would be measure. If we could do what you propose in this bill you could say that all yardsticks should be made of iron. You could go beyond fixing 36 inches for a yard and say that the standard yardstick should be made of iron. A good many arguments could be made against using the tape measure of cloth and say that it stretches and therefore some one might be defrauded. You can always make an argument of that kind when you are seeking to eradicate an evil. Now, there has been a good deal of complaint about fraudulent containers. I do not object to fixing a standard of measure for these things, but I do object to your undertaking to say that a container shall not be used unless it be of a certain texture or shape or size. If you want to fix the measure, all right. Then, if you once fix the measure, and if I sell you something, claiming it contains so many units of that measure when it does not contain that many units, I have violated the law of every State in the Union, and if you want to undertake under the interstate commerce clause of the Consti-

tution to bar from interstate commerce things that are used as a basis and the vehicle for fraud, you can do that; but to undertake to say by Federal authority that a man shall not sell things referred to in this bill in a three-quart basket—I think you bar three quarts, do you not?—is going beyond your authority. Let me show you the difficulty you will get into. For illustration, the chairman of the committee had here on the last day when we had this bill under consideration certain photographs; I wish he had them here now. Under one law that we have passed under the gentleman's able leadership we fixed the standard for small fruits, and as I recall that it was fixed at 1, 3, and 4 quart containers.

Mr. VESTAL. One, two, four, six, eight, and twelve.

Mr. WINGO. For strawberries, 1, 2, 4, 6, and 8. Now for this bill for grapes, what have you?

Mr. VESTAL. It runs up to 12.

Mr. WINGO. You have a 1-quart measure?

Mr. VESTAL. No.

Mr. WINGO. A three?

Mr. VESTAL. No.

Mr. WINGO. A four?

Mr. VESTAL. Yes.

Mr. WINGO. Very well. The small producer of fruits or of berries might have a possible waste. Let me show you where you will get into other evils whenever you start doing things in a wrong way. Let us say there is a berry grower—and I know one; I have him in mind now—who, in addition to his berries, also grows grapes. In the berry season, earlier in the year, we will say that he buys a certain quantity of berry containers, but does not use them. Later, if he happens to use them for his grapes in the fall, even though he sells them to a local store and that local store retails them in that same township, not even across the State line, he violates the law under this bill.

Mr. VESTAL. Oh, no.

Mr. WINGO. Oh, yes; he does if he sells them in that sort of a container, because you prohibit sales, do you not, in other than a standard container? Do you prohibit the manufacture of other than standard containers for grapes? In other words, it may be lawful to make a one-sized basket if you say you are making it for berries, but it is unlawful if you are making it for grapes.

Mr. VESTAL. Oh, no.

Mr. WINGO. If that is not true, then your bill does not clearly express in the English language what your intent is. What different standards do you make in the quart unit for grapes and the quart unit for berries?

Mr. VESTAL. Absolutely none.

Mr. WINGO. What is the difference in the container?

Mr. VESTAL. There would be no violation of the law if you use this standard container; I do not care whether you put grapes in it or berries in it or whatever you may put in it, so long as the standard container is used.

Mr. WINGO. Under this bill you do not provide a 2-quart standard container for grapes?

Mr. VESTAL. Certainly not.

Mr. WINGO. And you make it unlawful to use any other than a standard container for grapes. So if a berry man who under one law may use a certain kind of container for one fruit should use it for another he violates the law.

Mr. LAYTON. Mr. Chairman, will the gentleman yield?

Mr. WINGO. Yes.

Mr. LAYTON. Without any law the gentleman can go down to the market and see that naturally there is an evolution in the container for grapes, that there is naturally an evolution for a bag of flour. This is only intended by law to meet the evolutionary process that is going on.

Mr. WINGO. That is a new excuse that is offered for it. You are willing to violate the Constitution in order to help along the progressive development of the Darwinian theory of evolution as applied to containers. [Laughter.] That is a new argument.

Mr. GOODYKOONTZ. Mr. Chairman, will the gentleman yield?

Mr. WINGO. Yes.

Mr. GOODYKOONTZ. Does it not occur to the gentleman that this bill, the whole structure of it, will have the effect of putting out of business the average farmer, the ordinary farmer, the fellow with a little dab of this and a little dab of that who brings it to town and sells it, and that it is in the interest of the big fellows, who are well organized, who have their great vineyards, their great peach orchards, their great orange orchards, and all that sort of thing—to give these well-organized fellows an advantage and to kick out of the way the little fellows, the ordinary farmers?

Mr. WINGO. Mr. Chairman, the gentleman, with his usual astuteness, has discovered the real object of the bill.

Mr. LAYTON. Mr. Chairman, will the gentleman yield?

Mr. WINGO. I can not yield now.

Mr. LAYTON. I simply want to say that the farmers in the gentleman's district can go and carry whatever they please in a horse cart.

Mr. WINGO. I know that. That is the inherent right of the farmer, but if you pass this bill, if he puts up his fruit in other than standard containers and puts the fruit on the market, you can hale him before one of these great moguls called a Federal judge, and you only have to talk about taking the average small grape grower before a Federal judge in order to scare him so that he will be ready almost to quit growing grapes. It is the same old proposition. Every lawyer knows that if the farmer or anyone else by means of a false device, by misleading language, or by any other misrepresentation, sells you something supposed to be different from what you get there is a law to reach him without Congress enacting one. You have already a pure food law and a branding law and a law for this, that, and the other. If you want to make it fraudulent to use a deceptive container, that is a different proposition. I see my good-natured lawyer friend over here, and he will recall that they actually brought a bill into this House in which they undertook to determine the number of splits, the thickness of the splits, and in this bill you name the material.

Mr. Chairman, of course, you are going to pass it. The country has gone crazy on having the Federal Government regulate everything from the picking of berries to the birth of children, and sooner or later, as I suggested once before on this floor, some fool will come along and ask Congress to regulate the period of gestation and suspend the law of gravity. I made that statement once and I was flooded with some of the most learned dissertations by philosophical gentlemen, saying it was perfectly feasible to regulate the period of gestation, saying that the Greeks did it and that it would improve the human race. And one went so far as to express the hope that I would forget my bourbon democracy and bring Congress around to the necessity of improving the breed of men by fixing a standard by law and killing off all who do not conform to the standard.

When you throw the Constitution to the wind, when you say you are going to set up machinery to regulate everything—

Mr. LAYTON. Did you throw the Constitution to the wind when you established a dollar with so many grains of gold in it or a bushel basket with so many cubic inches in it?

Mr. WINGO. You are not trying to do that. If you want to say that a standard bushel basket for grapes shall contain so many cubic inches and fix that as a standard, all right; but whenever you undertake to say it shall have a certain shape and of a certain material you go beyond your power, however good the ends you seek.

The CHAIRMAN. The time of the gentleman from Arkansas has expired.

Mr. WINGO. I yield myself three minutes more, Mr. Chairman.

Mr. LAYTON. I do not want to usurp the privileges of the chairman of this committee—

Mr. WINGO. Please do not usurp mine, either.

Mr. LAYTON. Or yours, either. I understand the bill is based on established quantities.

Mr. WINGO. I will be perfectly frank. The gentleman has never yet caught, and I could not in an hour's time make him understand, my fundamental objection to the bill, because it is a constitutional objection.

Mr. LAYTON. I know more about packages and the manufacture of packages than the gentleman ever dreamed of.

Mr. WINGO. That is right. I say that. But the gentleman's knowledge of the law is in inverse ratio to his knowledge as a packer.

Mr. LAYTON. I am a constitutionalist.

Mr. WINGO. You should be, because you have violated its theories often enough to acquire some knowledge of it, but it seems you have not.

Gentlemen, I do not want to take any more time. Eradicate these evils in a proper way, but do not undertake to fix the shape and material of the containers under a pretense of fixing a standard of weights and measures.

Mr. Chairman, I reserve the balance of my time, and I yield 20 minutes to the gentleman from South Carolina [Mr. STEVENSON].

Mr. STEVENSON. Mr. Chairman and gentlemen, I am opposed to this bill for the reasons that have been assigned by the gentleman from Arkansas [Mr. WINGO]. I shall take occasion to give them more fully when I move to amend it in certain particulars under the five-minute rule. I desire to call the attention of the chairman of this committee to one thing he has in here which he admitted before was improper. The bill heretofore provided for the material out of which the baskets should be made. By common consent that went out because that was beyond the power of Congress. Now, by a provision in this bill they provide that the Secretary of Agriculture can prescribe the material which may be used in the basket. I see that the chairman shakes his head. When we come to that I will show it to him. We are just merely conferring on or delegating a power to the Secretary of Agriculture which we ourselves have not got.

Mr. LAYTON. Will the gentleman yield?

Mr. STEVENSON. I can not yield now.

There is another provision in here which is vicious, and that says that this shall be confined to wooden baskets. Now, what are you going to do with a fellow who has wire baskets? Are you legislating for the benefit of the wire-basket people, or for whom are you legislating? Under the right to establish standards of weights and measures can you establish the texture of the vessel in which the material is carried?

I want to talk for a while about this question of armaments. The disarmament conference which has been called here everybody knows is for the purpose not merely of reducing armaments, because that is impossible unless something else is done; but it must, if it succeeds, have a basis which will make improbable or, at least, less probable wars between the nations of the world. There is no necessity for it unless that is the case. You can not induce nations to reduce their armaments unless you reduce the probabilities of war.

Now, there are five causes that have been universal causes of war in the past:

First, you have the rights of a sovereign or of a group of people in a nation to plunge a nation into war for their own ambitious purposes without the people's permission, without any discussion, without any proper consideration by the nation of the reasons for the war. And that has been a fruitful source of it.

Second, you have the heartburning suspicions and jealousies which grow out of secret diplomacy and secret arrangements between nations, which has been another fruitful source of war, and which has been illustrated by the great controversy that has been going on about the alliance between Japan and England.

Those are two of the sources of war.

Third, then you have the enormous profit that has been made and is made always out of the manufacture of munitions of war. Those profits are always in the hands of very rich people who control the press, who control the public opinion through the press, and foment troubles between nations, who suggest trouble between nations in order to bring up a cloud of war, and the result is a tremendous sale of the most profitable manufacture that the world has ever seen.

Fourth, then you have the greed for territory, one nation undertaking to take the land of another nation, and that has also been a wonderfully fruitful source of war.

Fifth, and finally, you have the enormous armaments which men build up, which sovereigns, which nations, build up, and when they get to a large size there is always a heartburning



among the people on account of the expense of them, and in order to prevent the uprising of the people and the smashing of a Government because of the expense of the great armaments they begin to try them out; they drive the people, the nations, into war in order to use the great armaments which they have created.

Now, those are the five principal great causes of war, and those five principal causes have got to be eliminated if you ever expect to bring about a reduction of armaments.

Now, how are you going to do it? We had a proposition which involved the correction of those things in the League of Nations, but it had this provision, that the nations all agreed to see that that was enforced; in other words, that armaments were to be reduced; that the nations of the earth were to take over the manufacture of the munitions of war; that the territorial integrity of every nation as it was should be guaranteed; and that secret diplomacy should be uprooted and no treaty should be binding that was not reported in a public place, and that no nation should go to war until there had been six months at least for consideration and the submission of complaints to certain tribunals before war was declared. Those things were all provided for. They have been rejected by the American people, and they have been rejected because the claim was made that they infringed upon our sovereignty.

Now, do you think that the nations can come together and have an agreement that they will not go to war, that they will reduce armaments, unless there is some agreement as to the removal of these causes of war? Will France enter in unless there is an agreement to guarantee France against the incursion of the German nation whenever it becomes sufficiently powerful and attempts to take Alsace-Lorraine? Will Italy or any of the other great nations go in unless there is some agreement that their territory shall be preserved? If they will not, you will have nothing done.

Oh, it has been said, and the Washington Post said a day or two ago, that it required either a treaty, a covenant, or an agreement to bring about a reduction of armaments. Suppose you make agreements without anything to enforce them, without any power or any arrangement amongst the nations to enforce them. What will be the effect of it? Can America afford to sit down with a mere agreement, without any cooperation amongst the nations? We can come as near it as anybody, but can we afford to reduce our armament to the point where we would not be prepared to defend our coasts? Have we the right as a nation to abrogate the power to protect our coasts and our commerce unless there is a general agreement that any nation that breaks the agreement shall be coerced into returning to a respect for the agreement?

I submit that it is impossible, and therefore if the present disarmament is to effect anything, it must agree on some program whereby the five things that I have stated must be corrected, and especially the manufacture of the munitions of war and the incursions upon the territory of others; those two shall be guaranteed against.

"Well," you say, "but if we had that, we will infringe our sovereignty." Let us look at that for a minute. Take the case of aggressions upon territory. Here is a nation that has certain territory; another nation claims it. There is a dispute about it. We have provided a great court of international justice to which to submit that dispute. If that is submitted to a court of international justice and it decides that one nation is entitled to it and that another is not, are the nations to be allowed to disregard it?

Now, you say if one of the nations disregards it and you coerce it into regarding it, then you have degraded its sovereignty. I say you are mistaken. It is a question which should be a question of law and fact. The nations have agreed to leave it to a great tribunal to determine the facts and the law, and when they have done so that determines the right, and the nation that yields to the decision as to what is right and what is wrong is not destroying its sovereignty, but it is demonstrating its regard for international law, international justice, and international righteousness. That is the situation as to that.

Well, are we in any way likely to get anything out of this conference? If we stand on the position taken by a good many newspapers of this country and a good many of the statesmen, that we can agree to disarm, but that it must be entirely a matter of voluntary acquiescence, and that there must be nothing binding that we can not disregard, you have gotten nowhere. You will have no agreement that is enforceable. If you do not agree for the Governments to take over the manufacture of the munitions of war, the Governments will say,

"Well, we are not manufacturing munitions of war; the manufacturers are manufacturing them"; and the manufacturers, who expect enormous profits whenever a war cloud arises from the sale of their enormously profitable wares, will continue to manufacture, and will continue through the press and through their emissaries to foment troubles and bring about war clouds annually and perennially, as they have done ever since I can remember.

There will have to be an agreement, and there will have to be some way of enforcing that agreement, to take over the manufacture of munitions, and also to protect the territorial integrity of the nations of the world, or you will never have any agreement which will amount to a sufficient warrant for any nation to reduce its armaments as they stand to-day. The United States could not afford to do it, and neither can the other nations of the world afford to do it.

Well, they say that proposition means that we will have to go into war. Now let us see about that. Panama and Costa Rica arbitrated their territorial dispute some time ago. When Costa Rica undertook to take possession in accordance with the decree, Panama resisted and war began. Did we get into war? You say we should not interfere with other nations. Mr. Hughes sent a telegram down there stating that if Panama continued in her course in disregarding the findings of the court of arbitration it would be considered by the United States as an unfriendly act, and intimated that force would be applied. Did we have to apply any force? No; she got out at once. There is no escaping the fact that when the powerful nations of the earth agree that they will have disputes between nations settled by a great international court such as has been established, and that when they are settled the nations must conform to them, not a nation in the world will attempt to lift its puny arm against the combined public opinion of the world, to say nothing else.

Not only that, but when you come to the proposition of enforcement, the nations of the earth can get together and make an agreement, and they should do so, and they did so at Paris, an agreement whereby a nation that refuses to abide by right and justice and by the decisions of properly constituted tribunals will be the object of a trade and commerce boycott by the other nations which will forever and a day stop any nation from undertaking to override the decision of a proper judicial tribunal to which its controversy has been submitted and where it has been decided. In other words, there is not a nation on earth that can afford to have the doors of its commerce shut up against the balance of the world.

The United States of America has been paralyzed in the last 12 or 14 months by reason of the inability of the balance of the world to buy from it. Suppose there had been an absolute shutdown of our commerce by an embargo by all the nations of the earth. The most self-sustaining and self-supporting nation, greatest in resources and in ability to live upon itself, could be thrown into commercial panic inside of 30 days if such a step as that was taken. Do you tell me that it would be necessary to have war to bring about the enforcement of the decrees of such a tribunal? I say no. I do not think the conclusion can be successfully controverted. That being the case, are we prepared to go to the point of agreeing that whenever nations fail to conform to an agreement which is made in this great conference which has been properly called, and which for a thousand years should be one of the landmarks of the progress of the Anglo-Saxon race and of the world; the other nations of the earth shall compel conformity to that agreement? If we are prepared to enter into an agreement of that kind, it is perfectly possible to enforce it by agreeing to stop the flow of commerce with any nation that violates the agreement.

Mr. COOPER of Wisconsin. Will the gentleman permit an interruption?

Mr. STEVENSON. To be sure.

Mr. COOPER of Wisconsin. What does the gentleman think of the propriety, while that soldier is lying in the Rotunda and all the world doing him homage, of our wrangling here about an apple-basket bill? I think we ought to adjourn.

Mr. STEVENSON. I heartily agree with the gentleman; but inasmuch as we were wrangling over an apple-basket bill I thought I would talk about a real, live question that concerns this country and all the world at this particular time as it never has before.

Mr. WINGO. Will the gentleman yield?

Mr. STEVENSON. Yes.

Mr. WINGO. I assume that the gentleman is like the rest of the Democrats. We are not responsible for the program to-day. We are perfectly willing to adjourn right now.

Mr. STEVENSON. Yes; I will yield for a motion to adjourn and be glad to do so, so far as that is concerned, if the distinguished leader of the majority will make the motion.

There is just one other thing I want to say. The rock upon which disarmament will split, in my judgment, is the rock of money. The manufacturers of munitions of war, who have become fabulously rich, who have become so wealthy that they can not count their money, will see to it that this disarmament conference is a failure. But suppose it is not. Suppose they reach an agreement. An agreement which binds the United States will be a treaty. It will have to go to the Senate of the United States. If it comes to the point of taking over the manufacture of armaments in this country it will have to go to a Senate in which sits Mr. PENROSE, the great friend of the United States Steel Trust, that makes enormous sums of money out of the manufacture of armor plate and out of the manufacture of cannon material, and out of the thousand and one kinds of steel that go into munitions of war. Mr. PENROSE is a leader there. Mr. LONG is pretty friendly to that crowd, and Mr. DU PONT, Senator from Delaware, is head of the greatest manufacturing trust of munitions of war that there is in the world. Mr. WATSON of Indiana is credited with being a close friend of the United States Steel Corporation. These are all valiant leaders of the majority in the Senate. Will they allow any agreement to be ratified which will cut down the business of great and influential combinations to whom they are so friendly and who are so friendly to them on occasions of elections?

The CHAIRMAN. The time of the gentleman has expired. Mr. WINGO. Mr. Chairman, a question has been raised here by an old and very able Republican Member of the House. I do not see him present, but in order to give an opportunity to carry out his contention I make the point of no quorum.

Mr. VESTAL. I wish the gentleman would withhold that. Mr. WINGO. It so happens that two Democrats have talked to-day, and I do not care to have such a reference as that made in the Record and that we be held responsible for it. Get a quorum in here, or get the gentleman back here and let him apologize for injecting into a gentleman's speech a criticism for debating this particular bill on this occasion. We are not responsible for the program of the House, and I resent the suggestion that when Democrats speak a Republican should suggest that we are wrangling about something when we should be thinking about something else. This side would have gladly adjourned to-day, but it is the duty and prerogative of the majority to determine these questions of propriety as to adjournment. I insist on my point of order.

Mr. MONDELL. Mr. Chairman, I think it is entirely proper and seemly that the House should at any time go on in a proper way with its business.

Mr. WINGO. The gentleman from Wyoming was not present to hear the remarks of an old and experienced Republican Member of the House.

Mr. MONDELL. I agree with the gentleman from Arkansas that it is extraordinary that anyone should make the remark that I understand the gentleman says has been made, but if the gentlemen think that it would perhaps be well that we should not be in session to-day I am sure we are all willing to listen to a proper suggestion to that effect.

Mr. WINGO. May I say that I think it is proper. I have not seen occasion to criticize gentlemen for the program, and I regret that the matter was raised, especially by a Member of age and discretion. I think the objection would have been better if made in private to those responsible for the proceedings of the House. But the gentleman saw fit to interrupt the speech of the gentleman on this side, a very rude interruption, to say the least, and carried the implication that the gentlemen who were talking had no respect for the occasion.

Mr. MONDELL. A session of the House of Representatives is as honorable a procedure as I know of—

Mr. WINGO. I agree with the gentleman.

Mr. MONDELL. And I think it is entirely proper for the House on any week day to be in session when it has business to perform. But, Mr. Speaker, if there is anyone anywhere who thinks the House ought not to be in session to-day, I am sure the gentleman from Indiana will be glad to defer to any proper expression and to move that the committee rise and the House adjourn.

Mr. CROWTHER. Will the gentleman yield?

Mr. MONDELL. I have not the floor.

Mr. WINGO. I have the floor, and I will yield.

Mr. CROWTHER. I want to say that I do not think the gentleman from Wisconsin intended the slightest discourtesy to the gentleman who had the floor and was speaking, but it was on

the general proposition that we were in session. I do not think he intended the slightest suggestion of impropriety on the part of the gentleman who was speaking.

Mr. VESTAL. Mr. Chairman, I move that the committee do now rise.

The motion was agreed to.

Accordingly the committee rose; and Mr. WALSH as Speaker pro tempore having resumed the chair, Mr. LONGWORTH, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill H. R. 7102, and had come to no resolution thereon.

#### EXTENSION OF REMARKS.

Mr. SIEGEL. Mr. Speaker, I ask unanimous consent to extend my remarks in the Record on the youngest soldier who made the supreme sacrifice in the last war.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. REED of New York. Mr. Speaker, I make a similar request.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

#### ADJOURNMENT.

Mr. VESTAL. Mr. Speaker, out of respect to the unknown soldier lying dead in the Rotunda, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 3 o'clock and 15 minutes p. m.) the House adjourned, under its previous order, to 8 o'clock and 10 minutes a. m., Friday, November 11, 1921.

#### REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII,

Mr. ACKERMAN, from the Committee on Foreign Affairs, to which was referred the bill (H. R. 7764) authorizing the accounting officers of the Treasury to adjust certain accounts of certain diplomatic and consular officers, reported the same without amendment, accompanied by a report (No. 466), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

#### CHANGE OF REFERENCE.

Under clause 2 of Rule XXII, the Committee on Pensions was discharged from the consideration of the bill (H. R. 8701) granting a pension to Sarah R. McGrew, and the same was referred to the Committee on Invalid Pensions.

#### PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. FOSTER: A bill (H. R. 9085) for the purchase of a site and the erection of a public building at Nelsonville, Ohio; to the Committee on Public Buildings and Grounds.

By Mr. JACOWAY: A bill (H. R. 9086) establishing the Petit Jean National Park, in the State of Arkansas; to the Committee on the Public Lands.

By Mr. WOODYARD: A bill (H. R. 9087) to provide for the erection of a post-office building at Parkersburg, W. Va.; to the Committee on Public Buildings and Grounds.

By Mr. HADLEY: A bill (H. R. 9088) to authorize the development of methods of preservation of west coast fishes; to the Committee on the Merchant Marine and Fisheries.

#### PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BENHAM: A bill (H. R. 9089) for the relief of John W. Perkins; to the Committee on Claims.

By Mr. FREE: A bill (H. R. 9090) granting an increase of pension to Elizabeth H. Burns; to the Committee on Pensions.

By Mr. TAYLOR of Arkansas: A bill (H. R. 9091) granting a pension to Arthur Cox; to the Committee on Invalid Pensions.

By Mr. TAYLOR of Tennessee: A bill (H. R. 9092) granting a pension to Malinda Morris; to the Committee on Invalid Pensions.

Also, a bill (H. R. 9093) granting a pension to Minerva Jackson; to the Committee on Invalid Pensions.



Also, a bill (H. R. 9094) granting a pension to Samuel E. Acuff; to the Committee on Pensions.

By Mr. WALSH: A bill (H. R. 9095) granting a pension to Charles W. Smith; to the Committee on Invalid Pensions.

By Mr. WHEELER: A bill (H. R. 9096) granting a pension to Elizabeth Mills; to the Committee on Invalid Pensions.

By Mr. OLPP: Joint resolution (H. J. Res. 222) authorizing the President of the United States to amend the discharge certificate issued Ramon B. Harrison, formerly captain, Infantry, United States Army; to the Committee on Military Affairs.

#### PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

2991. By Mr. BLAND of Virginia: Petition of the Retail Druggists' Association of Elizabeth City County, Va.; to the Committee on Ways and Means.

2992. By Mr. CULLEN: Resolutions adopted by the Brooklyn Bar Association, relative to a bill providing for the appointment of an additional judge in the United States District Court for the Eastern District of New York; to the Committee on the Judiciary.

2993. By Mr. FENN: Resolution of the First Church, Congregational, Poquonock Congregational Church, Grace Episcopal Church, Trinity Methodist Church, Union Church, Wilson, of the town of Windsor, Conn., asking that the United States take a large share in the work of limitation of armaments; to the Committee on Foreign Affairs.

2994. By Mr. GREEN of Iowa: Petition of Mrs. W. M. Bailey, second vice president of the Iowa Congress of Mothers and Parent Teachers' Associations, favoring the passage of House joint resolution 131, proposing an amendment to the Constitution of the United States forbidding polygamy and polygamous cohabitation; to the Committee on the Judiciary.

2995. By Mr. KELLEY of Michigan: Petition of Rev. H. V. Gould, and 102 other residents of Ingham County, Mich., favoring passage of the antibeer bill; to the Committee on the Judiciary.

2996. By Mr. KISSEL: Petition of the Chicago Pneumatic Tool Co., New York City; to the Committee on Ways and Means.

2997. Also, petition of New York State Association of Real Estate Boards, Utica, N. Y.; to the Committee on Ways and Means.

2998. Also, petition of Durant Motors (Inc.), New York City; to the Committee on Ways and Means.

2999. Also, petition of the Brooklyn Chamber of Commerce, Brooklyn, N. Y.; to the Committee on Ways and Means.

3000. By Mr. KRAUS: Petition of sundry citizens of Logansport, Ind., urging that pending revenue bill be not passed; to the Committee on Ways and Means.

3001. By Mr. LEE of New York: Resolutions adopted by Hugh O'Neill Council, American Association for the Recognition of the Irish Republic, October 10, 1921, relative to disarmament; to the Committee on Foreign Affairs.

3002. By Mr. MONTAGUE: Resolution of the Randolph Street Baptist Church of Richmond, Va., indorsing House joint resolution 159, to prohibit sectarian appropriations; to the Committee on the Judiciary.

3003. By Mr. RAKER: Petition of the Sheridan Womans Club, of Sheridan, Calif., protesting against the placing of a tax on music and musical instruments; to the Committee on Ways and Means.

3004. Also, resolutions adopted by the California State Federation of Labor, relative to the observance of State holidays by the postal service of said State, and relative to the inclusion in the postal salary classification act of the United States Post Office motor-vehicle service and its employees; to the Committee on the Post Office and Post Roads.

3005. Also, petitions of the Chamber of Commerce of the State of New York, opposing the Federal seamen's compensation bill, and the California State Federation of Labor, urging the proper enforcement of the La Follette seamen's act and opposing any amendments; to the Committee on the Merchant Marine and Fisheries.

3006. Also, petition of the California State Federation of Labor, relative to the retirement of employees in the classified civil service of the United States, and urging its amendment to broaden and extend it, and a resolution indorsing the Madden bill, empowering the Civil Service Commission to assume jurisdiction and grant hearings to Federal employees, and indorsing the Sterling-Lehlbach reclassification bill; to the Committee on Reform in the Civil Service.

3007. Also, petition of the California State Federation of Labor, urging the recognition of the republic of Ireland; to the Committee on Foreign Affairs.

3008. Also, petition of the California Federation of Labor, indorsing the Sterling-Towner bill, for the creation of a department of education; to the Committee on Education.

3009. Also, petition of the California Federation of Labor, indorsing the Nolan minimum wage bill, and also indorsing the Gorman bill, H. R. 8329; to the Committee on Labor.

3010. Also, petition signed by the presidents of 14 national organizations, urging the creation of a department of education with a secretary in the Cabinet; to the Committee on Education.

3011. By Mr. SNYDER: Petition of Guiding Star Council, No. 221, Sons and Daughters of Liberty, of Utica, N. Y., favoring the disarmament of nations; to the Committee on Foreign Affairs.

3012. By Mr. SPROUL: Petition of sundry citizens of the third congressional district, State of Illinois, urging the defeat of the so-called Penrose bill and the collection of our foreign loans, together with the interest accrued thereon; to the Committee on Ways and Means.

3013. By Mr. VARE: Memorial of the Philadelphia Board of Trade, asking for the repeal of the Adamson law; to the Committee on Interstate and Foreign Commerce.

#### SENATE.

FRIDAY, November 11, 1921.

The Senate met at 8 o'clock and 10 minutes a. m.

The Chaplain, Rev. J. J. Muir, D. D., offered the following prayer:

Our Father, the God of our fathers, our hope everlasting, we bow before Thee this morning with chastened feelings. A nation mourns before Thee. We recognize the solemn circumstances of the hour, the sanctities of this day, all that it brings to us of the past, and what it presents to us for the present hour and for the future. As we bow before the bier this morning of an unknown soldier we sympathize with the mothers throughout the land, so many of whom may be wondering whether it is their boy. And we ask, our Father, that the sweetest consolations of Thy grace may be ministered in every home where a great sacrifice has been made, and so help us to look out beyond the mere circumstances of death to the triumphs of victory, the possibilities of the future.

May Heaven's benediction rest upon our land, upon the President and both Houses of Congress, and all who have to do with the prosperity of the Nation. The Lord, our God, be with us in the midst of anxiety, in the presence of hope, and in the enthusiasm of victory. We ask through Jesus Christ our Lord, Amen.

On request of Mr. LODGE, and by unanimous consent, the reading of the Journal of the proceedings of Wednesday last was dispensed with, and the Journal was approved.

#### OPENING OF DISARMAMENT CONFERENCE.

The VICE PRESIDENT. The Chair is in receipt of a communication which the Secretary will read.

The reading clerk read as follows:

Senators who will attend the first meeting of the Disarmament Conference at Memorial Hall, Seventeenth and D Streets, Saturday morning, will please be on hand not later than 10.15, as the doors will be closed at that hour. The doors open at 9.30. The meeting will be called to order at 10.30. Entrance by the north door on D Street. No tickets required.

Mr. SMITH. May I ask the Senator from Massachusetts in what building the conference is to be held to-morrow morning? I did not catch the name of the building from the reading.

The VICE PRESIDENT. In the Memorial D. A. R. Hall.

Mr. LODGE. The Hall of the Daughters of the American Revolution on Seventeenth and D Streets.

Mr. WATSON of Indiana. I should like to ask the Senator from Massachusetts if tickets will be issued to Senators.

Mr. LODGE. No tickets will be required.

The VICE PRESIDENT. The Secretary has just read the statement to that effect.

Mr. WATSON of Indiana. I did not hear it read.

#### ADJOURNMENT TO MONDAY.

Mr. LODGE. In order that the Senate may proceed to the Rotunda to join in the procession to Arlington, I move that the Senate adjourn, the adjournment being under the previous order, until Monday at 12 o'clock.

The motion was agreed to; and (at 8 o'clock and 15 minutes a. m.) the Senate adjourned until Monday, November 14, 1921, at 12 o'clock meridian.

## HOUSE OF REPRESENTATIVES.

FRIDAY, November 11, 1921.

The House met at 8 o'clock and 10 minutes a. m.  
The Chaplain, Rev. James Shera Montgomery, D. D., offered the following prayer:

Almighty God, glory be to Thee in the highest heaven. Holy, holy is Thy name; and we the creatures of Thy mercy would offer at Thy footstool our psalms of praise and thanksgiving. We hail this day which commemorates the mission and message of Him whose name is Wonderful Counselor and the Prince of Peace. O, as He died to make men holy, let us labor to make them good. We bless Thee for this hour of sacred commemoration which makes our beloved country one in purpose, one in hope, and one in prayer with the millions of Thy children throughout the broad earth. In the name of the Father of men. Amen.

The Journal of the proceedings of yesterday was read and approved.

## ADJOURNMENT.

Mr. MONDELL. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to.

Accordingly (at 8 o'clock and 16 minutes a. m.), in accordance with the order heretofore made, the House adjourned until Monday, November 14, 1921, at 12 o'clock noon.

## PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions of the following titles were introduced and severally referred as follows:

By Mr. SCOTT of Tennessee: A bill (H. R. 9097) granting an increase of pension to Mary E. Allen; to the Committee on Invalid Pensions.

By Mr. VOLK: A bill (H. R. 9098) providing for the appointment of Stewart Blackman as first lieutenant, Regular United States Army, to take rank under the provisions of section 24a of the act of Congress approved June 4, 1920; to the Committee on Military Affairs.

## PETITIONS, ETC.

Under clause 1 of Rule XXII, the following petitions and papers were laid on the Clerk's desk and referred as follows:

3014. By Mr. KISSEL: Petition or memorial of Keasbey & Mattison Co., Ambler, Pa., U. S. A., protesting against present surtaxes; to the Committee on Ways and Means.

3015. Also, petition or memorial of Stern Brothers, New York City, protesting against the American valuation plan; to the Committee on Ways and Means.

3016. Also, petition or memorial of Jessie Isidor Straus, New York City, protesting against the American valuation plan; to the Committee on Ways and Means.

3017. Also, petition or memorial of L. Swed & Co. (Inc.), New York City, protesting against the passage of the emergency tariff; to the Committee on Ways and Means.

## SENATE.

MONDAY, November 14, 1921.

The Chaplain, Rev. J. J. Muir, D. D., offered the following prayer:

O Lord, our God, in these days of rapidly making history and of such crucial significance to the world's welfare we turn our thoughts unto Thee, seeking for guidance in the presence of every problem and asking for strength to know what to do, and then gladly to do it. The Lord realize himself to those gathered in the great conference of the nations. May such results come from their deliberations that there may be had peace and good will to men in a better recognition of the highest claims of Thy government upon human government. We ask in Jesus Christ's name. Amen.

On request of Mr. CURTIS and by unanimous consent the reading of the Journal of the proceedings of Friday last was dispensed with and the Journal was approved.

## MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. Overhue, its enrolling clerk, announced that the House agreed to the amendment of the Senate to the bill (H. R. 8643) to extend the tariff act approved May 27, 1921.

The message also announced that the House disagreed to the amendments of the Senate to the bill (H. R. 8245) to reduce and equalize taxation, to amend and simplify the revenue act of 1918, and for other purposes; agreed to the conference requested by the Senate, and that Mr. FORDNEY, Mr. GREEN of Iowa, Mr. LONGWORTH, Mr. GARNER, and Mr. COLLIER were appointed managers of the conference on the part of the House.

The message further announced that the House had passed a bill (H. R. 7394) to extend the time for the construction of a bridge across the Tombigbee River at or near Ironwood Bluff, in the county of Itawamba, Miss., in which it requested the concurrence of the Senate.

## ENROLLED BILLS AND JOINT RESOLUTION SIGNED.

The message also announced that the Speaker of the House had signed the following enrolled bills and joint resolution, and they were thereupon signed by the Vice President:

S. 513. An act granting a deed of quitclaim and release to J. L. Holmes of certain land in the town of Whitefield, Okla.;

S. 904. An act for the relief of Elijah C. Putman;

S. 1283. An act for the relief of the Chicago, Milwaukee & St. Paul Railway Co.; the Chicago, St. Paul, Minneapolis & Omaha Railway Co.; and the St. Louis, Iron Mountain & Southern Railway Co.;

S. 1408. An act authorizing the Rolph Navigation & Coal Co. to sue the United States to recover damages resulting from collisions;

S. 1894. An act to amend section 26 of an act entitled "An act making appropriations for the current and contingent expenses of the Bureau of Indian Affairs," etc.;

S. 2153. An act authorizing the owners of the steamship *Texas* to bring suit against the United States of America;

H. R. 8643. An act to extend the tariff act approved May 27, 1921; and

H. J. Res. 151. Joint resolution to provide that deferred grazing fees received prior to December 31, 1921, shall be considered as receipts of the fiscal year 1921.

## CALL OF THE ROLL.

Mr. CURTIS. Mr. President, I suggest the absence of a quorum.

The VICE PRESIDENT. The Secretary will call the roll.

The roll was called, and the following Senators answered to their names:

Ashurst	Harris	McNary	Shields
Ball	Harrison	Nelson	Shortridge
Borah	Hefflin	New	Simmous
Broussard	Johnson	Newberry	Smith
Cameron	Jones, N. Mex.	Norris	Smoot
Capper	Jones, Wash.	Oddie	Spencer
Caraway	Kendrick	Overman	Sutherland
Culberson	Kenyon	Owen	Swanson
Cummins	Keyes	Page	Townsend
Curtis	King	Penrose	Trammell
Dial	Ladd	Phipps	Wadsworth
Edge	La Follette	Pittman	Walsh, Mass.
Ernst	Lodge	Poinceter	Walsh, Mont.
Fernald	McCumber	Pomerene	Warren
Frelinghuysen	McKellar	Ransdell	Watson, Ga.
Gooding	McKinley	Robinson	Watson, Ind.
Hale	McLean	Sheppard	Willis

The VICE PRESIDENT. Sixty-eight Senators having answered to their names, there is a quorum present.

## MICHIGAN SENATORIAL ELECTION.

Mr. SPENCER. Mr. President, I desire to announce to the Senate that in the Ford-Newberry contest, after conference with the representatives of the minority who made the minority report, we intend to call that matter up in the Senate to-morrow on the assembling of the Senate. I hope the Senate this afternoon will agree to take a recess until to-morrow, so that the case may be called up when the Senate meets to-morrow.

Mr. POMERENE. Mr. President, I desire to make a brief reply to what the Senator from Missouri has just said. We have, I think, both been eager to have this matter disposed of at the earliest possible time, but I am compelled to say that after conferring with some of the other Senators we have felt that perhaps there might not be sufficient time this week to present the arguments and to reach a vote.

Definite arrangements have been made by the special committee investigating the Haitian situation and the Santo Domingo question to leave Philadelphia on Saturday, and it will be necessary for us to leave here on Friday. That would only give Tuesday, Wednesday, Thursday, and perhaps a part of Friday for the consideration of this contested matter. We have no objection to taking up the subject for discussion, but because of the enforced absence of some of us we would prefer to have a date fixed early in the next session, which is not very far off, when the final vote may be taken.



I think that perhaps during the afternoon there can be certain conferences between the majority members of the committee and the minority members looking to some agreement along that line.

Mr. SPENCER. I am sure the Senator from Ohio will bear me out in the statement that the understanding to take up the matter to-morrow was agreed upon by himself and myself. Doubtless something has intervened to change his previous opinion. The agreement was not on my part alone.

Mr. POMERENE. That is not quite accurate, as I recall the fact. It had been generally suggested that the matter would be taken up to-day. We learned on Saturday that the Senator from Missouri expected to call it up on Tuesday. I realize that this is a question of the very highest personal privilege and we have no desire whatever to unduly interfere with the matter, but there is going to be considerable discussion. There is a record of nearly 2,000 pages. I do not know how other Senators may feel about it, but I would never pass on any man's title to a seat in the Senate without reading the committee's record, which I have done twice.

Mr. WATSON of Indiana. Mr. President, will the Senator from Ohio yield to me?

Mr. POMERENE. I yield.

Mr. WATSON of Indiana. How many speeches on the subject will be made on the other side of the Chamber?

Mr. POMERENE. I am not able to say as to that now. There will be a goodly number of them, and I have understood that there will be a number of speeches made on the other side of the Chamber.

Mr. WATSON of Indiana. So far as members of the committee are advised, there will not be very many speeches made on this side.

Mr. POMERENE. My information is that there will be a considerable number of speeches made on this side of the Chamber. I know the members of the Committee on Privileges and Elections, or at least three or four of them and perhaps five of them, will speak on the subject. There are other Senators on this side who I am advised will speak. I think it is a matter which deserves very full consideration before the final vote.

Mr. WALSH of Montana. Mr. President, I apprehend that no one will desire to force the matter under consideration to a vote during the absence of the Senator from Ohio [Mr. POMERENE], who has followed it with very great care since its inception. It seems quite unlikely that the debate will be brought to a close before the regular session in December. I should like to inquire of the Senator from Ohio if he can tell us now about when it is expected the committee will complete its work in Haiti and return?

Mr. POMERENE. I regret that the senior Senator from Illinois [Mr. McCormick] is not here this morning. He has more definite information on that subject than I have. In my judgment it is going to take four or five days at least in Haiti and perhaps that long in Santo Domingo to take the testimony. I may say I think without any impropriety that there is a good deal of conflicting testimony; and the Senator from Montana, with his very wide experience as a trial lawyer, knows that when we reach a situation such as that it is next to impossible to determine just how long it is going to take to have the testimony presented. My judgment is that we will be gone for perhaps three weeks. I know that it is my desire, and I am sure it is the desire of every member of that committee, to get back just as quickly as we can.

Mr. WALSH of Montana. I desire to suggest to Senators on the other side that probably there will be no difficulty about entering into an arrangement for a final vote very promptly on the return from Haiti of the Senator from Ohio. Considering the fact that the matter has been pending for two years, a delay now of three weeks will be of no serious consequence.

Mr. WATSON of Indiana. I have been of the opinion that if the subject is to be taken up to-morrow, and we sit to-morrow and to-morrow night for awhile, and on Wednesday and Wednesday night, we can give everyone an opportunity to express himself on the question.

Mr. WALSH of Montana. I will say to the Senator from Indiana that, judging from the expressions of Senators on both sides, the hopes of the Senator in that respect can not possibly be realized. I think that there probably would be no difficulty whatever about securing an agreement for a vote in a matter of 3 weeks or 30 days from now on the return of the Senator from Ohio.

Mr. HEFLIN. Mr. President, I should like to inquire what is the necessity for having any discussion now if action on the subject is then to be postponed for three weeks?

Mr. CUMMINS. Mr. President—

The VICE PRESIDENT. Does the Senator from Alabama yield to the Senator from Iowa?

Mr. HEFLIN. I yield.

Mr. CUMMINS. As the Senator in charge of the unfinished business I feel that I ought to say a word with regard to this situation. I have felt that a question which involves the right of a Senator to a seat in this body is not only of the highest importance but of the highest privilege, and I have said to the Senator in charge of the report from the Committee on Privileges and Elections that, in so far as I am concerned, I would be willing to give way for a reasonable time for the consideration of the case presented by the contest against the junior Senator from Michigan [Mr. NEWBERRY]. I can not, however, agree, so far as I can control, to give way for a long period of time, a time which would consume practically the remaining days of the session. I may not be able to control the matter, of course; but, so far as I am concerned, I want to be understood that if the Newberry case may be disposed of within a reasonable time I shall not bring forward the railroad bill after to-day until that case shall have been disposed of. I do not, however, want it understood that I am willing to allow it to consume the remainder of the present session. I think I ought to say so much in order to make myself thoroughly understood and to be consistent in what I shall hereafter endeavor to do.

Mr. POMERENE. Mr. President, I do not think any Senator will charge me with speaking at undue length on any subject before the Senate; I have not been in the habit of doing that, and I do not intend to do that in the present case, but I feel the necessity of full discussion of the matter. It so happens that I served in the Senate during the discussion of the Wisconsin case, involving Senator Stephenson's title to his seat, and during the second Lorimer case. Those cases were not disposed of in a day or two days or three days or four days; there was full discussion in both instances, and questions of fact as well as of law are just as much involved in the present case as they were in either of those two cases.

I am quite willing that the discussion shall go on; I think the Senator from Missouri [Mr. SPENCER] will bear me out in the statement that both he and I have felt that the matter ought to be disposed of; but we have had the revenue measure before the Senate, and I think we were in agreement that it would not be right to interfere with the consideration of that bill.

The question comes on here at a time when the special Haitian committee is compelled to proceed with its investigation and leave the city now or else be absent during the early weeks of the next session. I think we can make some arrangement so as to have the discussion of the election case proceed now in part and agree to a vote early in the next session. If that is done, I believe it will solve the situation and will be reasonably satisfactory.

Mr. SPENCER. Mr. President, will the Senator from Ohio yield to me?

Mr. POMERENE. I yield.

Mr. SPENCER. Of course there must be ample opportunity for discussion upon both sides, and there can be no doubt on either side that there should be no curtailment of full and fair discussion. I would not even have brought the matter up this morning if I had not thought that the Senator from Ohio and myself were in perfect agreement as to proceeding with it to-morrow. I am very anxious to dispose of it. Not only the rights of the Senator whose seat is affected but the right of the State which he now represents are at stake. I recognize that the argument ought not to go on when the Senator from Ohio is out of the city or is away on congressional business in the island of Haiti, but I had hoped, and I still think, that if the Senator would be willing after recess to-night to take the case up to-morrow morning we should by Wednesday night find that the matter was close to a time when we could all agree as to when a vote would be taken. If, however, it should not so develop, if the debate should be much more protracted than anticipated, and if there should be those who want to be heard at greater length than I can now foresee, there could not be any objection to laying the matter over so as to allow ample opportunity for discussion.

Mr. POMERENE. I think—

Mr. SPENCER. Just one moment, if I may finish the sentence. But the Senator from Ohio will agree with me, I am sure, that to carry the matter over from this session to the next session would be alike unfair to the Senate, to the sitting junior Senator from Michigan, and to the State of Michigan.

If we can avoid such a contingency, I should be very glad to avoid it.

Mr. POMERENE. I do not want this case to be continued or to go on one day longer than is necessary; but I have a very distinct recollection of having been criticized very severely because, as was stated, I was unduly pressing this case for a hearing at different times. There seemed to be no special hurry in taking up this matter until it finally reached the stage of hearings, and then it was pressed, if not unduly pressed. I think that perhaps during the afternoon there can be certain conferences between members of the majority and members of the minority of the committee, and then we can agree upon some program.

#### PROSPECTIVE ADJOURNMENT OF SESSION.

Mr. LODGE obtained the floor.

Mr. JOHNSON. Mr. President—

The VICE PRESIDENT. The Senator from Massachusetts has the floor.

Mr. JOHNSON. Will the Senator yield for an inquiry?

Mr. LODGE. I merely wish to make a request; that is all.

Mr. JOHNSON. I desire to make an inquiry of the Senator while he is on his feet apropos of the discussion which has just taken place. Some of us who live at quite a distance would be very glad if we could be enlightened as to whether or not there has been any discussion or conclusion as to the possibility or probability of adjourning the present extraordinary session.

Mr. LODGE. Mr. President, I am not aware of any discussion of that subject here in the Senate. I know Members of the House are anxious—I say “anxious,” but, at any rate, such an expression has come to me—that a final adjournment of the extraordinary session of Congress be brought about on the day before Thanksgiving, which would give an interval of about 10 days before the meeting of the regular session on the first Monday in December. I think the House desires that some such course as that be followed, instead of having the usual recess at Christmas. That is what has been stated to me. I have not had any further talk with Mr. MONDELL, but that is the expression that came to me some days ago.

Mr. JOHNSON. I thank the Senator.

#### ADDRESSES OF PRESIDENT AND SECRETARY OF STATE (S. DOC. NO. 77).

Mr. LODGE. I ask unanimous consent that the address of the President of the United States at the opening of the Conference on Limitation of Armaments on Saturday last and the address of the Secretary of State, Mr. Hughes, on the same occasion, together with a statement of some details as to the reduction or limitation of armaments proposed by Mr. Hughes in his address when he set forth the American proposal, may be printed in the RECORD and also as a Senate document.

The VICE PRESIDENT. Without objection, it is so ordered. The addresses referred to are as follows:

#### ADDRESS OF THE PRESIDENT OF THE UNITED STATES AT THE OPENING OF THE CONFERENCE ON LIMITATION OF ARMAMENTS AT WASHINGTON, NOVEMBER 12, 1921.

Mr. Secretary and members of the conference, ladies, and gentlemen, it is a great and happy privilege to bid the delegates to this conference a cordial welcome to the Capital of the United States of America. It is not only a satisfaction to greet you because we were lately participants in a common cause, in which shared sacrifices and sorrows and triumphs brought our nations more closely together, but it is gratifying to address you as the spokesmen for nations whose convictions and attending actions have so much to do with the weal or woe of all mankind.

It is not possible to overappraise the importance of such a conference. It is no unseemly boast, no disparagement of other nations which, though not represented, are held in highest respect, to declare that the conclusions of this body will have a signal influence on all human progress—on the fortunes of the world.

Here is a meeting, I can well believe, which is an earnest of the awakened conscience of twentieth century civilization. It is not a convention of remorse nor a session of sorrow. It is not the conference of victors to define terms of settlement. Nor is it a council of nations seeking to remake humankind. It is rather a coming together, from all parts of the earth, to apply the better attributes of mankind to minimize the faults in our international relationships.

Speaking as official sponsor for the invitation, I think I may say the call is not of the United States of America alone; it is rather the spoken word of a war-weary world, struggling for restoration, hungering and thirsting for better relationship; of humanity crying for relief and craving assurances of lasting peace.

It is easy to understand this world-wide aspiration. The glory of triumph, the rejoicing in achievement, the love of liberty, the devotion to country, the pangs of sorrow, the burdens of debt, the desolation of ruin—all these are appraised alike in all lands. Here in the United States we are but freshly turned from the burial of an unknown American soldier, when a Nation sorrowed while paying him tribute. Whether it was spoken or not, a hundred millions of our people were summarizing the inexcusable causes, the incalculable cost, the unspeakable sacrifices, and the unutterable sorrows, and there was the ever-impelling question: How can humanity justify or God forgive? Human hate demands no such toll; ambition and greed must be denied it. If misunderstanding must take the blame, then let us banish it, and let understanding rule and make good will regnant everywhere. All of us demand liberty and justice. There can not be one without the other, and they must be held the unquestioned possession of all peoples. Inherent rights are of God, and the tragedies of the world originate in their attempted denial. The world to-day is infringing their enjoyment by arming to defend or deny, when simple sanity calls for their recognition through common understanding.

Out of the cataclysm of the World War came new fellowships, new convictions, new aspirations. It is ours to make the most of them. A world staggering with debt needs its burden lifted. Humanity which has been shocked by wanton destruction would minimize the agencies of that destruction. Contemplating the measureless cost of war and the continuing burden of armament, all thoughtful peoples wish for real limitation of armament and would like war outlawed. In soberest reflection the world's hundreds of millions who pay in peace and die in war wish their statesmen to turn the expenditures for destruction into means of construction, aimed at a higher state for those who live and follow after.

It is not alone that the world can not readjust itself and cast aside the excess burdens without relief from the leaders of men. War has grown progressively cruel and more destructive from the first recorded conflict to this pregnant day, and the reverse order would more become our boasted civilization.

Gentlemen of the conference, the United States welcomes you with unselfish hands. We harbor no fears; we have no sordid ends to serve; we suspect no enemy; we contemplate or apprehend no conquests. Content with what we have, we seek nothing which is another's. We only wish to do with you that finer, nobler thing which no nation can do alone.

We wish to sit with you at the table of international understanding and good will. In good conscience we are eager to meet you frankly, and invite and offer cooperation. The world demands a sober contemplation of the existing order and the realization that there can be no cure without sacrifice, not by one of us, but by all of us.

I do not mean surrendered rights, or narrowed freedom, or denied aspirations, or ignored national necessities. Our Republic would no more ask for these than it would give. No pride need be humbled, no nationality submerged, but I would have a mergence of minds committing all of us to less preparation for war and more enjoyment of fortunate peace.

The higher hopes come of the spirit of our coming together. It is but just to recognize varying needs and peculiar positions. Nothing can be accomplished in disregard of national apprehensions. Rather, we should act together to remove the causes of apprehensions. This is not to be done in intrigue. Greater assurance is found in the exchanges of simple honesty and directness, among men resolved to accomplish as becomes leaders among nations, when civilization itself has come to its crucial test.

It is not to be challenged that government fails when the excess of its cost robs the people of the way to happiness and the opportunity to achieve. If the finer sentiments were not urging, the cold, hard facts of excessive cost and the eloquence of economics would urge us to reduce our armaments. If the concept of a better order does not appeal, then let us ponder the burden and the blight of continued competition.

It is not to be denied that the world has swung along throughout the ages without heeding this call from the kindlier hearts of men. But the same world never before was so tragically brought to realization of the utter futility of passion's sway when reason and conscience and fellowship point a nobler way.

I can speak officially only for our United States. Our hundred millions frankly want less of armament and none of war. Wholly free from guile, sure in our own minds that we harbor no unworthy designs, we accredit the world with the same good intent. So I welcome you, not alone in good will and high purpose, but with high faith.

We are met for a service to mankind. In all simplicity, in all honesty and all honor, there may be written here the avowals



of a world conscience refined by the consuming fires of war, and made more sensitive by the anxious aftermath. I hope for that understanding which will emphasize the guaranties of peace, and for commitments to less burdens and a better order which will tranquilize the world. In such an accomplishment there will be added glory to your flags and ours, and the rejoicing of mankind will make the transcending music of all succeeding time.

ADDRESS OF CHARLES E. HUGHES, SECRETARY OF STATE OF THE UNITED STATES AND AMERICAN COMMISSIONER TO THE CONFERENCE ON LIMITATION OF ARMAMENTS, ON ASSUMING THE DUTIES OF PRESIDING OFFICER AT THE CONFERENCE, WASHINGTON, D. C., NOVEMBER 12, 1921.

Gentlemen, it is with a deep sense of privilege and responsibility that I accept the honor you have conferred.

Permit me to express the most cordial appreciation of the assurances of friendly cooperation which have been generously expressed by the representatives of all the invited Governments. The earnest desire and purpose, manifested in every step in the approach to this meeting, that we should meet the reasonable expectation of a watching world by effective action suited to the opportunity is the best augury for the success of the conference.

The President invited the Governments of the British Empire, France, Italy, and Japan to participate in a conference on the subject of limitation of armament, in connection with which Pacific and Far Eastern questions would also be discussed. It would have been most agreeable to the President to have invited all the powers to take part in this conference, but it was thought to be a time when other considerations should yield to the practical requirements of the existing exigency, and in this view the invitation was extended to the group known as the principal allied and associated powers, which, by reason of the conditions produced by the war, control in the main the armament of the world. The opportunity to limit armament lies within their grasp.

It was recognized, however, that the interests of other powers in the Far East made it appropriate that they should be invited to participate in the discussion of Pacific and Far Eastern problems, and, with the approval of the five powers, an invitation to take part in the discussion of those questions has been extended to Belgium, China, the Netherlands, and Portugal.

The inclusion of the proposal for the discussion of Pacific and Far Eastern questions was not for the purpose of embarrassing or delaying an agreement for limitation of armament, but rather to support that undertaking by availing ourselves of this meeting to endeavor to reach a common understanding as to the principles and policies to be followed in the Far East and thus greatly to diminish, and if possible wholly to remove, discernible sources of controversy. It is believed that by interchanges of views at this opportune time the Governments represented here may find a basis of accord and thus give expression to their desire to assure enduring friendship.

In the public discussions which have preceded the conference there have been apparently two competing views; one, that the consideration of armament should await the result of the discussion of Far Eastern questions, and another, that the latter discussion should be postponed until an agreement for limitation of armament has been reached. I am unable to find sufficient reason for adopting either of these extreme views. I think that it would be most unfortunate if we should disappoint the hopes which have attached to this meeting by a postponement of the consideration of the first subject. The world looks to this conference to relieve humanity of the crushing burden created by competition in armament, and it is the view of the American Government that we should meet that expectation without any unnecessary delay. It is therefore proposed that the conference should proceed at once to consider the question of the limitation of armament.

This, however, does not mean that we must postpone the examination of Far Eastern questions. These questions of vast importance press for solution. It is hoped that immediate provision may be made to deal with them adequately, and it is suggested that it may be found to be entirely practicable through the distribution of the work among designated committees to make progress to the ends sought to be achieved without either subject being treated as a hindrance to the proper consideration and disposition of the other.

The proposal to limit armament by an agreement of the powers is not a new one, and we are admonished by the futility of earlier efforts. It may be well to recall the noble aspirations which were voiced 23 years ago in the imperial rescript of His Majesty the Emperor of Russia. It was then pointed out with clarity and emphasis that "The intellectual and physical strength of the nations, labor, and capital are for the major

part diverted from their natural application and unproductively consumed. Hundreds of millions are devoted to acquiring terrible engines of destruction, which, though to-day regarded as the last word of science, are destined to-morrow to lose all value in consequence of some fresh discovery in the same field. National culture, economic progress, and the production of wealth are either paralyzed or checked in their development. Moreover, in proportion as the armaments of each power increase, so do they less and less fulfill the object which the Governments have set before themselves. The economic crises, due in great part to the system of armaments a l'outrance and the continual danger which lies in this massing of war materials, are transforming the armed peace of our days into a crushing burden, which the peoples have more and more difficulty in bearing. It appears evident, then, that if this state of things were prolonged it would inevitably lead to the calamity which it is desired to avert, and the horrors of which make every thinking man shudder in advance. To put an end to these incessant armaments and to seek the means of warding off the calamities which are threatening the whole world—such is the supreme duty which is to-day imposed on all States."

It was with this sense of obligation that His Majesty the Emperor of Russia proposed the conference, which was "to occupy itself with this grave problem" and which met at The Hague in the year 1899. Important as were the deliberations and conclusions of that conference, especially with respect to the pacific settlement of international disputes, its result in the specific matter of limitation of armament went no further than the adoption of a final resolution setting forth the opinion "that the restriction of military charges, which are at present a heavy burden on the world, is extremely desirable for the increase of the material and moral welfare of mankind," and the utterance of the wish that the Governments "may examine the possibility of an agreement as to the limitation of armed forces by land and sea, and of war budgets."

It was seven years later that the Secretary of State of the United States, Mr. Elihu Root, in answering a note of the Russian ambassador suggesting in outline a program of the second peace conference, said: "The Government of the United States, therefore, feels it to be its duty to reserve for itself the liberty to propose to the second peace conference, as one of the subjects for consideration, the reduction or limitation of armaments, in the hope that, if nothing further can be accomplished, some slight advance may be made toward the realization of the lofty conception which actuated the Emperor of Russia in calling the first conference." It is significant that the Imperial German Government expressed itself as "absolutely opposed to the question of disarmament" and that the Emperor of Germany threatened to decline to send delegates if the subject of disarmament was to be discussed. In view, however, of the resolution which had been adopted at the first Hague conference the delegates of the United States were instructed that the subject of limitation of armament "should be regarded as unfinished business, and that the second conference should ascertain and give full consideration to the results of such examination as the Governments may have given to the possibility of an agreement pursuant to the wish expressed by the first conference." But by reason of the obstacles which the subject had encountered, the second peace conference at The Hague, although it made notable progress in provision for the peaceful settlement of controversies, was unable to deal with limitation of armament except by a resolution in the following general terms: "The conference confirms the resolution adopted by the conference of 1899 in regard to the limitation of military expenditure; and inasmuch as military expenditure has considerably increased in almost every country since that time, the conference declares that it is eminently desirable that the Governments should resume the serious examination of this question."

This was the fruition of the efforts of eight years. Although the effect was clearly perceived, the race in preparation of armament, wholly unaffected by these futile suggestions, went on until it fittingly culminated in the greatest war of history; and we are now suffering from the unparalleled loss of life, the destruction of hopes, the economic dislocations, and the widespread impoverishment which measure the cost of the victory over the brutal pretensions of military force.

But if we are warned by the inadequacy of earlier endeavors for limitation of armament, we can not fail to recognize the extraordinary opportunity now presented. We not only have the lessons of the past to guide us, not only do we have the reaction from the disillusioning experiences of war, but we must meet the challenge of imperative economic demands. What was convenient or highly desirable before is now a matter of vital necessity. If there is to be economic rehabilita-

tion, if the longings for reasonable progress are not to be denied, if we are to be spared the uprisings of peoples made desperate in the desire to shake off burdens no longer endurable, competition in armament must stop. The present opportunity not only derives its advantage from a general appreciation of this fact, but the power to deal with the exigency now rests with a small group of nations, represented here, who have every reason to desire peace and to promote amity. The astounding ambition which lay athwart the promise of the second Hague conference no longer menaces the world, and the great opportunity of liberty-loving and peace-preserving democracies has come. Is it not plain that the time has passed for mere resolutions that the responsible powers should examine the question of limitation of armament? We can no longer content ourselves with investigations, with statistics, with reports, with the circumlocution of inquiry. The essential facts are sufficiently known. The time has come, and this conference has been called, not for general resolutions or mutual advice, but for action. We meet with full understanding that the aspirations of mankind are not to be defeated either by plausible suggestions of postponement or by impracticable counsels of perfection. Power and responsibility are here, and the world awaits a practicable program which shall at once be put into execution.

I am confident that I shall have your approval in suggesting that in this matter, as well as in others before the conference, it is desirable to follow the course of procedure which has the best promise of achievement rather than one which would facilitate division; and thus, constantly aiming to agree so far as possible, we shall, with each point of agreement, make it easier to proceed to others.

The question, in relation to armament, which may be regarded as of primary importance at this time, and with which we can deal most promptly and effectively, is the limitation of naval armament. There are certain general considerations which may be deemed pertinent to this subject.

The first is that the core of the difficulty is to be found in the competition in naval programs, and that, in order appropriately to limit naval armament, competition in its production must be abandoned. Competition will not be remedied by resolves with respect to the method of its continuance. One program inevitably leads to another, and if competition continues its regulation is impracticable. There is only one adequate way out and that is to end it now.

It is apparent that this can not be accomplished without serious sacrifices. Enormous sums have been expended upon ships under construction and building programs which are now under way can not be given up without heavy loss. Yet if the present construction of capital ships goes forward other ships will inevitably be built to rival them and this will lead to still others. Thus the race will continue so long as ability to continue lasts. The effort to escape sacrifices is futile. We must face them or yield our purpose.

It is also clear that no one of the naval powers should be expected to make these sacrifices alone. The only hope of limitation of naval armament is by agreement among the nations concerned, and this agreement should be entirely fair and reasonable in the extent of the sacrifices required of each of the powers. In considering the basis of such an agreement, and the commensurate sacrifices to be required, it is necessary to have regard to the existing naval strength of the great naval powers, including the extent of construction already effected in the case of ships in process. This follows from the fact that one nation is as free to compete as another, and each may find grounds for its action. What one may do another may demand the opportunity to rival, and we remain in the thrall of competitive effort. I may add that the American delegates are advised by their naval experts that the tonnage of capital ships may fairly be taken to measure the relative strength of navies, as the provision for auxiliary combatant craft should sustain a reasonable relation to the capital ship tonnage allowed.

It would also seem to be a vital part of a plan for the limitation of naval armament that there should be a naval holiday. It is proposed that for a period of not less than 10 years there should be no further construction of capital ships.

I am happy to say that I am at liberty to go beyond these general propositions, and on behalf of the American delegation, acting under the instructions of the President of the United States, to submit to you a concrete proposition for an agreement for the limitation of naval armament.

It should be added that this proposal immediately concerns the British Empire, Japan, and the United States. In view of the extraordinary conditions due to the World War affecting the existing strength of the navies of France and Italy, it is

not thought to be necessary to discuss at this stage of the proceedings the tonnage allowance of these nations, but the United States proposes that this matter be reserved for the later consideration of the conference.

In making the present proposal the United States is most solicitous to deal with the question upon an entirely reasonable and practicable basis, to the end that the just interests of all shall be adequately guarded and that national security and defense shall be maintained. Four general principles have been applied:

- (1) That all capital-ship building programs, either actual or projected, should be abandoned;
- (2) That further reduction should be made through the scrapping of certain of the older ships;
- (3) That in general regard should be had to the existing naval strength of the powers concerned;
- (4) That the capital-ship tonnage should be used as the measurement of strength for navies and a proportionate allowance of auxiliary combatant craft prescribed.

The principal features of the proposed agreement are as follows:

#### CAPITAL SHIPS.

##### UNITED STATES.

The United States is now completing its program of 1916 calling for 10 new battleships and 6 battle cruisers. One battleship has been completed. The others are in various stages of construction; in some cases from 60 to over 80 per cent of the construction has been done. On these 15 capital ships now being built over \$330,000,000 have been spent. Still the United States is willing in the interest of an immediate limitation of naval armament to scrap all these ships.

The United States proposes, if this plan is accepted—

- (1) To scrap all capital ships now under construction. This includes 6 battle cruisers and 7 battleships on the ways and in course of building, and 2 battleships launched.

The total number of new capital ships thus to be scrapped is 15. The total tonnage of the new capital ships when completed would be 618,000 tons.

- (2) To scrap all of the older battleships up to, but not including, the *Delaware* and *North Dakota*. The number of these old battleships to be scrapped is 15. Their total tonnage is 227,740 tons.

Thus the number of capital ships to be scrapped by the United States, if this plan is accepted, is 30, with an aggregate tonnage (including that of ships in construction, if completed) of 845,740 tons.

##### GREAT BRITAIN.

The plan contemplates that Great Britain and Japan shall take action which is fairly commensurate with this action on the part of the United States.

It is proposed that Great Britain—

- (1) Shall stop further construction on the four new Hoods, the new capital ships not laid down but upon which money has been spent. These four ships, if completed, would have tonnage displacement of 172,000 tons.

- (2) Shall, in addition, scrap her predreadnaughts, second line battleships, and first line battleships up to, but not including, the *King George V* class.

These, with certain predreadnaughts which it is understood have already been scrapped, would amount to 19 capital ships and a tonnage reduction of 411,375 tons.

The total tonnage of ships thus to be scrapped by Great Britain (including the tonnage of the four Hoods, if completed) would be 583,375 tons.

##### JAPAN.

It is proposed that Japan—

- (1) Shall abandon her program of ships not yet laid down, viz, the *Kii*, *Owari*, No. 7 and No. 8 battleships, and Nos. 5, 6, 7, and 8 battle cruisers.

It should be observed that this does not involve the stopping of construction, as the construction of none of these ships has been begun.

- (2) Shall scrap 3 capital ships (the *Matsu* launched, the *Tosa*, and *Kago* in course of building) and four battle cruisers (the *Amagi* and *Akagi* in course of building, and the *Atoga* and *Takao* not yet laid down, but for which certain material has been assembled).

The total number of new capital ships to be scrapped under this paragraph is seven. The total tonnage of these new capital ships when completed would be 289,100 tons.

- (3) Shall scrap all predreadnaughts and battleships of the second line. This would include the scrapping of all ships up to, but not including, the *Settsu*; that is, the scrapping of 10 older ships, with a total tonnage of 159,828 tons.



The total reduction of tonnage on vessels existing, laid down, or for which material has been assembled (taking the tonnage of the new ships when completed), would be 448,928 tons.

Thus, under this plan there would be immediately destroyed, of the navies of the three powers, 66 capital fighting ships, built and building, with a total tonnage of 1,878,043.

It is proposed that it should be agreed by the United States, Great Britain, and Japan that their navies, with respect to capital ships, within three months after the making of the agreement shall consist of certain ships designated in the proposal and numbering for the United States 18, for Great Britain 22, for Japan 10.

The tonnage of these ships would be as follows: Of the United States, 500,650; of Great Britain, 604,450; of Japan, 299,700. In reaching this result, the age factor in the case of the respective navies has received appropriate consideration.

#### REPLACEMENT.

With respect to replacement, the United States proposes:

(1) That it be agreed that the first replacement tonnage shall not be laid down until 10 years from the date of the agreement;

(2) That replacement be limited by an agreed maximum of capital ship tonnage as follows:

	Tons.
For the United States	500,000
For Great Britain	500,000
For Japan	300,000

(3) That subject to the 10-year limitation above fixed and the maximum standard, capital ships may be replaced when they are 20 years old by new capital ship construction;

(4) That no capital ship shall be built in replacement with a tonnage displacement of more than 35,000 tons.

I have sketched the proposal only in outline, leaving the technical details to be supplied by the formal proposition which is ready for submission to the delegates.

The plan includes provision for the limitation of auxiliary combatant craft. This term embraces three classes; that is, (1) auxiliary surface combatant craft, such as cruisers (exclusive of battle cruisers), flotilla leaders, destroyers, and various surface types; (2) submarines; and (3) airplane carriers.

I shall not attempt to review the proposals for these various classes, as they bear a definite relation to the provisions for capital fighting ships.

With the acceptance of this plan the burden of meeting the demands of competition in naval armament will be lifted. Enormous sums will be released to aid the progress of civilization. At the same time the proper demands of national defense will be adequately met and the nations will have ample opportunity during the naval holiday of 10 years to consider their future course. Preparation for offensive naval war will stop now.

I shall not attempt at this time to take up the other topics which have been listed upon the tentative agenda proposed in anticipation of the conference.

ADDRESS OF THE PRESIDENT AT ARLINGTON (S. DOC. NO. 78).

Mr. LODGE. I also ask unanimous consent that the address of the President at Arlington on Friday may be printed in the RECORD and also as a document, separately from the other addresses which have just been ordered printed, as the address at Arlington is not connected immediately with the work of the Conference on the Limitation of Armaments.

The VICE PRESIDENT. Without objection, it is so ordered.

The address of the President of the United States referred to is as follows:

ADDRESS AT THE BURIAL OF AN UNKNOWN AMERICAN SOLDIER, ARLINGTON CEMETERY, NOVEMBER 11, 1921.

Mr. Secretary of War and ladies and gentlemen, we are met to-day to pay the impersonal tribute. The name of him whose body lies before us took flight with his imperishable soul. We know not whence he came, but only that his death marks him with the everlasting glory of an American dying for his country.

He might have come from any one of millions of American homes. Some mother gave him in her love and tenderness, and with him her most cherished hopes. Hundreds of mothers are wondering to-day, finding a touch of solace in the possibility that the Nation bows in grief over the body of one she bore to live and die, if need be, for the Republic. If we give rein to fancy, a score of sympathetic chords are touched, for in this body there once glowed the soul of an American, with the aspirations and ambitions of a citizen who cherished life and its opportunities. He may have been a native or an adopted son; that matters little, because they glorified the same loyalty, they sacrificed alike.

We do not know his station in life, because from every station came the patriotic response of the five millions. I recall the

days of creating armies, and the departing of caravels which braved the murderous seas to reach the battle lines for maintained nationality and preserved civilization. The service flag marked mansion and cottage alike, and riches were common to all homes in the consciousness of service to country.

We do not know the eminence of his birth, but we do know the glory of his death. He died for his country, and greater devotion hath no man than this. He died unquestioning, uncompaining, with faith in his heart and hope on his lips, that his country should triumph and its civilization survive. As a typical soldier of this representative democracy, he fought and died, believing in the indisputable justice of his country's cause. Conscious of the world's upheaval, appraising the magnitude of a war the like of which had never horrified humanity before, perhaps he believed his to be a service destined to change the tide of human affairs.

In the death gloom of gas, the bursting of shells and rain of bullets, men face more intimately the great God over all, their souls are aflame, and consciousness expands and hearts are searched. With the din of battle, the glow of conflict, and the supreme trial of courage, come involuntarily the hurried appraisal of life and the contemplation of death's great mystery. On the threshold of eternity, many a soldier, I can well believe, wondered how his ebbing blood would color the stream of human life, flowing on after his sacrifice. His patriotism was none less if he craved more than triumph of country; rather, it was greater if he hoped for a victory for all human kind. Indeed, I revere that citizen whose confidence in the righteousness of his country inspired belief that its triumph is the victory of humanity.

This American soldier went forth to battle with no hatred for any people in the world, but hating war and hating the purpose of every war for conquest. He cherished our national rights, and abhorred the threat of armed domination; and in the maelstrom of destruction and suffering and death he fired his shot for liberation of the captive conscience of the world. In advancing toward his objective was somewhere a thought of a world awakened; and we are here to testify undying gratitude and reverence for that thought of a wider freedom.

On such an occasion as this, amid such a scene, our thoughts alternate between defenders living and defenders dead. A grateful Republic will be worthy of them both. Our part is to atone for the losses of heroic dead by making a better Republic for the living.

Sleeping in these hallowed grounds are thousands of Americans who have given their blood for the baptism of freedom and its maintenance, armed exponents of the Nation's conscience. It is better and nobler for their deeds. Burial here is rather more than a sign of the Government's favor; it is a suggestion of a tomb in the heart of the Nation, sorrowing for its noble dead.

To-day's ceremonies proclaim that the hero unknown is not unhonored. We gather him to the Nation's breast, within the shadow of the Capitol, of the towering shaft that honors Washington, the great father, and of the exquisite monument to Lincoln, the martyred savior. Here the inspirations of yesterday and the conscience of to-day forever unite to make the Republic worthy of his death for flag and country.

Ours are lofty resolutions to-day, as with tribute to the dead we consecrate ourselves to a better order for the living. With all my heart, I wish we might say to the defenders who survive, to mothers who sorrow, to widows and children who mourn, that no such sacrifice shall be asked again.

It was my fortune recently to see a demonstration of modern warfare. It is no longer a conflict in chivalry, no more a test of militant manhood. It is only cruel, deliberate, scientific destruction. There was no contending enemy, only the theoretical defense of a hypothetical objective. But the attack was made with all the relentless methods of modern destruction. There was the rain of ruin from the aircraft, the thunder of artillery, followed by the unspeakable devastation wrought by bursting shells; there were mortars belching their bombs of desolation; machine guns concentrating their leaden storms; there was the infantry, advancing, firing, and falling—like men with souls sacrificing for the decision. The flying missiles were revealed by illuminating tracers, so that we could note their flight and appraise their deadliness. The air was streaked with tiny flames marking the flight of massed destruction; while the effectiveness of the theoretical defense was impressed by the simulation of dead and wounded among those going forward, undaunted and unheeding. As this panorama of unutterable destruction visualized the horrors of modern conflict, there grew on me the sense of the failure of a civilization which can leave its problems to such cruel arbitrament. Surely no one in authority, with human attributes and a full appraisal of the

patriotic loyalty of his countrymen, could ask the manhood of kingdom, empire, or republic to make such sacrifice until all reason had failed, until appeal to justice through understanding had been denied, until every effort of love and consideration for fellow men had been exhausted, until freedom itself and inviolate honor had been brutally threatened.

I speak not as a pacifist fearing war, but as one who loves justice and hates war. I speak as one who believes the highest function of government is to give its citizens the security of peace, the opportunity to achieve, and the pursuit of happiness.

The loftiest tribute we can bestow to-day—the heroically earned tribute—fashioned in deliberate conviction, out of unclouded thought, neither shadowed by remorse nor made vain by fancies, is the commitment of this Republic to an advancement never made before. If American achievement is a cherished pride at home, if our unselfishness among nations is all we wish it to be, and ours is a helpful example in the world, then let us give of our influence and strength, yea, of our aspirations and convictions, to put mankind on a little higher plane, exulting and exalting, with war's distressing and depressing tragedies barred from the stage of righteous civilization.

There have been a thousand defenses justly and patriotically made; a thousand offenses which reason and righteousness ought to have stayed. Let us beseech all men to join us in seeking the rule under which reason and righteousness shall prevail.

Standing to-day on hallowed ground, conscious that all America has halted to share in the tribute of heart and mind and soul to this fellow American, and knowing that the world is noting this expression of the Republic's mindfulness, it is fitting to say that his sacrifice, and that of the millions dead, shall not be in vain. There must be, there shall be, the commanding voice of a conscious civilization against armed warfare.

As we return this poor clay to its mother soil, garlanded by love and covered with the decorations that only nations can bestow, I can sense the prayers of our people, of all peoples, that this Armistice Day shall mark the beginning of a new and lasting era of peace on earth, good will among men. Let me join in that prayer.

Our Father who art in heaven, hallowed be Thy name. Thy kingdom come, Thy will be done on earth, as it is in heaven. Give us this day our daily bread, and forgive us our trespasses as we forgive those who trespass against us. And lead us not into temptation, but deliver us from evil, for Thine is the kingdom, and the power, and the glory, forever. Amen.

#### LISTS OF AMERICAN SOLDIER DEAD.

The VICE PRESIDENT laid before the Senate a communication from the Acting Quartermaster General of the Army, transmitting lists of American soldier dead returned from overseas, to be reinterred in the Arlington National Cemetery, Thursday, November 17, 1921, at 2.30 p. m., which, with the accompanying lists, was ordered to lie on the table for the inspection of Senators.

#### PETITIONS AND MEMORIALS.

The VICE PRESIDENT laid before the Senate a memorial of the national executive committee, Private Soldiers' and Sailors' Legion, of Washington, D. C., remonstrating against the enactment of Senate bill 1565, making eligible for retirement under the same conditions as now provided for officers of the Regular Army all officers of the United States Army during the World War who have incurred physical disability in line of duty, which was referred to the Committee on Military Affairs.

Mr. WARREN presented a resolution adopted by the Casper (Wyo.) Chamber of Commerce, favoring consideration by the American delegation to the disarmament conference of the broad question of chemical disarmament, and also inclusion in the permanent tariff bill for a limited period of a selective embargo against importation of synthetic organic chemicals, which was referred to the Committee on Finance.

He also presented a resolution of the Casper (Wyo.) Chamber of Commerce, favoring the enactment of legislation authorizing the United States to enter into an agreement with the Dominion of Canada to build a deep-ship channel from the Great Lakes via the St. Lawrence to the sea, which was referred to the Committee on Commerce.

He also presented telegrams, letters, and communications in the nature of petitions, from the Community Church, of Salt Creek; the Methodist Episcopal Church of Hanna; the Adult and Win One Classes of the Methodist Sunday School, of Cheyenne; the union meeting held in Washakie County; and the First Baptist Church, of Casper, all in the State of Wyoming, praying for the enactment of the so-called Willis-Campbell

antibeer bill and enforcement of the prohibition laws, which were ordered to lie on the table.

Mr. KENDRICK presented a petition of the Casper (Wyo.) Chamber of Commerce, favoring inclusion in the permanent tariff bill of a selective embargo for a limited period of years against importation of synthetic organic chemicals, which was referred to the Committee on Finance.

Mr. NELSON presented petitions signed by over 2,000 members of the student body of the University of Minnesota, praying for a prompt limitation of armament that may be real and definite, which were referred to the Committee on Foreign Relations.

Mr. McCUMBER presented a petition of sundry citizens of Elgin, N. Dak., favoring the limitation of armament and reduction of military and naval expenditures so as to decrease taxation, which was referred to the Committee on Foreign Relations.

Mr. CAPPER presented a petition of sundry citizens of Beatrice and Home City, Kans., praying that the Government of the United States recognize the Irish republic, which was referred to the Committee on Foreign Relations.

Mr. ELKINS presented a resolution adopted by the Keyser Auxiliary, Woman's Home Missionary Society, Methodist Episcopal Church (Frederick district) of the Baltimore conference, at Keyser, W. Va., urging that the United States enter the disarmament conference wholeheartedly and unreservedly, favoring the greatest possible limitation of armament, and also favoring an open conference, etc., which was referred to the Committee on Foreign Relations.

Mr. WILLIS presented a memorial of the Central Trades and Labor Council, of Zanesville, Ohio, remonstrating against the enactment of legislation weakening, destroying, subordinating, or amalgamating the activities of the United States Department of Labor, which was referred to the Committee on Education and Labor.

Mr. LADD presented resolutions adopted by the faculty and students of the State Normal and Industrial School, of Ellendale, and the Mandan Commercial Club, of Mandan, both in the State of North Dakota, indorsing the conference on limitation of armament, which were referred to the Committee on Foreign Relations.

He also presented a memorial of sundry members of the Women's Civic League, of Van Hook, N. Dak., remonstrating against the enactment of legislation imposing a tax on musical instruments, which was referred to the Committee on Finance.

He also presented a resolution adopted by St. John's Norwegian Lutheran Church, of Ryder, N. Dak., favoring the enactment of the so-called Willis-Campbell antibeer bill, which was ordered to lie on the table.

He also presented a petition of sundry citizens of Wahpeton, N. Dak., favoring the so-called Smoot manufacturers' sales tax, which was referred to the Committee on Finance.

Mr. SHORTRIDGE presented a resolution adopted by the Pacific Conference of the Methodist Episcopal Church South, favoring a proposed constitutional amendment to prohibit sectarian appropriations, which was referred to the Committee on the Judiciary.

He also presented resolutions adopted by the First Methodist Episcopal Church, of Pomona, Calif., favoring the enforcement of the eighteenth amendment to the Constitution and the Volstead Act, and the reduction of armament, and also opposing any legislation permitting the manufacture of wine and beer, which were referred to the Committee on the Judiciary.

He also presented resolutions adopted by a mass meeting of sundry citizens of Fresno and vicinity, in the State of California, concerning the Christian people of Asia Minor, and praying that speedy and permanent relief may be afforded these long-oppressed and suffering people, which were referred to the Committee on Foreign Relations.

#### REPORTS OF THE COMMITTEE ON THE JUDICIARY.

Mr. CULBERSON, from the Committee on the Judiciary, to which was referred the bill (H. R. 6679) to amend section 108 of an act entitled "An act to codify, revise, and amend the laws relating to the judiciary," approved March 3, 1911, reported it without amendment, and submitted a report (No. 315) thereon.

Mr. ERNST, from the Committee on the Judiciary, to which was referred the bill (S. 2682) to amend the act entitled "An act to establish a code of law for the District of Columbia," approved March 3, 1901, and the acts amendatory thereof and supplementary thereto, reported it without amendment, and submitted a report (No. 316) thereon.

#### LIMITATIONS IN CRIMINAL CASES.

Mr. NELSON. From the Committee on the Judiciary I report back favorably without amendment the bill (H. R. 8298) to amend section 1044 of the Revised Statutes of the United States relating to limitations in criminal cases.



I ask unanimous consent for the present consideration of the bill, as it is a matter of great urgency. With the permission of the Senate, I will briefly state its purpose.

It is a bill the passage of which is recommended by the Department of Justice. The present statute of limitations in criminal cases is three years. This bill proposes to amend it so that in the case of offenses involving the defrauding or attempting to defraud the United States, or any agency thereof, the time shall be six years. It is extended to six years, but it does not apply to cases where the statute of limitations has already run. There is nothing *ex post facto* about it. It is a case of great urgency, and I trust that the bill may receive immediate consideration.

The VICE PRESIDENT. Is there objection to the immediate consideration of the bill?

Mr. KING. Reserving the right to object, I ask that the bill may be read.

The VICE PRESIDENT. The bill will be read.

The Assistant Secretary read the bill, as follows:

*Be it enacted, etc.,* That section 1044 of the Revised Statutes of the United States be amended so as to read as follows:

"SEC. 1044. No person shall be prosecuted, tried, or punished for any offense, not capital, except as provided in section 1046, unless the indictment is found, or the information is instituted, within three years next after such offense shall have been committed: *Provided, however,* That in offenses involving the defrauding or attempts to defraud the United States or any agency thereof, whether by conspiracy or not, and in any manner, and now indictable under any existing statutes, the period of limitation shall be six years. This act shall apply to acts, offenses, or transactions where the existing statute of limitations has not yet fully run, but this proviso shall not apply to acts, offenses, or transactions which are already barred by the provisions of existing laws."

SEC. 2. That this act shall be in force and effect from and after the date of its passage.

The VICE PRESIDENT. Is there objection to the immediate consideration of the bill?

Mr. LA FOLLETTE. Mr. President, I sincerely hope that this bill will pass. I think it is unfortunate that it was not reported from the Committee on the Judiciary earlier. The House transmitted it to the Senate on November 1, some two weeks ago, and upon that day it was referred to the Judiciary Committee of the Senate. I recognize the fact that the Senate has been holding sessions day and night upon the revenue bill. The consideration of that important measure required the attendance of Senators upon the sessions of the Senate. This made it exceedingly difficult to secure the attendance of Senators at committee meetings. This is very unfortunate, for I have seen it stated in the press that a large number of offenses against the criminal statute, which this bill amends, will escape punishment for criminal offenses against the Government, because the statute of limitations expired only a few days ago.

I have been informed—I do not know whether correctly informed or not, but I have been informed—that there are more than 2,000 cases connected with the Shipping Board where prosecutions would have been brought if the statute of limitations had not run against those offenses on last Saturday. I understand that its expiration on Saturday has relieved some 2,000 gentlemen whose cases have been investigated and who on the face of the record are *prima facie* guilty, at least as far as the investigation has proceeded. I repeat that I am informed that there are some 2,000 cases within the Shipping Board's organization where, upon the record, as shown by investigation, the parties were subject to prosecution under the section which this bill proposes to amend, and that the statute of limitations as to those cases expired on Saturday the 11th day of November.

Mr. WALSH of Montana. Mr. President, I hope the information which the Senator from Wisconsin has with respect to that matter is inaccurate. I shall be disposed to believe that it is. The crime charged against these people ordinarily is conspiracy; and although the conspiracy may have had its inception more than three years ago, the statute runs from the last act in carrying out the conspiracy. If it relates to war transactions, I should think it quite likely that the last act easily falls within the period of three years.

I rose particularly, however, to inquire whether attention has been given by those having this matter in charge to the statute so far as the civil liability is concerned. This bill affects only the criminal liability. I think we ought to safeguard the interests of the Government so far as the civil liability of these parties is concerned, as well as the criminal responsibility.

Mr. LA FOLLETTE. I quite agree with the Senator, if he will permit an interruption. This bill comes from the Committee on the Judiciary, of which the Senator is a member. I do not know whether there is any bill before that committee which would amend the statute with regard to civil cases.

With respect to my statement regarding the information which I have respecting these cases, upon which the statute of limitations ran on last Saturday, I want to say that my information comes from gentlemen who have been connected with the Shipping Board and who have investigated these very cases, so that I think the information is well grounded.

Mr. WALSH of Montana. Of course, it may be. I merely express the hope that it is not.

Mr. LA FOLLETTE. I hope that it is not, of course.

Mr. WALSH of Montana. Three years would carry us back to November, 1918; and it is reasonable to assume that if the conspiracy did exist, some act in the effort to carry out that conspiracy would have taken place later than November, 1918. In other words, the entire purpose of the conspiracy could hardly have been accomplished as early as that.

Mr. NELSON. Mr. President, I will state that a Senate bill exactly similar to this, introduced by the Senator from Indiana [Mr. New], was reported by the Judiciary Committee on the 26th of September; but as the Senate was engaged in the consideration of the revenue bill, there was no opportunity to bring it up. This is a House bill, exactly like the Senate bill which was reported to the Senate. It has been passed by the House, and it is very important that it should pass the Senate now.

I do not think there are as many cases of this nature as the Senator from Wisconsin has intimated. There may be a few. Most of the frauds will consist of attempts upon the part of men who have contracts pending, and are trying to settle them, to impose upon the Government by fraudulent practices; and I think most of the cases involved are cases that will be within this law if we pass it.

Mr. NEW. Mr. President, I merely wish to add to what the Senator from Minnesota [Mr. NELSON] has said that I did introduce this exact bill in the Senate some time ago, and it has been on the calendar for some time. It is Order of Business No. 288. I introduced it at the direct request of the Attorney General, who told me that he at that time had information which led him to believe that there were certain cases of fraud against the Government, the prosecution of which would be soon barred by the operation of the statute of limitations.

I think it possible that some of the malefactors may have escaped in the interval that has elapsed between that time and this. The bill ought to be passed forthwith in order to prevent the possibility of anything further of the kind. While what the Senator from Montana says is true, that we ought also to provide for the recovery of damages in civil suits, I think it is best to provide for that in a separate bill and not to delay the passage of this one through any attempt to amend it in any way.

Mr. ASHURST. Mr. President, I rose a moment ago to secure an opportunity to express what the Senator from Montana [Mr. WALSH], who is also a member of the Committee on the Judiciary, has so well expressed. There have been suggestions that the Judiciary Committee, of which I am also a member, did not proceed with celerity; but let me remind the Senate that the Committee on the Judiciary reported the eligible bill on September 26. It was reported by the Senator from South Dakota [Mr. STERLING] on the order of the chairman, and it has been on the calendar as Order of Business No. 288 ever since that date. If any blame does attach, therefore, it can not justly fall upon the Judiciary Committee, because that committee proceeded with celerity and dispatch in reporting the bill to the Senate.

The PRESIDING OFFICER (Mr. SUTHERLAND in the chair). Is there objection to the immediate consideration of the bill?

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

The PRESIDING OFFICER. Without objection, Senate bill 2410, Order of Business 288, to amend section 1044 of the Revised Statutes, United States, relating to limitations in criminal cases, will be taken from the calendar and indefinitely postponed.

#### SALARIES OF CERTAIN ATTORNEYS AND MARSHALS.

Mr. OVERMAN. I move that the bill (S. 425) fixing the salaries of certain United States attorneys and United States marshals be recommitted to the Committee on the Judiciary.

The motion was agreed to.

#### BILLS AND JOINT RESOLUTION INTRODUCED.

Bills and a joint resolution were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. FRELINGHUYSEN:

A bill (S. 2703) amending an act to codify, revise, and amend the penal laws of the United States; to the Committee on the Judiciary.

A bill (S. 2704) granting a pension to John Spiker; to the Committee on Pensions.

By Mr. McCUMBER:

A bill (S. 2705) granting a pension to Max A. Pietsch; and

A bill (S. 2706) granting a pension to Albert H. Irvine; to the Committee on Pensions.

A bill (S. 2707) for the relief of the widow of John L. Vennard; to the Committee on Claims.

By Mr. WADSWORTH:

A bill (S. 2708) to authorize the Secretary of War to transfer without charge certain surplus material of the War Department to the American Relief Administration in Russia; to the Committee on Military Affairs.

A bill (S. 2709) for the relief of the estate of Edward P. Frank; to the Committee on Claims.

By Mr. SWANSON:

A bill (S. 2710) granting the consent of Congress to the Pamunkey Ferry Co. to construct a bridge across the Pamunkey River in Virginia; to the Committee on Commerce.

Mr. JONES of Washington:

A bill (S. 2711) authorizing Dominic I. Murphy, consul general of the United States of America, to accept a silver fruit bowl presented to him by the British Government; to the Committee on Foreign Relations.

A bill (S. 2712) authorizing the delivery of an American flag to the surviving next of kin of deceased American soldiers of the World War whose bodies are not brought back to the United States, and for other purposes; to the Committee on Military Affairs.

By Mr. KENDRICK:

A bill (S. 2713) to authorize the issuance of unqualified patents to public lands in certain cases; to the Committee on Public Lands and Surveys.

By Mr. POINDEXTER:

A bill (S. 2714) for the improvement of a wagon road on the Colville Indian Reservation; to the Committee on Indian Affairs.

By Mr. WATSON of Indiana:

A bill (S. 2715) to amend an act entitled "An act to supplement existing laws against unlawful restraints and monopolies, and for other purposes," approved October 15, 1914; to the Committee on Interstate Commerce.

By Mr. LODGE:

A bill (S. 2716) to give effect to certain provisions of conventions with foreign Governments for facilitating the work of traveling salesmen; to the Committee on Foreign Relations.

By Mr. FRANCE:

A bill (S. 2717) to promote the employment of labor, to stimulate industry and business, and to relieve the sufferers in the countries where there is acute distress or famine, particularly in Russia, China, and the Near East; to the Committee on Military Affairs.

By Mr. ELKINS:

A joint resolution (S. J. Res. 134) for the bestowal of the congressional medal of honor upon the unknown unidentified Italian soldier buried under the Victor Emmanuel Monument, Rome, Italy; to the Committee on Military Affairs.

#### AMENDMENTS OF RAILROAD TRANSPORTATION BILL.

Mr. LA FOLLETTE submitted three amendments intended to be proposed by him to House bill 8331, to amend the transportation act, 1920, and for other purposes, which were ordered to lie on the table and to be printed.

#### CONGRESSIONAL RECORD FOR AMERICAN LEGION POSTS.

Mr. FRELINGHUYSEN submitted amendments intended to be proposed by him to the joint resolution (S. J. Res. 131) to furnish the daily CONGRESSIONAL RECORD to American Legion posts, which were referred to the Committee on Printing and ordered to be printed.

#### DUTY ON POTASH.

Mr. SHIELDS. Mr. President, I desire to offer an amendment to the tariff bill now pending before the Finance Committee. It is to strike out the duty on potash as imposed in the bill as it passed the House. I ask that the amendment be referred to the committee in order to challenge their attention to this particular duty. I know of no more important matter to the agricultural interests of this country, and no duty which is sought to be imposed that is more unfortunate, if not criminal, in the present condition of the agricultural interests of this country.

Mr. SMITH. Mr. President, in order that it may go into the Record, let me ask the Senator if he has any information as to the proposed duty on potash?

Mr. SHIELDS. Yes; it is reported fully in my amendment, and I will ask that the amendment be read for the information of the Senate.

The PRESIDING OFFICER. The Secretary will read the amendment.

The READING CLERK. The Senator from Tennessee moves to amend the bill by striking out that part of paragraph 1635, lines 13 to 21, inclusive, being a proviso in these words:

*Provided*, That for a period of five years beginning on the day following the passage of this act there shall be levied, collected, and paid, on the actual potash (potassium oxide) content of all the foregoing, a duty of 2½ cents per pound for the first two years, 2 cents per pound for the third year, 1½ cents per pound for the fourth year, and 1 cent per pound for the fifth year: *Provided further*, That thereafter the said potash content shall be free of duty.

The PRESIDING OFFICER. The amendment will be printed and referred to the Committee on Finance.

#### WALES ISLAND PACKING CO.

Mr. McCUMBER submitted the following resolution (S. Res. 171), which was referred to the Committee on Claims:

*Resolved*, That the bill (S. 83) entitled "A bill authorizing and directing the Secretary of State to examine and settle the claim of the Wales Island Packing Co." now pending in the Senate, together with all the accompanying papers, be, and the same is hereby, referred to the Court of Claims, in pursuance of the provisions of an act entitled "An act to codify, revise, and amend the laws relating to the Judiciary," approved March 3, 1911; and the said court shall proceed with the same in accordance with the provisions of such act and report to the Senate in accordance therewith.

#### ADJUSTMENT OF WAR CONTRACTS.

Mr. KING. Mr. President, several days ago I offered a resolution, which is now lying upon the table, Senate resolution 159, to which I called the attention of the chairman of the Committee on Military Affairs, and he indicated some objections to it. I redrafted the resolution so as to conform to the wishes of the chairman of the committee, as I recognized the propriety of the objections which he suggested, and the resolution which is now upon the table I think meets with his approval; at least, he has not offered any objection to it, as I understand. I ask for the immediate consideration of the resolution. I ask that now particularly, in view of the fact that the Judiciary Committee has just reported a bill, which we have passed, dealing with frauds against the Government in connection with war contracts.

Mr. CURTIS. Let the resolution be reported.

The PRESIDING OFFICER. The Secretary will read the resolution.

The reading clerk read the resolution (S. Res. 159) submitted by Mr. KING on October 25, 1921:

Whereas by the act entitled "An act to provide relief in cases of contracts connected with the prosecution of the war, and for other purposes," approved March 2, 1919, the Secretary of War was authorized to adjust, pay, or discharge outstanding agreements with the United States upon a fair and equitable basis relating to the production, manufacture, sale, acquisition, or control of equipment, materials, supplies, services, or the use of lands or property connected with the prosecution of the war; and Whereas it is reported that many claims against the Government which were adjusted, settled, and satisfied under the authority of said act, have been and are being reopened and reconsidered by the War Department at the instance of private claimants: Now, therefore, be it

*Resolved*, That the Secretary of War be, and he is hereby, directed to report to the Senate the number of claims which have been filed for adjustment under said act and the number of said claims undetermined; also the number adjusted and settled and the aggregate payments made thereon; also a list of the claimants who have filed applications to reopen claims heretofore adjusted or adjusted and settled, together with a full and complete statement of the claims which have been reopened after settlement, at the request of the claimant, including the names of such claimants, the amounts severally claimed by each and the amount, if any, allowed to each claimant in each reopened case and the number of applications to reopen cases still pending.

Mr. KING. Mr. President, the importance of this resolution, as I called to the attention of the chairman of the Committee on Military Affairs, arises out of the fact that some time ago, as I have been advised by a former officer who had to do with the settlement of the claims, word was passed around that, with a new administration coming in, many of the cases which were settled, and settled to the advantage of the Government, might be reopened. I have been told that a number of persons who had given receipts in full have attempted to have their cases reopened, and in some instances have succeeded, with a view to obtaining larger payments from the Government.

I am not asking to have reported the details of any of the cases where claims have been reopened at the instance of the Government, because I believe that some frauds have been perpetrated, and the Government is justified in reopening cases; but I am asking that there be reported the names of persons,



the numbers of the claims, the amounts, and so forth, where reopening is sought at the hands of the claimants. The information which I have received I believe warrants the action which I ask be taken.

Mr. WADSWORTH. Mr. President, I have no objection to the resolution, as I understand it. I regret in one sense that the Senator did not include a request for information concerning the cases reopened by the Government, although that is a matter of official record in the hearings before the Military Affairs Committee.

Mr. KING. It is not necessary.

Mr. WADSWORTH. No; I think it is not necessary. Just at this point I may say that the Government has had a considerable number of these claims reopened, it having been done through the efforts of the office of the Chief of Finance of the War Department. The last testimony which that officer gave to the Committee on Military Affairs was to the effect that something like \$27,000,000 had been recovered to the Government due to his activities.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

The resolution was considered by unanimous consent and agreed to.

The PRESIDING OFFICER. Without objection the preamble will be approved.

#### HOUSE BILL REFERRED.

The bill (H. R. 7394) to extend the time for the construction of a bridge across the Tombigbee River at or near Ironwood Bluff, in the county of Itawamba, Miss., was read twice by its title and referred to the Committee on Commerce.

#### ORDER OF BUSINESS.

Mr. CURTIS. Mr. President, this is Calendar Monday, and I ask unanimous consent that the Senate proceed to the consideration of the calendar under Rule VIII, beginning with Order of Business No. 287, Senate bill 167, where the Senate left off at the last call of the calendar.

Mr. POMERENE. Mr. President, before that is done there were a few observations I wanted to submit on another matter, to be entirely candid with the Senator, on the subject of disarmament. Does the Senator think the time has arrived when it is necessary to take up the calendar? We went over the calendar one day last week.

Mr. CURTIS. The bills beginning with Senate bill 167 have not been called, and they have been on the calendar for many weeks.

Mr. POMERENE. I shall not take exceeding 10 or 15 minutes.

Mr. CURTIS. As far as I am concerned, I have no objection, of course, to the Senator occupying the time now.

#### SUSPENSION OF NAVAL PROGRAM.

Mr. POMERENE. Mr. President, the senior Senator from Massachusetts [Mr. LODGE] has presented, and been granted permission to print in the RECORD, the splendid speech made by the President of the United States on the convening of the conference called to limit armaments, as well as the very virile address made by the Secretary of State to the convened delegates of the several powers which were invited to appear, and I want to indorse, wholeheartedly, in this public fashion what the President said on the subject of disarmament, as well as the proposal made by the Secretary of State on behalf of himself and his associate American delegates.

I think the proposals made represent the greatest step that has been taken toward disarmament for a long time, and I was delighted on yesterday to observe the spirit in which the addresses of the President and the Secretary of State were received by the American press. If there has been one discordant note I have not heard of it.

I am reminded, Mr. President, that when the naval appropriation bill was pending before the Senate I offered an amendment authorizing the President to suspend all new naval construction work in his discretion, pending the deliberations of a conference between the United States, Great Britain, and Japan. I felt then, as I feel now, that it would have helped along the movement in favor of the limitation of armaments.

That amendment came before the Senate on my motion to suspend the rules. The motion to suspend the rules was defeated by the Senate on May 27, 1921. On July 7, 1921, I offered a joint resolution having for its purpose the conferring of the same authority upon the President. That joint resolution was referred to the Committee on Naval Affairs, and it has been sleeping there ever since. I am not questioning motives at all, but I am questioning the judgment of certain members of the committee who seem to be obsessed with the idea that the

way to bring peace is to build a great Navy that will overawe all the nations of the world.

Mr. President, my proposal was modest compared with the action of our American delegates. It was not made for the purpose of interfering with the President. It was to strengthen his hand. I felt that if the President were able to say to that conference when it was convened that by the authority vested in him by joint resolution he had directed the suspension of the new construction work pending their deliberations, the psychological effect of that announcement would have been very powerful in the interest of the world's peace.

Now, we are building under the naval program adopted in 1916, at a time when we feared we would get into war; but at this time there are no clouds on the horizon that are worth mentioning, and yet we are continuing to build under that pretentious program of 1916. In other words, in a time of profound peace, when there is no danger threatening, we are doing that which we contemplated doing under the program of 1916, which provided for the building of 154 vessels of different types, 66 of them, I believe, being immediately appropriated for in the act itself.

The Secretary of State has said to Great Britain and Japan that we would be willing to scrap 9 battleships and 6 battle cruisers in various stages of completion, on which \$330,000,000 have already been expended. In addition to that, he has proposed to scrap certain of the older battleships. The new tonnage thus to be scrapped is 618,000 tons; the old battleships proposed to be scrapped aggregates 227,740 tons, or a total of 845,740 tons. He has proposed that we would do this if Great Britain would scrap 172,000 tons of new construction and 411,375 tons of old construction, or a total of 583,375 tons, and if Japan should scrap new construction aggregating 289,100 tons and 10 older ships of a total tonnage of 159,828 tons, or a total tonnage of 448,928 tons.

Mr. President, has anyone heard any objection to this proposition emanating from anyone, unless it be from those who insist that we shall have the greatest Navy on the face of the globe. I trust that Great Britain and Japan will accept the proposal, but if they should signify their intention of accepting it, is the President clothed with power to order this to be done without an act of Congress? I doubt it. I do not think there is such authority. Now, if after the American delegates have presented this proposition, it was known that they would be sustained by the action of the Congress of the United States authorizing the President legally to suspend the new construction, it seems to me it would indicate to the world that the public opinion of the United States is back of our delegates in their attempt to solve this problem.

But, again, while this plan may not be accepted in toto, I have no doubt that it will be accepted in its larger part. While we provided last year for an expenditure during the current fiscal year of nearly \$400,000,000, and our shipyards are now busily engaged in this construction, we are either going to scrap these ships or we are not. If we are not going to scrap them, nothing will be lost to the cause of peace by suspending this building for the period of two or three or four or five or six months. If we are going to scrap them, what justification can be offered for going on with the expenditures now?

Mr. President, that is the way this subject presents itself to my mind. I hope that the Committee on Naval Affairs will see fit to report on the joint resolution. I am not going to ask for a favorable report; but, unless I very greatly change my mind, I shall ask for a report, and unless something is done along this line at a very early date I shall move to discharge that committee from the further consideration of the joint resolution. It may be that under present conditions it is not in the form that it should assume. It may be that it should be made more comprehensive, but to the extent that it meets the approval of the Congress of the United States, I desire action in order to back up the President and the American delegates in their plan for the limitation of armaments.

Mr. CURTIS. I renew my request that we proceed with the calendar.

Mr. HARRISON. Will the Senator withhold the request for a moment? I merely desire to submit a unanimous-consent request. It will not take a moment.

Mr. CURTIS. I will withhold my request for that purpose.

Mr. HARRISON. I ask unanimous consent that following the remarks of the distinguished Senator from Ohio [Mr. POMERENE] the amendment to which he alluded and on which he spoke and the vote on that amendment be incorporated in the RECORD?

The PRESIDING OFFICER. Is there objection to the request of the Senator from Mississippi?

Mr. WALSH of Montana. I did not understand the request of the Senator.

Mr. HARRISON. My request is that the amendment proposed by the Senator from Ohio on May 27 and the vote which was taken upon that amendment be incorporated in the Record following the remarks of the Senator from Ohio to-day.

Mr. WADSWORTH. May I ask the Senator if that is not already in the Record?

Mr. HARRISON. It is in the Record.

Mr. WADSWORTH. What is the necessity for reprinting it?

Mr. HARRISON. It is in the Record of May 27. It is right in line with the remarks the Senator from Ohio just made, and when one reads his speech of to-day he will be saved some time in not having to refer back to the Record of May 27 to look it over to see what the amendment was and the vote upon it. It is not very long. It will not occupy much space.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Mississippi?

There being no objection, the matter referred to was ordered to be printed in the Record as follows:

[From CONGRESSIONAL RECORD, proceedings of Senate, May 27, 1921.]

The VICE PRESIDENT. The amendment proposed by the Senator from Ohio [Mr. POMERENE] will be stated.

The READING CLERK. At the end of section 17 it is proposed to insert the following:

"That the President is hereby authorized, in his discretion, to delay for a period of six months, in whole or in part, the building program provided for in this act, in order to enable him to arrange for a conference with the Governments of Great Britain and Japan, with the view of reducing substantially the naval building programs of the several Governments so participating in said conference, and if they agree upon such plan of reduction, the President is hereby further authorized to suspend, in whole or in part, the said building program in order to enable him to carry out any agreement thus made."

The VICE PRESIDENT. The question is upon the motion of the Senator from Ohio [Mr. POMERENE]. The yeas and nays have been ordered, and the Secretary will call the roll.

The reading clerk proceeded to call the roll.

Mr. CARAWAY (when his name was called). I have a general pair with the junior Senator from Illinois [Mr. MCKINLEY]. I transfer that pair to the junior Senator from Alabama [Mr. HEFLIN] and vote "yea."

Mr. HARRISON (when his name was called). I have a general pair with the junior Senator from West Virginia [Mr. ELKINS]. I transfer that pair to the senior Senator from Nebraska [Mr. HITCHCOCK] and vote "yea."

Mr. KING (when his name was called). I have a general pair with the senior Senator from North Dakota [Mr. MCCUMBER]. I transfer my pair to the senior Senator from Missouri [Mr. REED] and vote "yea."

Mr. MYERS (when his name was called). I have a pair with the junior Senator from Connecticut [Mr. MCLEAN], who is absent. On this vote I feel at liberty to vote; I vote "nay."

Mr. TRAMMELL (when his name was called). I have a general pair with the senior Senator from Rhode Island [Mr. COLT]. I transfer that pair to the senior Senator from Texas [Mr. CULBERSON] and vote "yea."

Mr. WALSH of Montana (when his name was called). I have a pair with the senior Senator from New Jersey [Mr. FRELINGHUYSEN]. By agreement with that Senator, I am permitted to vote on this question. I vote "nay."

Mr. WILLIAMS (when his name was called). I have a pair with the senior Senator from Pennsylvania [Mr. PENROSE]. Owing to his unavoidable absence, I am not at liberty to vote. If I were free to vote, I would vote "yea."

The roll call was concluded.

Mr. UNDERWOOD. I have been requested to announce the absence of my colleague [Mr. HEFLIN] from the city on public business.

Mr. SUTHERLAND (after having voted in the negative). I have a general pair with the senior Senator from Arkansas [Mr. ROBINSON], who is absent. I transfer that pair to the junior Senator from Arizona [Mr. CAMERON] and let my vote stand.

Mr. GERRY. I desire to announce the absence of the junior Senator from Wyoming [Mr. KENDRICK]. I am informed he is detained on official business.

Mr. MCCORMICK (after having voted in the negative). I have a standing pair with the junior Senator from Wyoming [Mr. KENDRICK]. Has he answered the roll call?

The VICE PRESIDENT. He has not.

Mr. MCCORMICK. I transfer my pair to the junior Senator from Vermont [Mr. PAGE] and let my vote stand.

Mr. STANLEY (after having voted in the affirmative). I have a general pair with the junior Senator from Kentucky [Mr. ERST]. I transfer that pair to the Senator from Nevada [Mr. PITTMAN] and allow my vote to stand.

Mr. CURTIS. I desire to announce the following pairs:

The Senator from Indiana [Mr. WATSON] with the Senator from Delaware [Mr. WOLCOTT];

The Senator from Maryland [Mr. FRANCE] with the Senator from Louisiana [Mr. RANDELL]; and

The Senator from Maine [Mr. FERNALD] with the Senator from New Mexico [Mr. JONES].

The result was announced—yeas 29, nays 36, as follows:

Yeas—29: Ashurst, Borah, Broussard, Capper, Caraway, Dial, Fletcher, Glass, Harris, Harrison, Johnson, Jones of Washington, Kenyon, King, Ladd, La Follette, Lenroot, McKellar, Overman, Owen, Pomerene, Sheppard, Simmons, Stanley, Swanson, Trammell, Underwood, Walsh of Massachusetts, Watson of Georgia.

Nays—36: Ball, Brandegee, Bursum, Calder, Cummins, Curtis, Dillingham, Edge, Gerry, Gooding, Hale, Harrell, Kellogg, Keyes, Lodge, McCormick, McNary, Moses, Myers, Nelson, Newberry, Norbeck, Oddie, Phipps, Poindexter, Shortridge, Smoot, Spencer, Stanfield, Sterling, Sutherland, Townsend, Wadsworth, Walsh of Montana, Warren, Willis.

Not voting—31: Cameron, Colt, Culberson, Elkins, Ernst, Fernald, France, Frelinghuysen, Hefflin, Hitchcock, Jones of New Mexico, Ken-

drick, Knox, McCumber, McKinley, McLean, New, Nicholson, Norris, Page, Penrose, Pittman, Ransdell, Reed, Robinson, Shields, Smith, Watson of Indiana, Weller, Williams, Wolcott.

So the Senate rejected Mr. POMERENE's motion to suspend the rule.

Mr. POINDEXTER. Mr. President, I only heard the concluding words of the Senator from Ohio. Unfortunately I was absent from the Chamber at the time he addressed himself to this subject. I understand, however, that what he said related to the joint resolution which the Senator from Ohio introduced some months ago, authorizing the President and suggesting to the President to stop immediately the construction of naval vessels under the 1916 program.

I only rose to call the attention of the Senator from Ohio to the proposition that if the joint resolution had been adopted, and if the President had acted upon it and had stopped work upon our battleships, it would have been utterly impracticable for the United States to have offered any consideration either to Great Britain or to Japan for the suggestion which has recently been made to them that they abandon a certain part of their naval program. The only consideration which the United States has to offer those countries for the curtailment of their naval program and reduction of their naval strength is that upon that consideration we will do the very thing which the Senator from Ohio some time ago wanted us to do.

Mr. POMERENE. No; I am afraid the Senator has not even read the joint resolution which is before his committee. That joint resolution authorizes the President at any time in his discretion to suspend for a period of six months this construction, in whole or in part. That is all. Now, think of the situation which confronts the President. The President through his delegates has made a proposition, but suppose some delegate had risen the other day or should rise at some meeting in the future with the statement: "You have been talking in favor of international peace and international disarmament, but when we land on the hospitable shores of the United States we find that every shipyard is working as it never worked before in the building of a great Navy."

Mr. POINDEXTER. Mr. President—

Mr. POMERENE. Just a moment. "Now, shall we take counsel of your words or shall we take counsel of your actions?" That is the problem.

I yield to the Senator from Washington.

Mr. POINDEXTER. In the first place, if the delegates to whom the Senator refers had made any such statement as that, the statements would have been entirely erroneous because the shipyards of the United States are not working "as they never worked before," by which I infer that the Senator means that they are working at full speed in the construction of naval vessels. On the contrary, they are working at a greatly reduced speed, and the fact in the case is that the work is almost suspended on a large part of the program due to a lack of appropriations. The appropriations which were made by Congress in the last appropriation bill having been very largely absorbed in meeting obligations which had already been incurred for material for the construction of these ships there is left practically nothing, or, at least, a very small amount, for the employment of labor to carry on the work upon them.

Furthermore, if the Senator will permit another word, there is nothing in what the Senator has said that answers the objection which I made that if, before inviting a conference upon this subject, we alone, without regard to the action taken by our conferees, had abandoned our naval program we should have had no consideration whatever to offer them.

Mr. POMERENE. Mr. President, the Senator understands English. No one has suggested the abandonment of the program. My proposition is that the President be authorized to suspend for a period of six months this extravagant expenditure of the people's money at the very time when we are seeking a limitation of armaments. What is wrong about that? It is one thing to suspend building for a time with the hope of reaching an agreement for disarmament. It is quite another to abandon it altogether.

Mr. WALSH of Montana. Mr. President, before the matter is disposed of I feel impelled to say a word, particularly in view of the fact that in connection with the remarks of the Senator from Ohio there will appear in the Record the vote taken in the month of May upon his amendment to the then pending naval appropriation bill.

Mr. President, among those who sincerely look for world disarmament or for a reduction of armaments until they are no longer useful for purposes of international war there are two views as to how best to achieve that result. Some Senators believe that the way to do it is to cut down our naval appropriation bill and keep our Navy down to the lowest possible limit in the hope that our example will be emulated by other nations. There are some of us who are sincerely desirous of



securing a very substantial reduction of naval as well as of land armaments who believe that that is not the way to accomplish the result.

I do not share the view at all that the \$300,000,000 which has been expended in the construction of these great ships under the program of 1916 has been wasted. I believe that by the expenditure of that money the nations of the world who are among the naval powers have come to realize that a reduction is essential in order to preserve the peace of the world and in order to relieve the world from the burden which it bears. I have no doubt in the world that if it were not for the program just inaugurated it would be useless for the United States to open up with other nations at all the all-important subject now receiving the consideration of this conference. So in the matter of the consideration of appropriations which we were asked to make for great naval bases and other works of similar character, the persuasive effect of that policy ought to be recognized by everybody. So a great many of us, who were at one and the same time asking for the convocation of a conference for disarmament, felt that it was unwise to give our approval to the amendment tendered by the Senator from Ohio. We may be wrong about the matter and he may be right about it, but we are just as profoundly interested in attaining the result as he can be. It is simply a question as how best to secure that result.

#### THE CALENDAR.

The PRESIDING OFFICER. Under the rule the Senate will proceed with the consideration of the calendar.

Mr. CURTIS. I ask unanimous consent that the Senate resume the consideration of the calendar beginning with Order of Business 287, where its consideration was left off on Wednesday last.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FLETCHER. I think that probably a number of Senators who are absent are interested in measures on the calendar; so I feel that I ought to suggest the absence of a quorum before the calendar is taken up, and I do so.

The PRESIDING OFFICER. The absence of a quorum is suggested. The Secretary will call the roll.

The roll was called, and the following Senators answered to their names:

Ashurst	Gooding	Nelson	Smith
Ball	Hale	New	Smoot
Borah	Harrison	Nicholson	Stanley
Bursum	Jones, N. Mex.	Norris	Sutherland
Cameron	Jones, Wash.	Oddie	Swanson
Capper	Kenyon	Overman	Townsend
Caraway	Keyes	Page	Trammell
Culberson	King	Philips	Wadsworth
Cummins	Ladd	Pittman	Walsh, Mass.
Curtis	Lodge	Polindexter	Walsh, Mont.
Dial	McCumber	Pomerene	Watson, Ga.
Edge	McKellar	Ransdell	Willis
Elkins	McKinley	Robinson	
Fletcher	McNary	Sheppard	
Frelinghuysen	Myers	Simmons	

Mr. WATSON of Georgia. I wish to announce that my colleague [Mr. HARRIS] is absent because of the illness of his brother, Gen. Harris, who is undergoing an operation to-day at Walter Reed Hospital.

The PRESIDING OFFICER. Fifty-seven Senators have answered to their names. A quorum is present. The Secretary will state the first bill on the calendar, beginning with Order of Business 287, as agreed to on request of the Senator from Kansas [Mr. CURTIS].

#### JOHN H. RHEINLANDER.

The bill (S. 167) for the relief of John H. Rheinlander was considered as in Committee of the Whole. It proposes that the sum of \$1,200 be paid to John H. Rheinlander, of St. Louis, Mo., to compensate him in full for all claims he may have against the United States arising out of injuries received by him while in the Government employ in the Quartermaster's Department, United States Army, at St. Louis, Mo., in February, 1883.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

#### SALE OF CLOTHING TO SOLDIERS.

The bill (S. 2492) to amend an act entitled "An act making appropriations for the support of the Army for the fiscal year ending June 30, 1922, and for other purposes," approved June 30, 1921, was announced as next in order.

The Assistant Secretary proceeded to read the bill.

Mr. WADSWORTH. Mr. President, perhaps it would expedite matters if, instead of having the entire bill read—

Mr. SMOOT. I had rather have the bill read.

Mr. WADSWORTH. There is only a difference of four words between the language of the bill and existing law, and I thought I could explain the bill in one sentence, whereas the Secretary will have to read two pages.

Mr. SMOOT. Let the bill be read, Mr. President.

The PRESIDING OFFICER. The Secretary will read the bill.

The Assistant Secretary read the bill, as follows:

*Be it enacted, etc.,* That the act entitled "An act making appropriations for the support of the Army for the fiscal year ending June 30, 1922, and for other purposes," approved June 30, 1921, be, and is hereby, amended to read as follows:

That the first paragraph under the heading "Clothing, camp, and garrison equipage," on page 15 of the law, be amended to read as follows:

"For cloth, woollens, materials, and for the purchase and manufacture of clothing for the Army, including enlisted men of the Enlisted Reserve Corps and retired enlisted men when ordered to active duty; for issue and for sale at a price to be determined and fixed by the Secretary of War; for payment of commutation of clothing due to warrant officers of the Mine Planters Service and to enlisted men; for altering and fitting clothing and washing and cleaning when necessary; for operation of laundries; for equipment and repair of equipment of dry-cleaning plants, salvage, and sorting storehouses, hat repairing shops, shoe repair shops, clothing repair shops, and garbage reduction works; for equipage, including authorized issues of toilet articles, barbers' and tailors' materials, for use of general prisoners confined at military posts without pay or allowances and applicants for enlistment while held under observation; issue of toilet kits to recruits upon their first enlistment, and issue of housewives to the Army; for expenses of packing and handling and similar necessities; for a suit of citizen's outer clothing, to cost not exceeding \$30, to be issued when necessary to each soldier discharged otherwise than honorably; to each enlisted man convicted by civil court for an offense resulting in confinement in a penitentiary or other civil prison; and to each enlisted man ordered interned by reason of the fact that he is an alien enemy, or, for the same reason, discharged without internment; for indemnity to officers and men of the Army for clothing and bedding, etc., destroyed since April 22, 1898, by order of medical officers of the Army for sanitary reasons, \$12,000,000: *Provided*, That hereafter the settlement of clothing accounts of enlisted men, including charges for clothing drawn in excess of clothing allowance and payments of amounts due them when they draw less than their allowance, shall be made at such periods and under such regulations as may be prescribed by the Secretary of War."

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill.

Mr. WADSWORTH. Mr. President, this bill is merely in its text a repetition of a certain section of the Army appropriation act for the fiscal year ending June 30, 1922. There is but one change in the language which is proposed in this bill, and that occurs on page 2 of the bill, on lines 2 and 3. Senators will note the language "for issue and for sale at a price to be determined and fixed by the Secretary of War." The words "at a price to be determined and fixed by the Secretary of War" constitute the sole change made by the bill in the existing law.

Here is the situation: The existing appropriation act provides that clothing in the hands of the War Department may be sold to soldiers through the commissary sales store at cost prices; that is, at the prices which the Government paid for it when it got it. Much of the clothing that is in the hands of the War Department was purchased during the war and can only be sold by the War Department to soldiers at the price then paid. In the meantime prices have gone down. Woolen underclothes which cost \$2 during the war can now be purchased for 92 cents; the soldiers naturally will not pay \$2, and the Secretary of War can not sell them for less than \$2. A like condition exists with respect to shoes and raincoats. This bill merely permits the Secretary of War to sell those goods to the soldiers at prices fixed by himself.

Mr. SMOOT. I think the bill is a proper one, Mr. President.

Mr. WADSWORTH. It will enable the department to get rid of clothing which should be disposed of.

Mr. KING. I suggest to the Senator that it seems to me the situation could easily have been met by the Secretary of War declaring such clothing to be surplus.

Mr. WADSWORTH. It is not surplus.

Mr. KING. It is surplus if he can not dispose of it.

Mr. WADSWORTH. He has to get a certain amount if it is sold to the soldiers.

Mr. KING. If he can not dispose of it, it is surplus. Then he could sell it in the manner which is authorized by the special statute which we have enacted.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

#### WARRANT OFFICERS' RESERVE CORPS.

The bill (S. 2515) to amend an act entitled "An act to amend an act entitled 'An act for making further and more effectual provision for the national defense, and for other purposes,' approved June 3, 1916, and to establish military justice," approved June 4, 1920, was announced as next in order.

Mr. SMOOT. I ask that that bill go over.

Mr. WADSWORTH. Mr. President, may I say to the Senator from Utah that this bill, if enacted into law, will not cost the Government of the United States a penny. It merely supplies an omission in the Army reorganization act of June 4, 1920.

Mr. SMOOT. I will ask the Senator to let the bill go over, as I should like to examine it further.

Mr. WADSWORTH. We now have warrant officers in the Regular Army and in the National Guard, but not in the Reserves, although the Reserve Corps is now a part of the Army. I repeat that the bill can not cost the Government a penny unless Congress hereafter shall make appropriations for warrant officers of the Reserve Corps when ordered to active duty, and without such warrant officers in the Reserve Corps the organization is incomplete.

The PRESIDING OFFICER. Objection being made, the bill will be passed over.

#### TRANSPORTATION OF SOLDIERS FROM EUROPE AND SIBERIA.

The joint resolution (S. J. Res. 120) providing funds for carrying into effect the provisions of Public, No. 28, Sixty-seventh Congress, approved June 30, 1921, was considered as in Committee of the Whole, and was read, as follows:

*Resolved, etc.*, That the Secretary of War is hereby authorized and directed to pay from the appropriation, "Pay, etc., of the Army, 1922," under such regulations as he may prescribe, all of the expenses incident to carrying into effect the provisions of the act of Congress approved June 30, 1921, entitled "An act authorizing the Secretary of War to furnish free transportation and subsistence from Europe and Siberia to the United States for certain destitute discharged soldiers and their wives and children."

Mr. KING. I thought that we had made an appropriation for that purpose some time ago. I recall the Senator from New York made a full explanation as to the apparent necessity for such legislation.

Mr. WADSWORTH. We did not make the appropriation, nor authorize the use of existing appropriations for that purpose. This joint resolution merely authorizes the use of the appropriation "Pay, and so forth, of the Army, 1922," for that purpose.

Mr. KING. How much will it cost?

Mr. WADSWORTH. About \$140,000 is the estimate; otherwise the men can not be brought home.

Mr. SMOOT. Was not public act No. 28, Sixty-seventh Congress, an act authorizing the Secretary of War to pay for transporting to the United States soldiers and their families in Europe and Siberia?

Mr. WADSWORTH. The resolution to which the Senator refers authorized the Secretary of War to bring these people back on Army transports, but it did not provide as to how the expenses should be met; it did not specify the appropriation under which the work should be carried out.

Mr. KING. May I inquire of the Senator whether in the estimates submitted by the War Department, and for which estimates appropriations were made, there was not an item that would cover this particular matter?

Mr. WADSWORTH. Not that I know of; no.

The PRESIDING OFFICER. If there be no amendment to be proposed, the joint resolution will be reported to the Senate.

The joint resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, and read the third time.

The PRESIDING OFFICER. The question is, Shall the joint resolution pass?

Mr. KING. Mr. President, I should like to inquire of the Senator whether he regards it as wise legislation to fix no limit whatever, but simply to say that the Secretary may expend whatever he pleases for this purpose?

Mr. WADSWORTH. Mr. President, may I say, in reply to the Senator, that he can not spend very much. The Senator undoubtedly recollects the very narrow limits placed upon the Secretary of War in the matter of pay of enlisted men of the Army in the last Army appropriation bill. The Senator recollects that the Congress cut down that appropriation to the extent that it would only be sufficient to pay 150,000 men for one year, which forced the discharge of something like 75,000 men from the Army at that time. The margin is so narrow that it would be utterly impossible for the Secretary of War to indulge in any abuse or extravagance in the matter of bringing these destitute soldiers home from France.

Mr. KING. I appreciate that, but it does seem to me that Congress ought to know when they pass a law which calls for an expenditure by some department of the Government approximately what it will be, and they ought to know what they are appropriating. I should prefer to add a certain amount, and say that \$100,000, or so much thereof as may be necessary, or \$200,000, or so much thereof as may be necessary, shall be

appropriated for this purpose, rather than to leave this undetermined authority.

Mr. WADSWORTH. The Secretary of War, in his communication to the Military Affairs Committee, states that the estimate for carrying on this work is \$140,000; and I can assure the Senator that he will not be able to find any more money anywhere, because the Senator will recollect how we tied up the provisions of the Army appropriation act in such a way that the Secretary of War is forbidden to incur a deficit. He is forbidden to incur a deficit under that act, and if he can save \$140,000 out of the appropriation "Pay of the Army" it will be because there are less than 150,000 men in the Army to-day.

The PRESIDING OFFICER. The question is, Shall the joint resolution pass?

The joint resolution was passed.

#### UNEXPENDED BALANCES, QUARTERMASTER CORPS.

The joint resolution (S. J. Res. 118) authorizing the Secretary of War to obligate funds appropriated for the support of the Army for the fiscal year ending June 30, 1921, to the amount of \$236,095 from unexpended balances now in the Treasury was considered as in Committee of the Whole and was read, as follows:

*Resolved, etc.*, That the Secretary of War is hereby authorized to use the unexpended balances of funds appropriated for the support of the Army for the fiscal year ending June 30, 1921, namely, those funds appropriated for the support and operation of the Quartermaster Corps, to the extent of \$236,095 for reconditioning of the United States Army transport *Madawaska*.

The joint resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

#### WILLIAM O. MALLAHAN.

The bill (S. 268) for the relief of William O. Mallahan was announced as next in order.

Mr. KING. Let that go over.

Mr. WALSH of Montana. Mr. President, I trust the Senator will not object to the consideration of this bill. I invite his attention to the report of the committee on this matter, the concluding paragraph thereof only:

Your committee believe that, from the undisputed record of the facts in this case, no more meritorious case has ever been presented to this committee calling for legislation by Congress in order that the record of a faithful young soldier of the Civil War may be corrected, not only for the benefit of the soldier himself but also that his "children can have a record of their father's service in the Civil War."

If the Senator will take the pains to read the report, I can not believe that he will interpose any objection to this long-delayed measure of justice to a man who served his country faithfully, and against whom the charge of desertion was entered by a drunken superior officer.

Mr. KING. Mr. President, I ask that the bill may go over for this occasion. I will examine the files, and on the next calendar day I shall be glad to take up the matter.

Mr. WALSH of Montana. I trust the Senator will do so.

#### BILLS, ETC., PASSED OVER.

The bill (S. 2363) to abolish the limitation on military service without the continental limits of the United States, imposed by the act of Congress approved March 4, 1915, was announced as next in order.

Mr. WADSWORTH. At the request of the Senator from Virginia [Mr. SWANSON], I ask that this bill go over.

The PRESIDING OFFICER. The bill will be passed over.

The bill (S. 2035) for the relief of William M. Carroll was announced as next in order.

Mr. SMOOT. Mr. President, that is a bill of the same class as the one that went over a few moments ago. I know that the junior Senator from Utah [Mr. KING] wants it to go over, and I therefore ask that it may go over.

The PRESIDING OFFICER. The bill will be passed over.

The resolution (S. Res. 150) directing the Secretary of the Senate to employ a special officer for the office of the Secretary of the Senate was announced as next in order.

Mr. OVERMAN. Let that go over.

The PRESIDING OFFICER. The resolution will be passed over.

#### LUCY PARADIS.

The bill (S. 2210) for the relief of Lucy Paradis was considered as in Committee of the Whole, and was read, as follows:

*Be it enacted, etc.*, That jurisdiction be, and hereby is, conferred upon the Court of Claims to hear, determine, and render final judgment upon the claim of Lucy Paradis for horses belonging to her and killed and destroyed upon the Cheyenne River Indian Reservation, or elsewhere, in the State of South Dakota, by the Indian agent in charge of said Cheyenne River Indian Reservation and other persons under his authority, with right of appeal as in other cases.



That a petition may be filed by the attorneys of the said Lucy Paradis in said court within six months from the approval of this act, and service of said petition shall be had by filing copies thereof with the Attorney General and the Secretary of the Interior, and answer thereto shall be filed in said court within 60 days after the service of the petition.

The court may receive and consider all papers, depositions, records, correspondence, and documents heretofore filed in the executive departments of the Government, together with any other evidence offered, and shall render a judgment or decree thereon for such amount, if any, without interest, if any, as the court shall find legally or equitably due the said Lucy Paradis.

Said cause shall be advanced on the calendar of said court, and the amount for which judgment may be rendered, when paid to the party named in said judgment or her duly authorized and accredited attorney, shall be received in full and final settlement of the claim for said unlawful destruction of said horses.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

#### ISSUANCE OF PATENTS TO MISSIONARY OR RELIGIOUS ORGANIZATIONS.

The bill (S. 2211) authorizing the Secretary of the Interior to issue patents in certain cases to missionary or religious organizations was considered as in Committee of the Whole. It authorizes and directs the Secretary of the Interior to issue a patent in fee simple to the duly authorized missionary board, or other proper authority, of any religious organization engaged in mission or school work on any Indian reservation for such lands therein as have been heretofore set apart to and are now being used and occupied by such organization for mission or school purposes.

The bill was reported to the Senate without amendment.

Mr. WALSH of Montana. Mr. President, I should like to inquire of the Senator from Kansas [Mr. CURTIS], the chairman of the Committee on Indian Affairs, if this bill should not be limited in amount?

Mr. CURTIS. Mr. President, heretofore the patents have been limited to the number of acres occupied, not usually over 160 acres, and in many cases as low as 10 acres. Most of the patents have been issued. There are just a few left. If the Senator desires, we might let the bill be passed over, and I will take up the subject with the Commissioner of Indian Affairs.

Mr. WALSH of Montana. This would seem to give unlimited authority.

Mr. CURTIS. Let the bill go over for the present, and I will take up the matter with the commissioner.

The PRESIDING OFFICER. The bill will be passed over.

#### FORT PECK AND BLACKFEET INDIAN RESERVATIONS, MONT.

The bill (S. 2312) to authorize the leasing for mining purposes of unallotted lands on the Fort Peck and Blackfeet Indian Reservations in the State of Montana was considered as in Committee of the Whole.

The bill had been reported from the Committee on Indian Affairs with an amendment, on page 1, line 7, after the word "purposes," to strike out "by the Indians residing on said reservations, through their tribal councils, with the approval of and," so as to make the bill read:

*Be it enacted, etc.,* That lands reserved for school and agency purposes and all other unallotted lands on the Fort Peck and Blackfeet Indian Reservations, in the State of Montana, reserved from allotment or other disposition, may be leased for mining purposes under regulations prescribed by the Secretary of the Interior.

The amendment was agreed to.

Mr. KING. Mr. President, may I inquire of the Senator from Montana if it would not be wise to have general legislation with respect to these reservations?

Mr. WALSH of Montana. I will say to the Senator that we have general legislation, and under that general legislation all lands allotted are allotted with the reservation to the Indians of all mineral rights. That has been taken care of generally, but in the acts for the allotment of these two reservations certain lands were reserved for school purposes and for agency purposes, and so forth, and there is no authority to authorize the extraction of oil, for instance, that might be under lands of that character. Any oil that there might be under the other lands, or other minerals, may be extracted for the benefit of the tribe; but though these lands would be especially valuable for that purpose, there is no authority to authorize the extraction of the oil under these particular lands, so that the general law must be supplemented by an act of this character.

The PRESIDING OFFICER. If there be no further amendment to be proposed, the bill will be reported to the Senate.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

#### LANDS IN WASHINGTON.

The bill (S. 2439) for the relief of the West Okanogan irrigation district, in the State of Washington, was considered as in Committee of the Whole.

The bill had been reported from the Committee on Indian Affairs with an amendment.

Mr. KING. Mr. President, I should like an explanation from the Senator from Washington [Mr. POINDEXTER] with regard to this measure, and particularly whether it involves an appropriation from the Treasury of the United States, or a subtraction from the funds of the Indians which may be in the Treasury.

Mr. POINDEXTER. It involves an appropriation from the Treasury in the first instance; but the money paid is to become a lien upon the irrigated lands and to be paid back on the same terms and conditions required under the reclamation act as amended. It is simply a case where a reclamation district includes, among the lands in the district, Indian lands. There was an appropriation of \$95,000 to purchase the water rights for these lands on due and proportionate share of the expenses in accordance with the acreage, but there have been accruing from year to year annual charges, and these have not been paid. Of course this, like all newly settled districts, is a struggling community, endeavoring to get a foothold under this irrigation project, and it is impossible for the settlers to do that unless all the lands bear their due share of the charges.

In order that payments for the Indian lands which have water rights may be made in accordance with acreage, this appropriation is made, with the approval of the Secretary of the Interior, with a provision attached that the money shall be paid back in installments in accordance with the provisions of the reclamation act, the same as in the case of other people.

Mr. KING. May I inquire of the Senator whether this is one of the regular reclamation projects inaugurated by the Government?

Mr. POINDEXTER. No; it is a local district project.

Mr. KING. Inaugurated by private individuals?

Mr. POINDEXTER. By the local community. It is a district, and it is public in that sense; but it was organized by the community, and the funds were raised by the district, an irrigation district organized under the laws of the State of Washington.

Mr. KING. Let me see if I understand the situation. If it is purely a private enterprise, as it seems to be—

Mr. POINDEXTER. It is a local enterprise, I should say, rather than a private enterprise.

Mr. KING. A local enterprise in contradistinction to a national one?

Mr. POINDEXTER. Yes.

Mr. KING. Then this provides that the Government, under the reclamation act, would have nothing to do with it?

Mr. POINDEXTER. Nothing at all.

Mr. KING. As I understand it, there are Indians who desire to avail themselves of the water rights which may be secured through this corporation?

Mr. POINDEXTER. Yes.

Mr. KING. And it is desired that the Government shall advance sufficient funds to pay to the Indians, in order that they may acquire water rights, and the Government is to be reimbursed from any Indian funds?

Mr. POINDEXTER. Not exactly that, although the proposition is somewhat similar to that. The Government has already advanced the money for the acquirement of the water rights; that has been paid.

Mr. KING. That is, for the Indians?

Mr. POINDEXTER. For the Indians; but nothing has been paid on account of the annual dues. The Senator is familiar with the fact that on these irrigation projects charges are made annually for the use of the water and for keeping the ditches in repair. This is to provide for that, to pay the delinquent dues for these Indian lands, and the money is not, as the Senator suggested, to be repaid from the general Indian funds, but it is to be repaid by the individual owners of these Indian lands, and it will become a lien upon their particular tracts.

Mr. KING. I was interested in ascertaining whether the Government was embarking upon private enterprise, in the sense that it was furnishing water to private individuals for their own land.

Mr. POINDEXTER. Not at all. The only interest the Government has in it is the fact that these Indians are the wards of the Government.

Mr. FLETCHER. May I inquire of the Senator if there is no fund out of which this money could come, instead of being taken directly from the Treasury of the United States? Is

there no fund under the control of the Commissioner of Indian Affairs, or of some other branch of the Government, out of which this could be taken?

Mr. POINDEXTER. No; there is no other fund out of which it can be paid.

Mr. FLETCHER. As I understand, the Government holds the title to the land in trust for certain Indians?

Mr. POINDEXTER. Yes.

Mr. FLETCHER. And this relates to an improvement of the land by irrigation?

Mr. POINDEXTER. Yes.

Mr. FLETCHER. And then the title to the land will be patented, if it has not already been patented, to individuals?

Mr. POINDEXTER. Yes.

Mr. FLETCHER. Must the land be held by Indians, or can the Indians transfer their rights to other people?

Mr. POINDEXTER. Under certain regulations the Indians can transfer title; but this bill provides that the lien shall attach to the land and that the dues shall be paid by whoever may own the land, whether the Indians or their grantees.

Mr. FLETCHER. Can the Senator give us any idea as to whether the lands are really being reclaimed, and whether they will be sufficient security for the money advanced by the Government?

Mr. POINDEXTER. There is not any question about the security. The lands are being reclaimed to some extent. Of course, what the promoters of the project desire is to have them fully cultivated, and that is being gradually done. Whether they are cultivated or not, the settlers have the water rights, and the land is very fertile. There is no question whatever about the security of the lien upon these lands.

Mr. CURTIS. Mr. President, two years ago they raised enough in one year on one of these projects to pay for the entire project. That probably could be done on this one as soon as they get it all developed.

Mr. POINDEXTER. That was the case this year in the great Yakima Valley irrigation project in the State of Washington, which is no better, as far as its natural resources are concerned, than the one covered by this bill. They estimate that they will get \$50,000,000 this year from the agricultural products of that irrigated district, of which the cost to the Government was probably about \$15,000,000 altogether.

The amendment of the Committee on Indian Affairs was to add a proviso at the end of the bill, so as to make the bill read:

*Be it enacted, etc.,* That there is hereby appropriated, out of any funds in the Treasury not otherwise appropriated, the sum of \$20,000, which shall be available for use by the Commissioner of Indian Affairs in paying any just claims which may be due to any person, company, or district, including the West Okanogan irrigation district, in the State of Washington, for irrigation, water rent, or improvements or other just claims incident to irrigation of such lands, within the said West Okanogan Valley irrigation district, as are held by the United States in trust for Indians: *Provided,* That the amounts expended under this appropriation shall be reimbursed to the United States by the owners of the land on behalf of which such expenditure is made, upon such terms as the Secretary of the Interior may prescribe, which shall be not less favorable to the Indians than the reimbursement required of settlers upon lands irrigated under the provisions of the reclamation act of June 17, 1902 (32 Stat. L., p. 388), and acts amendatory thereof or supplementary thereto; and if any Indian shall sell his allotment or part thereof, or receive a patent in fee for the same, any amount of the charge made to secure reimbursement remaining unpaid at the time of such sale or issuance of patent shall be a lien on the land, and patents issued therefor shall recite the amount of such item.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

#### ALLOTMENTS ON THE CROW RESERVATION, MONT.

The bill (S. 2532) extending the time within which allotments may be made in the Crow Reservation, Mont., was considered as in Committee of the Whole, and was read as follows:

*Be it enacted, etc.,* That the time for making the allotments on the Crow Reservation, Mont., as provided by the act of June 4, 1920 (41 Stat. L., p. 751), be, and it is hereby, extended for a period of two years from December 4, 1921.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

#### LANDS IN MOUNT PLEASANT, MICH.

The bill (H. R. 7051) to authorize the Secretary of the Interior to execute deeds of reconveyance for certain lands in the city of Mount Pleasant, Isabella County, Mich., was considered as in Committee of the Whole, and was read as follows:

*Be it enacted, etc.,* That the Secretary of the Interior be, and he is hereby, authorized and directed to execute deeds on behalf of the United States of America to Walter F. Newberry, John C. Hicks, Barbara Granger Vowles (formerly Barbara Granger), Jean Gretchen Stickle,

Bruce Granger Stickle, and Bruce Stickle, or their heirs, reconveying to said persons or their heirs certain lands in the city of Mount Pleasant, Mich., heretofore conveyed by them to the United States of America, the appropriation for the purchase price of said lands having lapsed by operation of law.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

#### PAYMENT TO CHIPPEWA INDIANS OF MINNESOTA.

The bill (H. R. 7108) authorizing a per capita payment to the Chippewa Indians of Minnesota from their tribal funds held in trust by the United States was considered as in Committee of the Whole.

The bill had been reported from the Committee on Indian Affairs with an amendment, on page 2, line 6, after the word "parties," to insert a colon and the following proviso:

*Provided,* That before any payment is made hereunder the Chippewa Indians of Minnesota shall, in such manner as may be prescribed by the Secretary of the Interior, ratify the provisions of this act and accept the same.

So as to make the bill read:

*Be it enacted, etc.,* That the Secretary of the Interior be, and he is hereby, authorized to withdraw from the Treasury of the United States so much as may be necessary of the principal fund on deposit to the credit of the Chippewa Indians in the State of Minnesota, arising under section 7 of the act of January 14, 1889 (25th Stats. L., p. 642), entitled "An act for the relief and civilization of the Chippewa Indians in the State of Minnesota," and to make therefrom a per capita payment, or distribution, of \$100 to each enrolled member of the tribe, under such rules and regulations as the said Secretary may prescribe: *Provided,* That the money paid to the Indians as authorized herein, shall not be subject to any lien or claim of attorneys or other parties: *Provided,* That before any payment is made hereunder the Chippewa Indians of Minnesota shall, in such manner as may be prescribed by the Secretary of the Interior, ratify the provisions of this act and accept the same.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time and passed.

#### EMBARGO ON SHIPMENT OF ARMS.

The joint resolution (S. J. Res. 124) to amend Senate joint resolution 89, approved March 14, 1912, amending the joint resolution to prohibit the exports of coal and other material used in war from any seaport of the United States, approved April 22, 1898, was considered as in Committee of the Whole and was read, as follows:

*Resolved, etc.,* That the joint resolution approved March 14, 1912, amending the joint resolution to prohibit the exports of coal and other material used in war from any seaport of the United States, approved April 22, 1898, be, and hereby is, amended to read as follows:

"That whenever the President shall find that in any American country, or in any country in which the United States exercises extraterritorial jurisdiction, conditions of domestic violence exists, which are promoted by the use of arms and munitions of war procured from the United States, and shall make proclamation thereof, it shall be unlawful to export, except under such limitations and exceptions as the President shall prescribe, any arms or munitions of war from any place in the United States to such country until otherwise ordered by the President or by Congress.

"SEC. 2. That any shipment of material hereby declared unlawful after such proclamation shall be punishable by fine not exceeding \$10,000, or imprisonment not exceeding two years, or both."

Mr. KING. I would like to have some explanation of the joint resolution.

Mr. LODGE. I shall make an explanation, very gladly. The joint resolution which it is proposed to amend was passed when the Mexican troubles began, during the Taft administration. It amended the existing law simply to give the President discretion to stop the export of arms to any American country where there was an insurrection, so that it might be done more quickly and prevent the escape of the cargoes. I think that was a very wise provision, and the law has remained unchanged since that time. This joint resolution proposes to add, after the word "American," the words "or in any country in which the United States exercises extraterritorial jurisdiction."

Mr. KING. I am satisfied with the explanation.

The joint resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read: "A joint resolution to amend Senate joint resolution 89, approved March 14, 1912, amending the joint resolution to prohibit the export of coal and other material used in war from any seaport of the United States, approved April 22, 1898."

#### PYRAMID LAKE INDIAN RESERVATION LANDS.

The bill (S. 225) for the relief of settlers and town-site occupants of certain lands in the Pyramid Lake Indian Reservation, Nev., was considered as in Committee of the Whole.



The bill had been reported from the Committee on Indian Affairs with an amendment, to strike out all after the enacting clause and to insert:

That the Secretary of the Interior is hereby authorized to sell to settlers or their transferees, under such terms, conditions, and price per acre as the said Secretary may prescribe, any lands in the Pyramid Lake Indian Reservation, in the State of Nevada, that have been settled upon, occupied, and improved by said settlers and their transferees in good faith for a period of 21 years or more immediately preceding the passage of this act: *Provided*, That no more than 640 acres shall be sold to any one person or corporation: *Provided further*, That said sales shall be by private cash entry after it has been shown to the satisfaction of the Secretary of the Interior that the lands applied for have been settled upon, occupied, and improved as required by this act, and in addition to such price per acre as may be fixed by the Secretary of the Interior all entrymen hereunder shall pay the same fees and commissions as provided by law where public lands are disposed of at \$1.25 per acre. The proceeds of said sales shall be deposited in the Treasury of the United States and be used by the Secretary of the Interior for the Piute Indians of the said Pyramid Lake Indian Reservation.

SEC. 2. That the Secretary of the Interior is also authorized to have a survey and plat made of the town of Wadsworth, in said Pyramid Lake Indian Reservation, and thereafter sell the unpatented lands embraced in the said town as provided for by section 2384 of the Revised Statutes of the United States, and on compliance with said statute the purchasers of the lots shall acquire title as provided for by the said statute: *Provided*, That any lands within the limits of said town used for Indian school purposes or for other public use for Indians shall be, and the same are hereby, reserved from said town site, and the Secretary of the Interior, upon payment to him of the sum of \$100, is hereby authorized to convey by patent to the board of county commissioners of Washoe County, Nev., or other proper school officials of the town of Wadsworth, Nev., the lands now known as lots 38 to 47, inclusive, of block 2 in said town of Wadsworth, as surveyed in 1898 by T. K. Stewart: *Provided further*, That if there are any Indians residing in said town and in possession of and claiming any lots therein they shall have the same rights of purchase under the said statute as white citizens. The proceeds of the sale of lands in said town shall also be deposited in the Treasury of the United States and be used by the Secretary of the Interior for the Piute Indians of the Pyramid Lake Indian Reservation, and the proceeds derived from the sale of lands under section 1 of this act are hereby made available for use by the Secretary of the Interior in making such surveys or resurveys within the said town site of Wadsworth as may be necessary to carry out the provisions of this act.

SEC. 3. That titles to lands in said Pyramid Lake Indian Reservation acquired by patents heretofore issued by the United States to any railroad company, individual, or the State of Nevada, or by certification to the State of Nevada, are hereby confirmed.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

#### AMENDMENT OF TRANSPORTATION ACT OF 1920.

The PRESIDING OFFICER. The hour of 2 o'clock having arrived, the Chair lays before the Senate the unfinished business, which will be stated.

The READING CLERK. A bill (H. R. 8331) to amend the transportation act, 1920, and for other purposes.

Mr. CURTIS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Secretary will call the roll.

The roll was called, and the following Senators answered to their names:

Asbust	Gooding	Myers	Simmons
Borah	Hale	Nelson	Smith
Broussard	Harrison	New	Smoot
Bursum	Heflin	Norbeck	Spencer
Cameron	Jones, N. Mex.	Norris	Sutherland
Capper	Jones, Wash.	Oddie	Swanson
Caraway	Kendrick	Overman	Townsend
Culberson	Kenyon	Page	Trammell
Cummins	Keyes	Phipps	Underwood
Curtis	King	Pittman	Wadsworth
Dial	Ladd	Poindexter	Walsh, Mass.
Elkins	La Follette	Ransdell	Watson, Ga.
Ernst	McCormick	Robinson	Watson, Ind.
Fernald	McCumber	Sheppard	Weller
Fletcher	McKellar	Shields	Willis
Frelinghuysen	McNary	Shortridge	

Mr. WATSON of Georgia. I wish to announce that my colleague [Mr. HARRIS] is absent because of the illness of his brother, Gen. Harris, who is undergoing an operation to-day at Walter Reed Hospital.

The PRESIDING OFFICER (Mr. SPENCER in the chair). Sixty-three Senators having answered to their names, a quorum is present.

Mr. CUMMINS obtained the floor.

Mr. POINDEXTER. Mr. President, will the Senator from Iowa yield to me just for a moment?

Mr. CUMMINS. Certainly.

#### TAX REVISION INCOME FROM COMMUNITY PROPERTY.

Mr. POINDEXTER. I wish to speak of a matter and call it to the attention of the Senator from North Dakota [Mr. McCUMBER] and any other of the conferees on the part of the Senate on the tax bill that is now in conference—that is the matter of income-tax returns upon community property in the

States that have a community property law as to the property of husband and wife.

A report has come to some of the representatives here of community-property States of a lack of interest on the part of Senate conferees in that matter as it was passed by the Senate, and some rumor to the effect that the conferees were of the opinion that most of the Senators from those States had no special interest in the matter.

I wish to take advantage of this opportunity, begging the indulgence of the Senator from Iowa, to disabuse the minds of the conferees upon that bill if they have any such idea, and to state that there is an interest, a very deep interest, on the part of the Members of the Senate from the community-property States in the action that was taken by the Senate and in maintaining that action in conference. We are advised that that probably can be done if the representatives of the Senate upon the conference committee stand firm upon the action taken by the Senate.

Mr. McCUMBER. Mr. President—

The PRESIDING OFFICER. Does the Senator from Iowa yield to the Senator from North Dakota?

Mr. CUMMINS. I yield for a moment.

Mr. McCUMBER. Whatever might be the view of any one of the conferees, the Senate itself spoke its conviction upon that subject, and I assume it is the duty of the conferees to uphold the vote of the Senate if they are able to do so without reference to their own peculiar views in the matter.

Mr. POINDEXTER. I am very glad, indeed, to have that expression from the Senator from North Dakota. I call his attention to the fact that there are eight States in the Union, having 16 Senators in this body, who are interested in maintaining the action of the Senate, and will, of course, make their interest known in any proper way. All that the community States are asking is that there be a uniform law as to return of incomes for the purpose of taxation, and that no exception shall be made; that there shall be no discrimination and no special provision in the law relating to incomes upon community property. The law as it stands now makes no exception, makes no reference to common-law States or to community-property States, and in the interpretation and administration of that law it has been held that the partnership known as a community, composed of the husband and wife, may make separate returns of their incomes, just as they are required to pay State taxes upon the inheritance of one from the other upon the death of one spouse.

Mr. JONES of New Mexico. Mr. President, will the Senator from Iowa permit me a word in this connection?

Mr. CUMMINS. I yield for a moment.

Mr. JONES of New Mexico. I desire to approve heartily everything the Senator from Washington [Mr. POINDEXTER] has stated, and I feel gratified at the statement of the Senator from North Dakota [Mr. McCUMBER]. We are not merely interested in this as a perfunctory matter, but we are satisfied that to sustain the House provision would bring about an absolute discrimination. The mere suggestion of such a provision as the House put upon the bill with reference to community property is a recognition of the fact that there must be a discrimination. In every other State in the Union a married woman has a right to make a separate return of her income. The provision put upon the bill by the House takes away that right and discriminates against married women in the community-property States.

#### AMENDMENT OF TRANSPORTATION ACT OF 1920.

The Senate as in Committee of the Whole resumed the consideration of the bill (H. R. 8331) to amend the transportation act, 1920, and for other purposes.

Mr. CUMMINS resumed and concluded the speech begun by him on Wednesday last. The speech entire is as follows:

Wednesday, November 9, 1921.

Mr. CUMMINS. Mr. President, my conclusions or one of my conclusions after a somewhat extended experience in the Senate is that Senators are abundantly able to deal with any measure which may come before them if they clearly understand the proposal which the measure presents. Unfortunately, there are comparatively few Senators who can remain in the Chamber long enough and continuously enough to understand fully the legislation which is proposed when it is composed of intricate and complicated statistical details. What I have to say will be purely explanatory. I do not intend to enter into a long discussion with respect to the very many problems which our transportation system presents for solution, because those problems are not material to the inquiry we are about to make.

The history of the proposed legislation upon this subject may be stated with great brevity. On or about the 1st of August

the Senator from Michigan [Mr. TOWNSEND] introduced a bill which was intended to accomplish substantially the object which the pending measure is intended to accomplish. The bill was referred to the Committee on Interstate Commerce, was considered by that committee and reported favorably with certain amendments. It is now upon the calendar.

About the same time a Member of Congress from Massachusetts, I believe, introduced into the House of Representatives a bill substantially, not identically, but substantially like the bill introduced by the Senator from Michigan.

That bill was referred to the appropriate committee in the House of Representatives, and was reported favorably with amendments. The House proceeded to consider the bill, and, after consideration, the bill passed that body. It came to the Senate and was referred to the Committee on Interstate Commerce. For reasons which are perfectly obvious, the Committee on Interstate Commerce took up the House bill, considered that as carefully as it could, and reported the House bill favorably with the amendments which had been proposed and adopted in the committee. It is the latter bill which is now before the Senate. We are acting upon the House bill and not upon the bill which was originally reported from the Committee on Interstate Commerce.

Mr. President, before indicating from my own standpoint what the pending bill is, I want the attention of the Senate for a few moments in order to point out what the bill is not, for I believe I have never observed an instance in which there has been greater misapprehension and misunderstanding in the public press with respect to any measure pending in Congress than I have observed in connection with this particular measure. The bill has been termed a funding bill or refunding bill. No greater mistake could possibly be made with respect to this measure. It is a misnomer so to designate it. It is not a funding or a refunding bill. It neither enlarges nor diminishes the existing powers of the President with respect to funding indebtedness due from the carriers to the Government. It has nothing whatsoever to do with that phase of the settlements which have been made, which are being made, and which are in the future to be made between the director general, representing the President, and the railroads.

In that connection, I think all Senators ought to have in mind just what authority the President now has with regard to funding indebtedness which is due from the railroad companies of the country to the Government. I quote section 207 of the transportation act of 1920 in order that Senators may all clearly understand under what authority the President is proceeding. I repeat that it is not proposed in this bill to disturb that authority in any way whatsoever. The section to which I have referred, quoting that part of it which is material to the present question, reads in this way:

SEC. 207. (a) As soon as practicable after the termination of Federal control the President shall ascertain (1) the amount of the indebtedness of each carrier to the United States, which may exist at the termination of Federal control, incurred for additions and betterments made during Federal control and properly chargeable to capital account; (2) the amount of indebtedness of such carrier to the United States otherwise incurred; and (3) the amount of the indebtedness of the United States to such carrier arising out of Federal control. The amount under clause (3)—

Now, that is the amount due from the Government to the carrier—

may be set off against either or both of the amounts under clauses (1) and (2)—

That is to say, the indebtedness due from the carriers to the United States—

so far as deemed wise by the President, but only to the extent permitted under any contract now or hereafter made between such carrier and the United States in respect to the matters of Federal control, or, where no such contract exists, to the extent permitted under paragraph (b) of section 7 of the standard contract—

I will not digress to read section 7 of the standard contract, but will state that, in substance, it provided that the Government should pay to the carrier from time to time, and pay no more, on running account than was necessary to pay the customary dividends which the particular railroad may have been in the habit of declaring. Of course, I am not including interest upon bonds.

To the extent permitted under paragraph (b) of section 7 of the standard contract between the United States and the carriers relative to deductions from compensation: *Provided*, That such right of set-off shall not be so exercised as to prevent such carrier from having the sums required for interest, taxes, and other corporate charges and expenses referred to in paragraph (b) of section 7 of such standard contract—

That is the section which I have just mentioned—

accruing during Federal control, and also the sums required for dividends declared and paid during Federal control, including, also in addition, a sum equal to that proportion of such last dividend which the period between its payment and the termination of Federal control bears to the last regular dividend period: *And provided further*, That

such right of set-off shall not be exercised unless there shall have first been paid such sums in addition as may be necessary to provide the carrier with working capital in amount not less than one twenty-fourth of its operating expenses for the calendar year 1919.

That was inserted because when the Government took over the railroads on the 1st of January, 1918, it took over all the working capital of the railroads—that is to say, all the cash on hand—and that amounted, we will say, to \$250,000,000, or somewhere about that sum. I have read paragraph (a). Paragraph (b) of the same section reads:

Any remaining indebtedness—

Now, this is the authority upon which the President has been acting and is the authority upon which he will act in the future—

(b) Any remaining indebtedness of the carrier to the United States in respect to such additions and betterments shall, at the request of the carrier, be funded for a period of 10 years from the termination of Federal control, or a shorter period at the option of the carrier, with interest at the rate of 6 per cent per annum, payable semiannually, subject to the right of such carrier to pay, on any interest-payment day, the whole or any part of such indebtedness. Any carrier obtaining the funding of such indebtedness as aforesaid shall give, in the discretion of the President, such security, in such form and upon such terms, as he may prescribe.

This is the statutory authority upon which the President is proceeding to wind up and settle the affairs of the railroads while under Federal control. It has nothing whatsoever to do with the interstate commerce act or with any regulation of commerce in that regard. The bill does not propose or even suggest that this authority be either enlarged or diminished.

I assume, and have assumed all the while, that the President will proceed under this section of the transportation act as he has been proceeding heretofore. Therefore I hope no Senator will hereafter look upon this measure or think of this measure as a funding or refunding proposal.

Second. It will, of course, be true in the future as it has been in the past that whatever part of the indebtedness from carriers is funded by the President under this authority increases by so much the amount immediately due to the carrier, and that will be just as true, no matter what may be the fate of this bill.

Third. The bill has nothing to do with the Interstate Commerce Commission. It does not affect its authority in any respect, nor does it control any result which may follow from the exercise of the authority of the Interstate Commerce Commission. We neither grant additional authority to the commission, nor do we in this measure withdraw any authority which it now possesses.

Fourth. The bill has nothing to do with railway rates, and can have no possible effect upon them. I hope that this statement especially will be borne in mind as we proceed with the consideration of the bill. There is, as we all know, a widespread demand for a reduction in railway charges. I shall not attempt to argue that matter in connection with the bill. It may be that the rates are too high. I know that they are exceedingly burdensome and ought to be reduced, if it is possible to reduce them and continue our system of transportation; but I do not intend to go into that subject in connection with this measure because it has no relation whatsoever to the bill which the committee has reported.

Fifth. The bill takes no money from the Treasury. I have seen it stated repeatedly in the newspapers that this was either a proposal to take a large sum of money from the Treasury or that it would finally lead to a large appropriation to be paid from the sources of taxation. I would like Senators to be fully convinced that it neither takes money from the Treasury nor can it possibly lead to a demand upon the Treasury.

Sixth. It is not an amendment to the interstate commerce act. A great many people have treated it as though we were amending the interstate commerce act. That is not true. It is an amendment of the transportation act of 1920. The transportation act of 1920 is divided, roughly, into two parts: First, that part of the act which treats of the settlement between the Government and the railroad companies growing out of Federal control, growing out of the respective demands of the Government and of the railroads arising in the period of governmental control. The other part is an amendment to the interstate commerce act; but this bill does not relate to any part of the transportation act which amends or modifies in any way what we commonly know as the interstate commerce act.

Mr. President, I think these things will furnish a fair key to the examination of the bill.

In the affirmative—passing from the negative to the affirmative—it is a bill to give the President the authority to sell certain railroad securities which he has taken or may hereafter take in his dealings and settlements with the railroads. So far as the President is concerned, that is all that it does. I will



point out presently what securities he has taken; but this simply gives him the authority to sell the securities that he has or that he may hereafter take as he makes settlements with the railroad companies, and use the proceeds of those sales for the payment of whatever sums may be found to be due on final settlement with the various common carriers of the country.

If any part of the proceeds shall remain after paying to the railroads what is found to be due to them, the balance is to be paid into the Treasury of the United States; and not only is the use of the proceeds of these securities limited in that way, but it is provided that the President, in selling them, must sell them without loss to the Government—that is, he must sell them at the price at which he took them from the carriers—and he must sell them without recourse to the Government, so that there is no possibility whatever of loss to the Government in the transaction which it is proposed to carry out.

I may say in this connection that the President had until recently \$311,000,000 of railroad securities taken under the provisions of the transportation act and another act which preceded it; I think it was the act of 1919. He has authority to sell those securities. They consist of car-trust equipment certificates. They represent the amount due from the carriers to the Government on account of 100,000 freight cars and 4,000 locomotives which were bought by the director general, and near the close of Federal control were allocated to the various railroad companies.

Mr. SMITH. Mr. President—

The PRESIDING OFFICER (Mr. FERNALD in the chair). Does the Senator from Iowa yield to the Senator from South Carolina?

Mr. CUMMINS. I do.

Mr. SMITH. It was 2,000 locomotives, was it not, in place of 4,000?

Mr. CUMMINS. It may be so. Did I say 4,000?

Mr. SMITH. Yes. I think the Senator will find that it was 2,000 in place of 4,000.

Mr. CUMMINS. I think it is 2,000 instead of 4,000. At any rate, the total amount of the car-trust certificates was, as I remember, \$383,000,000, or something of that kind.

Mr. SMITH. The exact figure was \$311,000,000.

Mr. CUMMINS. No; I think the Senator from South Carolina is mistaken about that.

Mr. SMITH. I have just had a letter from the director general on the subject.

Mr. CUMMINS. No; that is the amount that the Government took, but \$72,000,000 of these certificates, in round numbers, were sold outside for cash, and the railroads paid to the Government in cash that sum of money upon this indebtedness, and the Government took securities for about \$311,000,000.

But I proceed. With respect to other securities taken by the Government in the course of Federal control and in the settlements which have been made, the President has no authority to sell, and this bill is simply to give him the authority to sell the certificates that the law does not now provide for, just as he has the authority to sell the \$311,000,000 car-trust equipment certificates.

I can not imagine any objection to that authority. Certainly the Government of the United States does not want to hold them indefinitely, and if the President can dispose of them without loss to the Government and without any recourse upon the Government it would seem the part of wise economy and wise administration to dispose of just as many of them as he can put upon the market.

Affirmatively, the bill provides that the War Finance Corporation may buy from the President these securities upon the terms which we have stated for them by the President. I shall comment a little later upon one of the amendments which we have made to the House bill.

The House bill provided in one paragraph that the President could sell and the War Finance Corporation could buy these securities. The War Finance Corporation now has no authority to buy such securities. The committee thought it better that the President should be given the authority to sell to anybody, to any organization, to any market that might be willing to buy them, and not to limit the authority of the President to sell to the War Finance Corporation. I can see no reason whatever for limiting the authority of the President to sell to one purchaser, and therefore one of our amendments is to give the President authority generally to sell, and he can employ any agency that he sees fit for the negotiation of that kind of transaction; and we have eliminated from the provision of the House bill giving the War Finance Corporation the power to buy the words that would also give the President the authority to sell. The right of the War Finance Corporation to buy is limited, I think, to \$500,000,000, and there is a further provision in the

bill that it shall not use any of its assets or its resources for the purpose of purchasing these securities that would interfere with or impede in any way its activities under what is known as the Agricultural bill, which charges the War Finance Corporation with the duty of helping to finance the agricultural transactions of the country.

This is all there is to this bill. There is nothing else in the bill; and I shall now proceed to give very briefly the situation as it was on the 1st of March, 1920, when the railroads were returned to the owners, and as it was on the 1st day of October, 1921. I mention the 1st day of October, 1921, because the report of the committee was made before the 1st of November; and while I have the figures, and shall use them, bringing the situation down to the 1st of November, 1921, so that our report may be understood, I intend for the present to use the situation as it existed on the 1st day of October, 1921.

I bring your attention now to the 1st of March, 1920, the date upon which these properties were returned.

Mr. POMERENE. Mr. President—

The PRESIDING OFFICER. Does the Senator from Iowa yield to the Senator from Ohio?

Mr. CUMMINS. I yield.

Mr. POMERENE. It follows from what the Senator has said that the United States is in the position of a debtor who has bills receivable and little ready cash with which to pay its debts; and this bill is simply authorizing this debtor, the United States, to sell or dispose of its bills receivable to get cash where-with to pay the debt that it owes to the railroads.

Mr. CUMMINS. The Senator from Ohio has stated it with great succinctness and with absolute accuracy.

Mr. POMERENE. Now, Mr. President, may I put a further question?

Mr. CUMMINS. I yield.

Mr. POMERENE. It has been frequently said, through the press and in committee and elsewhere, that this bill was authorizing a mere hand-out to the railroads. I want to ask the Senator whether in any sense it is conferring upon the railroads any favor other than to pay debts, after they are settled, which are owing by the Government to the railroads?

Mr. CUMMINS. It is not. There is nothing in the bill that can be construed into any gratuity or loan or advantage, even, to the railroad companies. It is true that the authority which the President may exercise under section 207 of the transportation act he can exercise so as to advantage the railroads. That is, he can postpone the payment of certain of the indebtedness due from the railroads to the Government; but while that affects the amount which the Government must presently pay to the railroads, it has nothing whatever to do with this bill.

If the Congress wants to take away from the President the authority which it has granted him in that respect, that is one thing; but there is no proposal in this bill either to take it away or to enlarge it.

Mr. KING. Mr. President, of course I defer to the superior knowledge of the chairman and to the Senator upon my left, the Senator from Ohio [Mr. POMERENE]; this is a matter as to which they have given very great attention. But may I inquire of the Senator whether it is entirely accurate to put the case in the light suggested by the Senator from Ohio in his first interrogatory? Would it not be more accurate to say that the railroads, as the accounts have been balanced to date, are indebted to the United States in a very large sum, and the United States by the same process of balancing accounts is indebted to the railroads; that instead of attempting to balance those accounts—that is, to have the railroads pay what they owe the Government—we propose to have the Government pay the railroads, and to defer the time when the railroads pay the Government?

Mr. CUMMINS. Not by this bill.

Mr. KING. Would not that be the effect of the passage of this bill?

Mr. CUMMINS. Not at all. We gave the President the power to extend the time for the repayment of the indebtedness due from the railroad companies to the Government, created in a certain way, in 1920. If the Congress desires to take that power from the President, that is one thing; but I am speaking now of this bill. This bill does not change his authority with regard to making those extensions. It is true that in just so far as he does extend the time to the railroad companies upon their indebtedness to the Government in just so much the amount that the Government must presently pay to the railroads is increased, and I think that was the thought in the mind of the Senator from Utah.

Mr. SMITH. Following out the idea suggested by the Senator from Utah, the Senator who has the bill in charge recog-

nizes that there is this difference, for which this bill provides; unamended the law would give the President the right to accept securities from the railroads and there would be no realization of cash. For certain reasons, which we discussed in the committee, no authority was given to the President to sell or otherwise dispose of those securities. This would give him the right to do that in the open market or through the War Finance Corporation, and the proceeds obtained from the sales would then be in the form of ready cash to meet the obligations of the Government to the railroads. There is that distinction between the situation as it would be if this bill should become law and the old condition. In other words, it gives the Government the power of securing in cash the money to meet its obligations to the railroads, which it would not have if this bill did not pass.

Mr. KING. It makes the Government a sort of guarantor of the bonds of the railroads, does it not?

Mr. CUMMINS. Not at all; in no way whatever.

Mr. KING. By passing the bonds to the Government it is presumed the Government will find a market for them, whereas the railroads, independent of the Government, might be unable to find a market.

Mr. CUMMINS. If the Government finds a market for them and can sell them at par without recourse, why in the world should it not do so? Why should we want to keep a security which we can sell, without any recourse upon the Government, at the price at which we took it?

Mr. POMERENE. One of the amendments proposed by the committee and now before the Senate expressly provides that these bonds shall be sold without recourse.

Mr. CUMMINS. In regard to the suggestion of the Senator from South Carolina, as he stated it, I quite accept it; but I do not see any difference between that suggestion and the suggestion made by the Senator from Ohio; at least, it is not apparent to me now.

I return now to the point at which I was diverted. What was the situation on the 1st of March, 1920? The railroads of the country as a whole were indebted to the Government—though, of course, the debts were individual—for permanent additions and betterments to their property, for expenditures during the 26 months of Federal control, to the amount of \$1,144,000,000. That is certain; there is no dispute about that. Neither the railroads nor the Government question it; so that we have one certain starting point.

I repeat, on the 1st of March, 1920, the railroads owed the Government \$1,144,000,000, in round numbers, for expenditures made by the Government during Federal control for additions and betterments, which should be charged, properly, to capital account.

On the other hand, taking the railroads all together as before, the Government owed them an uncertain amount. No one knew on the 1st of March, 1920, how much the Government owed the railroads. That has been ascertained little by little and month after month, through long, difficult, and intricate settlements, and it now appears that from the standpoint of to-day the railroads claimed that the Government owed them a billion one hundred million dollars after crediting the sums advanced for additions and betterments for the cash taken over by the Government at the time the Government assumed possession of the railroads, for compensation which had not been paid, as well as for what is generally termed undermaintenance. That is from the standpoint of the railroads.

Mr. NELSON. Mr. President, what are the elements of the railroad claim?

Mr. CUMMINS. Of course, very much the larger element was the compensation which the Government had agreed by contract to pay the railroads.

Mr. NELSON. For the use of the railroads?

Mr. CUMMINS. For the use of the railroads.

Mr. NELSON. I thought it involved the cost of the transportation of military supplies and troops.

Mr. CUMMINS. It did involve that to some degree, and I will speak of that hereafter. I will try to make that perfectly clear.

Some of the claims of the railroads have not been filed yet, but judging from the past the railroads claim now that at the close of Federal control the Government owed them somewhere between a billion dollars and a billion two hundred million, and this after the Government expenditures for additions and betterments were taken care of.

The Government, however, under its interpretation of certain clauses of the contract which existed between it and the railroads, claims that it did not owe the railroads more than about \$300,000,000—possibly a little less than that—of the balance of about one billion, to which I have referred, and the question of

ascertaining what the Government owed the railroads under the Federal control act, and under the contracts which had been made between the Government and the railroads, has been the subject of continual labor and investigation from the 1st of March, 1920, until the present time, and little by little the Government is settling with the railroads, and up to this time, road claims in final settlements made upon the basis I am about to suggest, it has allowed something less than 35 per cent of the amount of the balance after taking credit for amounts due from the railroads claimed by the companies.

Having made that statement concerning the condition as it existed on the 1st of March, 1920, when the railroads were returned to their owners, I now desire to refer to a table which was prepared for the committee by the director general as of October 1, 1921, which will show what he and his predecessors have done since the roads were returned.

On the 1st of October, 1921, the Government had settled claims which had been asserted by the railroads amounting to \$387,017,000. Those claims are now out of the way, having been settled by the Government. The amount paid in cash by the Government prior to October 1 in settling claims of the carriers was \$117,715,000. So that with respect to those particular railroads the Government has settled with them for 30.4 per cent of the amounts after making the credits I have mentioned claimed by them.

Mr. NELSON. The Senator said the Government had settled with the railroads. Does the Senator mean by that that the Government has paid the railroads that amount?

Mr. CUMMINS. Certainly; it has paid the railroads that amount in cash, and has deducted the sums due from those carriers to the Government. These claims are all settled.

Mr. WATSON of Indiana. As to whether or not they did deduct from the railroads' claims the amount due the Government from the roads, or paid the cash, depended largely on the financial condition of the road.

Mr. CUMMINS. I shall presently show how much has been deducted.

Mr. STANLEY. I have been under the impression up to this time that none of the roads had made any payments in cash to the Government under any of the settlements.

Mr. CUMMINS. The Government has in each instance owed the railroads more than the railroads owed the Government, I think.

Mr. STANLEY. That is not what I mean. I know of no instance where the railroad is a debtor to the Government that it has paid its indebtedness in cash, or where the railroad owes the Government and the Government owes the railroad the Government pays cash and the railroad funds its debt.

Mr. CUMMINS. That depends. How much does the Senator think has been funded?

Mr. STANLEY. I do not know that that is the case.

Mr. CUMMINS. I will give that. I have all that information right here.

Mr. OVERMAN. Mr. President, I would like to make an inquiry of the Senator as he proceeds. How did the Government get possession of these collateral securities?

Mr. CUMMINS. I will come to that in a moment. The Government shortly after the 1st of March, 1920, took originally the car-trust equipment certificates. That reduced the amount which the railroads owed the Government and which could be set off by something like \$385,000,000. The mileage of the roads settled with up to October 1 was 90,944 miles. That is a little more than one-third of the entire mileage of the railroads operated by the Government.

To repeat, the advances made by the Government for additions and betterments during the period of Federal control was \$1,144,000,000. We will see how that account comes out. Shortly after the 1st of March, 1920, and not only under that act but under an act which had been passed before, the payments for these 100,000 cars and 2,000 locomotives was made by issuing a car trust, not a general one and not applicable to all the railroads, but to the individual roads involved. That amounted on the whole to \$381,649,000. Of that issue the Government took from the railroads about \$311,000,000, and the railroads sold the remaining certificates and paid the Government cash to the extent of the sum of money thus realized or applied it on their account, which is the same thing. That left due from the carriers to the Government on account of capital expenditures \$763,031,625. That is what was due on the 1st of October so far as that transaction is concerned. In the meanwhile there had been funded, exclusive of the car-trust certificates, of the indebtedness due from the carriers to the Government, \$60,925,000. Deducting that from the sum I mentioned a moment ago, it left a balance on the 1st day of October, 1921, of \$702,106,000 due from the railroads to the Government.



The director general says that if no funding occurs hereafter, if the President sees fit not to fund any part of the indebtedness due in settlements to be made hereafter, there will be due from the Government to the railroads for compensation, for under maintenance admitted by the Government, and for other items, \$279,851,000.

That sum has been reduced because recently the Government has sold \$100,000,000 of the car-trust certificates and has received the pay for them, and the director general is using that fund, as well as the funds which we have appropriated for his use, for the discharge of the claims due from the Government to the railroads.

Now I return to the question suggested by the Senator from North Carolina. The securities on hand on the 1st of August, 1921—the director general divides the report this way because he gave his testimony before the Interstate Commerce Committee on the 1st of August, shown on page 86, Part I, of the Interstate Commerce Committee reports—amounted to \$438,577,000. He has taken, after August 1 and up to October 1, \$11,590,000 of equipment trust certificates and \$3,550,000 other certificates, making a total in the hands of the President on the 1st of October, not reckoning the sale of the car-trust certificates, of \$453,718,038. The car-trust certificates sold up to October 1 amounted to \$99,662,000. Deducting that sum from the former account, it leaves on hand on the 1st of October in the hands of the President \$354,056,038.08.

Even if there were no funding operation at all contemplated, the President must either sell enough of these securities to pay what is due the railroads, or we must appropriate the money from the Treasury. The director general has said that if all the claims were settled according to the plan which he has adopted—that is, entirely eliminating what is generally known as the inefficiency of labor claims, a policy which has been adopted from the beginning with the Railroad Administration—if there is no funding in the future we will owe the railroads \$279,851,000. We have not the money to pay it.

Mr. NELSON. Is that over and above the claims that the railroads owe the Government?

Mr. CUMMINS. Oh, yes; that is a final settlement. That would be a final settlement. If we were closing up with the railroads as of the 1st of October, 1921—and these figures are made up as of that date—and had not funded a single dollar of indebtedness other than the funding that took place as I have already said, and if every claim made by the Government with regard to the amount due from the Government to the railroads were determined in its favor, we would still owe the railroads on the 1st of October \$279,851,000.

Mr. NELSON. But, if the Senator will allow me, I do not quite comprehend it because the Senator a moment ago stated that the aggregate of our claims against the railroads for permanent improvements and betterments was \$1,144,000,000. Then a moment later he stated that the claims of the railroads against the Government aggregated \$1,100,000,000, or something like that.

Mr. CUMMINS. That was the amount of the claims made by the railroads.

Mr. NELSON. Yes. If that is so, how can the Senator figure out that we still owe the railroads \$230,000,000? Ought not one account of \$1,144,000,000 to balance an account of \$1,100,000,000? How does the Senator make that out? Will he allow me to go a step further—

Mr. CUMMINS. If the Senator will allow me to answer at that point, the Senator forgets possibly my statement that the Government had funded already of these claims of the Government against the railroads about \$450,000,000.

Mr. NELSON. No; but in connection with that the Senator spoke of having made settlements with certain roads. In making those settlements have the claims which the Government had against those railroads been considered and set off against the claims of the railroads?

Mr. CUMMINS. I tried to explain that.

Mr. NELSON. I could not get that clearly from the Senator's statement. In the adjustments which they have made with certain railroads have they given credit for our claims against the railroads? That did not appear clear from the Senator's statement.

Mr. CUMMINS. I think I can make it perfectly clear. The \$381,000,000 due to the Government on account of engines and cars has been funded. That reduced the claim of the Government against the railroads that could be set off, in round numbers, to \$700,000,000. In making those settlements and in various ways we have also funded \$60,925,000 of the amount due from the railroads to the Government. That has already been done. That reduced the claim of the Government against the railroads to that amount.

Mr. NELSON. As I understand the Senator, if he will allow me to interrupt him again, after giving us full credit against the railroad companies for all that we claim against them, to wit, \$1,144,000,000, we still owe \$200,000,000 or more?

Mr. CUMMINS. No; I do not mean that because we have extended part of the indebtedness; we have extended nearly \$500,000,000 of that indebtedness.

Mr. NELSON. Extended it how?

Mr. CUMMINS. Extended the time.

Mr. NELSON. Oh, extended the time to the railroads?

Mr. CUMMINS. Oh, we have not discharged the indebtedness. We have simply extended the time.

Mr. NELSON. The Senator says we have extended the time as to nearly \$500,000,000.

Mr. CUMMINS. Nearly that.

Mr. NELSON. We have given the railroad companies time for paying that. Then if we had had credit for this \$230,000,000 and more to which the Senator referred the companies would still be owing us something, would they not?

Mr. CUMMINS. No; not according to the statement of the director general which I have here. One of the last estimates in that statement is this:

Estimated amount to be paid carriers October 1, 1921: Final settlement, exclusive of funding, \$279,851,593.55.

I am not much of an expert bookkeeper.

Mr. NELSON. I am not an expert, but what I want to say to the Senator is this: I am asking these questions for information and not to embarrass anyone.

Mr. CUMMINS. Oh, I appreciate that.

Mr. NELSON. Does the Senator maintain that after allowing all our claims against the railroads—the whole claim of \$1,144,000,000—and after giving us credit for all that amount we will still owe the railroads \$230,000,000 and more?

Mr. CUMMINS. That is what the director general says. In that connection I may read a letter upon that point which I have received from the director general.

Mr. NELSON. If the Senator from Iowa will allow me further, he said a moment ago that we had extended the time for the payment by the railroads of \$500,000,000 due the Government.

Mr. CUMMINS. It is not quite \$500,000,000.

Mr. NELSON. That claim against the railroads is still pending, with that extension of time. I do not see how, having extended the time for the payment by the railroads of the \$500,000,000 which they owe us, the Senator can say that we still owe the railroad companies \$230,000,000.

Mr. CUMMINS. That is what the director general says.

Mr. NELSON. I can not help that.

Mr. CUMMINS. The director general ought to know as much about the matter as does any other one person. It seems to me that his statement is entirely consistent with what I have already called attention to.

Mr. NELSON. That may be, but I regret that I can not comprehend it.

Mr. CUMMINS. I will read a memorandum that I have from the director general. His letter to me reads as follows:

In accordance with your request of a few days ago, I am inclosing you memorandum showing in brief the progress which the United States Railroad Administration is making in the matter of final settlements, and a brief statement as to the situation of the claims for additions and betterments. If you desire any more detailed information, please advise, and I will be glad to furnish it to you.

The director general has headed his memorandum concerning those subjects:

Memorandum as to progress in the matter of final settlement made by the Railroad Administration and disposition of claims for additions and betterments properly chargeable to capital account, as of October 1, 1921.

The memorandum proceeds:

I.

#### CLAIMS FILED.

Up to October 1, 1921, an aggregate of \$856,033,588.65 in claims had been filed by sundry carriers on final settlement with the United States Railroad Administration. The total mileage recognized as under Federal control was 241,000 miles. Claims filed represent a total mileage of 189,394 miles, or 78.705 per cent of the total mileage under Federal control.

If the remaining percentage of mileage files claims on the same basis as those already filed, the total claims that will be filed against the Railroad Administration will aggregate \$1,087,633,476.06.

II.

#### CLAIMS SETTLED.

The amount of claims on final settlement adjusted up to October 1, 1921, aggregates \$387,017,099.12. The mileage for which claims have been settled is 90,944 miles, or 47.907 per cent of the mileage of all roads that have filed claims, and 37.705 per cent of the total mileage of all roads under Federal control. The amount paid in settlement of these claims is \$117,715,840.43, or 30.416 per cent of the amount claimed.

This indicates that the Railroad Administration has up to this time settled nearly 50 per cent of the claims which have been filed, and when it is understood that substantially all of these settlements have been made since the 1st of January, 1921, you will appreciate the progress we are making in the matter of final settlement.

## III.

## ADDITIONS AND BETTERMENTS.

The total expenditures by the Railroad Administration during Federal control for additions and betterments properly chargeable to capital account aggregated \$1,144,681,582.39.

Then the director general proceeded to say:

Of this amount, \$381,649,957.12 represents allocated equipment (100,000 freight cars and 2,000 locomotives), and this amount has been taken care of by equipment trust certificates issued by the respective carriers or payment of the equipment, in some instances, in cash. This leaves a balance of \$763,031,511.27 to be taken care of in final settlement, either by collecting the amount due from each carrier or refraining from setting off on the part of the Government claims for additions and betterments and extending through the operation of funding the debts due from the carriers on this account.

In the final settlements that have been made up to October 1, 1921, as shown in paragraph 2 of this memorandum, there have been included claims for additions and betterments aggregating \$170,756,035.16. Of this amount, \$137,313,035.16 has been collected in the process of final settlement and \$33,443,000 has been funded.

Another memorandum brings that down to date. I will only read the latter part of this memorandum, because it tends to answer the question propounded by the Senator from Minnesota [Mr. NELSON], which is a very proper one:

Based upon the experience of settlements heretofore made it is the judgment of the Railroad Administration that the liabilities of the Railroad Administration, exclusive of a general plan of funding—

That is assuming, of course, that no funding takes place—can be settled for an additional \$100,000,000. The sale of equipment trust certificates above described has reduced the estimate made before the Interstate Commerce Committee of the Senate from \$200,000,000 to \$100,000,000.

The director general is speaking here in round numbers, and I think, of course, the Senate will understand that he has on hand now considerably over \$100,000,000 not yet expended in settlements. He here states that if we do not fund any part of the indebtedness in the future it will take more than \$100,000,000 in excess of the amount he has on hand in order to discharge the obligations of the Government to the carriers.

Mr. OVERMAN. Mr. President, before the Senator from Iowa proceeds may I ask a question? I can not comprehend how the Government owes the railroads and how at the same time the railroads owe the Government.

Mr. CUMMINS. We voted for a law which authorized the President to enter into a contract to pay the railroads annually something over \$900,000,000. The Senator from North Carolina voted for that bill.

Mr. LA FOLLETTE. Some of us voted against it.

Mr. CUMMINS. I voted against it, but I am one of a very few who did so. Every year during which the Government operated the railroads it became indebted to them for \$900,000,000 and more as compensation for the use of their property.

In addition to that, the act to which I refer provided that the railroads should be returned to their owners, whenever they were returned, in as good condition as when they were taken by the Government.

In addition to that, the President, without any authority whatever, in my judgment, took possession not only of all the personal property of the railroads, but all the money which the railroads had on hand, and, of course, it becomes our duty, when we return the railroads, to give them back that money. Those are the three items under which claims on the part of the railroads against the Government arise.

Mr. OVERMAN. We owe the railroads, of course, but how do the railroads owe us?

Mr. CUMMINS. The railroads owe us because we had provided that during Federal control the Government could expend in additions and betterments, in order to keep the properties in safe and sound condition, so that they might be operated to advantage, any amount of money that the Government might see fit; and the Government did expend during the 26 months of Federal control the sum of \$1,144,000,000.

Mr. OVERMAN. That is our indebtedness to the railroads, of course.

Mr. CUMMINS. No; it is the indebtedness of the railroads to the Government, because the railroads agreed to repay that sum of money; they were bound to repay it, because it was expended upon their property, and expended under the provisions of the law which gave the President the right to expend the money which was necessary to keep up the railroads.

Mr. STANLEY. Mr. President, as I see it, exactly the same condition would arise if the Senator from North Carolina had rented a building for a stipulated sum to the Senator from Iowa and the Senator from Iowa were under obligations to

keep that building in as good condition during his tenancy as he found it to be at the beginning of his tenancy.

Mr. OVERMAN. That would be part of my obligation.

Mr. STANLEY. That would be part of the Senator's obligation; but we will suppose he has not the money to put in a pane of glass or repair a chimney or fix an elevator—

Mr. OVERMAN. And I should borrow money from the tenant to do it?

Mr. STANLEY. No, sir. The tenant goes ahead and puts in these repairs for you. He says, "All right, Senator; if you have not the money to put a new roof on this house or to paint it, I will go ahead and keep it in repair, and at the end of the time this matter can be taken up and adjusted." Now, the Government says to the railroads, "You would not repair these roads; you did not have the money to do it; but we renewed the tracks and rights of way and put in terminals and built you cars." The railroads have thousands and tens of thousands of cars and locomotives and new terminals and all sorts of things that the Government provided for them. Now they are indebted to us for that amount of money, but they propose to take a cash payment for all that we owe them and then to give us securities with an unlimited extension of time for all they owe us.

Mr. CUMMINS. Oh, no; not unlimited.

Mr. STANLEY. It will be unlimited, because they will keep on extending them. I mean that will be the result. Of course, these obligations have a certain time limit to start with, but they all end in a revolving fund.

Mr. CUMMINS. That will depend, of course, upon the temper of Congress at that time, but what the Senator from North Carolina had in his mind was really an interesting suggestion. Contrary to the usual relations between owner and tenant, by the law we gave the tenant the right to determine what improvements should be put upon the property. Customarily, the owner reserves the right to determine what improvements shall be made upon the property, but in the exigency of the war the high necessity of keeping the roads in the most efficient condition we gave to the tenant, the Government, the right to determine what improvements should be made.

Mr. President, my discussion of the bill has been much more prolonged than I intended it should be. I am trying only to give the fairest and the fullest understanding of this matter that I can give; and I want all Senators to ask me questions for any information that may be in my possession, but in view of the circumstances, if it is agreeable to the Senate, I ask unanimous consent that the bill shall now be temporarily laid aside.

Mr. WALSH of Montana. Mr. President, before the Senator concludes I should like to ask him a few questions. I was hoping that the Senator would consider, for our information, that provision of the bill which authorizes the War Finance Corporation to make loans to railroad companies—section 3 of the bill.

Mr. CUMMINS. Mr. President, I do intend to do it. I have not yet reached that point. I am discussing the general features of the situation. Before I finish I intend to go carefully and analytically into the bill and the amendments that we have proposed; but I should very much prefer to suspend at this moment and resume my discussion of it when we again take up the business of the Senate.

Mr. WALSH of Montana. Will the Senator, before he discontinues, tell us about this matter: I have no doubt that all Senators have felt some considerable concern about the matter of the settlement of these disputed claims. As I gather from the Senator, adjustments have been made to the amount of \$300,000,000, or thereabouts. Can the Senator tell us just how these adjustments are made, and how well equipped the Railroad Administration is to meet those claims? What is the Senator's own opinion concerning the reasonableness of the adjustments that have been made?

Mr. CUMMINS. I think the Railroad Administration office is as well equipped with accountants, actuaries, and lawyers as any department in Washington. It happens at the present moment that the head of the administration is Mr. James C. Davis, a lawyer of my own State. I am not acquainted with any lawyer more painstaking in his methods or more capable in his general work; and the fact that the Railroad Administration has cut down the claims of the railroads from a billion dollars or more, largely for undermaintenance—I am not now speaking of other items—to something like \$400,000,000, or less than \$400,000,000, would indicate very great care. I know personally that they examine with the utmost scrutiny all the items that are presented in the claims of the railroads.

Mr. WALSH of Montana. When did Mr. Davis first go with the Railroad Administration, and in what capacity?



Mr. CUMMINS. Mr. Davis came to Washington at the suggestion of Judge Payne, who was then director general. Judge Payne appointed him general counsel of the Railroad Administration, and when Judge Payne retired on the 4th of March of the present year from the office of Secretary of the Interior he retired also as director general, and Mr. Davis was appointed in his stead.

Mr. WALSH of Montana. What salaries do he and his principal assistants get?

Mr. CUMMINS. I have never asked, and I do not know.

[At this point Mr. CUMMINS yielded the floor for the day.]

Monday, November 14, 1921.

Mr. CUMMINS. Mr. President, in addressing the Senate upon the bill upon a former occasion, I endeavored to make it perfectly clear that the bill had no relation whatever to the provisions of the interstate commerce act; that it did not relate in any form or manner to railway rates or charges for railway services; that all those considerations which will arise presently, for there are many bills pending at the present time suggesting various modifications of the interstate commerce act, were entirely foreign to the scope and the purposes of the present bill, which is simply to give to the President the authority to dispose of securities which come to him in settling up the affairs of Federal control so that he may be able to pay to the railroad companies whatever sums may be found to be due them upon the accounting which is now in process between the director general and the railroads.

Toward the close of my observations the other day I presented a table, which is attached to the report of the committee, which table had been prepared by the director general and which indicated from the present standpoint, assuming that matters will go in the future as they have in the past and assuming that not one additional penny of expenditures for additions and betterments made during Federal control are funded, that there will be due from the Government to the railroads when the last settlement shall have been made the sum of \$279,000,000, and that it will be necessary, as everyone will concede, to provide some method for the payment of an unquestioned, undoubted obligation from the Government to the railroads, entered into not only through the law which we passed in March, 1918, but created by the contracts which were made between the Government and the railroads.

It is obvious that in so far as the President may fund or extend the time for the payment of the indebtedness which still remains from the railroads to the Government, by just that amount the sum of \$279,000,000 will be increased.

I may add that the figures that I am giving relate to October 1, 1921. My friend from South Carolina [Mr. SMITH], who is a member of the committee, will at a later time bring that computation down to November 1, 1921, although the relation between the statistics which he will present and those I am now presenting will be unchanged.

The Senator from Minnesota [Mr. NELSON] interrogated me toward the close of my remarks on Wednesday last with regard to the consistency of certain items which appear in the exhibit which I attached to the report and which had been prepared by the director general. I have reviewed the response which I then made to the Senator from Minnesota, and while that response is perfectly clear to me, for I have grown up with the subject, in a way, and am almost as familiar with it as is the director general, I can easily see that the table is not in sufficient detail to be perfectly clear to one who has simply heard it read.

Mr. WATSON of Georgia. Mr. President—

The PRESIDING OFFICER (Mr. SPENCER in the chair). Does the Senator from Iowa yield to the Senator from Georgia?

Mr. CUMMINS. I yield to the Senator from Georgia.

Mr. WATSON of Georgia. The Senator has alluded to a contract between the Government and the railroads. Of course, the contract should be kept, but I should like to ask him whether the contract provides that we shall pay the railroads cash for what we owe them and give them credit for what they owe us?

Mr. CUMMINS. In part it does and in part it does not.

Mr. WATSON of Georgia. I should be very glad to hear the Senator from Iowa as to that aspect of the contract.

Mr. CUMMINS. Since my former discussion of the matter I have again conferred with the director general and have suggested to him the difficulty that was experienced by some Senators—and I think that there was a real difficulty—in understanding the situation. He has sent me a letter, which I desire to read, which I think will be found so clear and explicit that it can not be misunderstood. The letter is addressed

to me as chairman of the Interstate Commerce Committee of the Senate, and reads:

MY DEAR SENATOR: I want to give you a word of explanation as to the statement of account attached to your report on House bill 8331, and especially as to how the balance in cash that will be required to complete the final settlements between the Railroad Administration and the carriers, as of October 1, 1921, \$279,851,593.55 is arrived at.

In the accounts which the Railroad Administration has with each carrier, the amount due the administration for additions and betterments appears as a charge against each carrier, so that estimates made by the Railroad Administration as to the funds necessary to complete final settlement have always been based upon collecting from the carriers the amount of the additions and betterments, and the sum stated as necessary to conclude final settlements is in excess of the balance due for additions and betterments.

Explaining somewhat in detail, March 1, 1920, at the close of Federal control, the addition and betterment account of the Railroad Administration against the carriers aggregated \$1,144,681,582.39. The expenditure for equipment aggregated \$381,649,957.12—

That is, that part of the expenditure for additions and betterments represented by the purchase of equipment as distinguished from fixtures and other things of that character amounted to the sum of \$381,649,957.12.

As this expenditure was taken care of in the equipment trust certificates, this amount should be deducted from the aggregate expenditure, and leaves a balance of additions and betterments to be otherwise disposed of aggregating \$763,031,625.27.

Prior to any final settlements, and largely in the earlier part of Federal control, there was special assistance given some of the carriers in the way of funding (Baltimore & Ohio, \$9,000,000; Boston & Maine, \$8,000,000; Erie, \$3,500,000; New York, New Haven & Hartford, \$17,000,000) aggregating \$37,500,000, which, deducted from the \$763,031,625.27, leaves a balance of additions and betterments of \$725,506,625.27.

Up to October 30, 1921, final settlements were made of claims aggregating \$387,017,099.12, and in these settlements \$170,756,035.16 of additions and betterments were disposed of, \$137,313,035.16 being collected from the carriers—

That is, the railroads paid that sum of money to the Government by having the amounts due from the Government to the railroads deducted.

That is, this amount was charged to them and deducted in the final settlements; otherwise the cash payment to the carriers would have been increased by the amount of additions and betterments so collected, and \$33,443,000 was funded as a part of and in connection with the final settlement.

These two items make an aggregate of \$170,756,035.16, which, deducted from the \$725,506,625.27 above stated, left a balance as of October 1, 1921, of \$554,850,590.11 of additions and betterments to be disposed of in final settlement.

That was the amount that was on October 1 of the present year estimated to be due from the railroad companies to the Government for additions and betterments made during Federal control.

It is estimated by the Railroad Administration that, as of October 1, 1921, there is due the carriers from the Government on final accounting, and this includes compensation, money taken over, maintenance of way and structures, maintenance of equipment, depreciation, and all other items, exclusive of additions and betterments, \$834,702,183.66.

That is the amount estimated by the Director General as of October 1 that is due from the Government to the railroads; that is the admitted indebtedness due from the Government to the railroads.

Mr. WATSON of Georgia. Mr. President, will the Senator yield there?

Mr. CUMMINS. I yield.

Mr. WATSON of Georgia. By what method was the depreciation referred to in the letter being read by the Senator ascertained?

Mr. CUMMINS. I do not know.

Mr. WATSON of Georgia. What is the amount of such depreciation?

Mr. CUMMINS. I have not inquired into that subject sufficiently to be able to answer the Senator from Georgia. I assume that the Railroad Administration adopted for reckoning depreciation the rules which have long been established by the Interstate Commerce Commission; but I am unable, without reference to those rules, to answer the Senator from Georgia definitely.

Mr. WATSON of Georgia. Nor to give the amount of that item?

Mr. CUMMINS. I have not the amount of that item. The letter from the director general continues:

Deducting the balance of additions and betterments undisposed of as of October 1, 1921, \$554,850,590.11, leaves a balance of cash required for the completion of final settlements, based upon collecting from the several carriers the amount charged against them on account of additions and betterments, \$279,851,593.55.

That is the sum I named when I formerly addressed the Senate and which is shown in the table of the director general, which is attached to the committee report.

In all estimates of amounts necessary to conclude final settlements, such estimates have always been based upon the assumption that the additions and betterments, which, exclusive of the equipment trust certificates, aggregated \$763,031,625.27, would be collected from the carriers in final settlement.

I am always apprehensive that some confusion may exist because of differences in aggregate amounts given at different times. For instance, comparing the statement I made before the Interstate Commerce Committee of the Senate, the statement herewith submitted, as of October 1, 1921, and some subsequent statements that I have made as of November 1, it must always be borne in mind that in the process of liquidation these balances are constantly changing from month to month by reason of the fact that final adjustments are being completed almost daily.

In this particular statement I am calling attention to a specific item of \$37,500,000, which represents funding completed by the Railroad Administration before my connection with it. In some statements heretofore made we have included this \$37,500,000 in the aggregate of funding made.

Senators will remember that this refers to the loans made by the Government to the Baltimore & Ohio, the New York, New Haven & Hartford, the Erie, and the Boston & Maine. Those were operations that occurred long before Federal control ceased.

The director general proceeds:

This does not change the balances in any particular, but, as a matter of fact, the \$37,500,000 was funded prior to final settlements, and to be exactly accurate should receive the special consideration which I have given it.

Mr. President, I think that the letter I have just read makes the whole subject so entirely clear that no one will question the conclusion, and the conclusion is that if there is no funding in the future at all—that is, if the Government does not extend to any of the railroads the indebtedness due from them to it—we will still be required to pay from time to time sums which in the aggregate will amount to more than \$279,000,000.

At the present moment the Railroad Administration has on hand—I am now bringing it down to November 1—something like \$145,000,000; so that in any event if the President does not consider it wise to extend the time for the railroads upon a single additional dollar of indebtedness from them to it, we must make provision for the payment to the railroads of something like \$125,000,000 or \$130,000,000.

I digress here to say that if the President does in the future as he has in the past exercise his authority in favor of funding a portion of the indebtedness due from the railroads to the Government, this sum will be increased by just the amount of that process of funding.

Mr. NORRIS. Mr. President—

Mr. CUMMINS. I yield to the Senator from Nebraska.

Mr. NORRIS. In order that I may understand the Senator's explanation better, I should like to ask him a question. When he speaks of funding a portion of the debt that the railroads owe to the Government, I presume he means that the time of payment has been extended, and bonds or other obligations have been taken.

Mr. CUMMINS. The Senator has stated it correctly.

Mr. NORRIS. The reason why this apparent discrepancy exists, as shown by the interrogatories the other day of the Senator from Minnesota, as I understand, is that while at the beginning the railroads owed the Government more than the Government owed the railroads, the change came about, and now the Government owes the railroads more than the railroads owe the Government, because a portion of the debt owed by the railroads to the Government was funded; that is, the time of payment was extended for obligations that were taken in making such funding. Is that right?

Mr. CUMMINS. No; not quite right.

Mr. NORRIS. I wish the Senator would make that plain.

Mr. CUMMINS. The first part of the statement made by the Senator from Nebraska is correct; but it is not correct to say that when Federal control ceased on the 1st of March, 1920, the railroads owed the Government as much or substantially as much as the Government owed the railroads.

Mr. NORRIS. I was here, and heard all that the Senator from Minnesota said, and was very much interested in it, and I was in accord with the idea that the Senator had, because I did not think that explanation appeared to be plain from the table that the Senator put in the Record. The Senator from Minnesota said, as I remember, that there was due to the Government from the railroads, at the time Federal control ceased, \$1,144,000,000, I think—I am speaking from memory—

Mr. CUMMINS. That is correct.

Mr. NORRIS. And that there was due from the Government to the railroads one billion and about one hundred million dollars. Those were the figures as I remember them, and they were what led the Senator from Minnesota astray and led me astray, unless the explanation of the funding operations makes it clear.

Mr. CUMMINS. I understand. The table is accurate but susceptible of being misunderstood. That is to say there is in the statement the possibility of reaching just that conclusion; and that is the reason why I have had the director general

write this additional letter and present another statement which, agreeing with the former one perfectly, sets out the matter in detail. The fact is that at the close of Federal control the Government owed the railroads, from its present point of view and its present interpretation of the contract, a sum approximating \$1,400,000,000; and from the railroads' point of view, with their interpretation of the contract, and after giving credit to the Government for all the amounts due from them to the Government, the Government still owed them more than a billion dollars. The uncertain part of it all has been in the claims of the railroads for undermaintenance; for the failure, as they allege, on the part of the Government to maintain the properties in as good condition as they were in when they were taken.

There has been no controversy with regard to the amount of compensation. Under the bill that was passed in March, 1918, we agreed to pay the railroads as a whole more than \$900,000,000 a year, and that and the money taken over at the time the railroads were surrendered to the Government and the admitted undermaintenance make up chiefly the sums of money due from the Government to the railroads; but you can take it as absolutely true that on October 1, as nearly as could be estimated, if the Government shall in the future require the payment of all the money now due from the railroads on account of additions and betterments, we would still owe the railroads more than \$279,000,000. We have not the money with which to pay it, and we shall either have to dispose of a part of the securities which the President now holds or we must make an appropriation with which to pay it; and, as I remarked the other day, in that alternative I think there can be no difference of opinion as to the wisdom of disposing of the securities, assuming that the President can and does, as the bill provides, dispose of them without loss; that is, at the par at which the Government took them and without recourse upon the Government.

With that statement, Mr. President, I ask that the letter which I have just read, and the accompanying statement, which simply puts in tabular form the contents of the letter, shall be printed as a part of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

The matter referred to is as follows:

UNITED STATES RAILROAD ADMINISTRATION,

Washington, November 12, 1921.

Hon. A. B. CUMMINS,

Chairman Interstate Commerce Committee of the Senate,  
Washington, D. C.

MY DEAR SENATOR: I want to give you a word of explanation as to the statement of account attached to your report on H. R. 8331, and especially as to how the balance in cash that will be required to complete the final settlements between the Railroad Administration and the carriers, as of October 1, 1921, \$279,851,593.55, is arrived at.

In the accounts which the Railroad Administration has with each carrier, the amount due the administration for additions and betterments appears as a charge against such carrier, so that estimates made by the Railroad Administration as to the funds necessary to complete final settlements have always been based upon collecting from the carriers the amount of the additions and betterments, and the sum stated as necessary to conclude final settlements is in excess of the balance due for additions and betterments.

Explaining somewhat in detail, March 1, 1920, at the close of Federal control, the addition and betterment account of the Railroad Administration against the carriers aggregated \$1,144,681,582.39. The expenditure for equipment aggregated \$381,649,957.12. As this expenditure was taken care of in the equipment trust certificates, this amount should be deducted from the aggregate expenditure, and leaves a balance of additions and betterments to be otherwise disposed of aggregating \$763,031,625.27.

Prior to any final settlements, and largely in the earlier part of Federal control, there was special assistance given some of the carriers in the way of funding (Baltimore & Ohio, \$9,000,000; Boston & Maine, \$8,000,000; Erie, \$3,500,000; New York, New Haven & Hartford, \$17,000,000) aggregating \$37,500,000, which deducted from the \$763,031,625.27, leaves a balance of additions and betterments of \$725,506,625.27.

Up to October 1, 1921, final settlements were made of claims aggregating \$387,017,099.12, and in these settlements \$170,756,035.16 of additions and betterments were disposed of, \$137,313,035.16 being collected from the carriers—that is, this amount was charged to them and deducted in the final settlements—otherwise the cash payment to the carriers would have been increased by the amount of additions and betterments so collected, and \$33,443,000 was funded as a part of and in connection with the final settlements.

These two items make an aggregate of \$170,756,035.16, which, deducted from the \$725,506,625.27, above stated, left a balance, as of October 1, 1921, of \$554,850,590.11 of additions and betterments to be disposed of in final settlement.

It is estimated by the Railroad Administration that, as of October 1, 1921, there is due the carriers from the Government on final accounting, and this includes compensation, money taken over, maintenance of way and structures, maintenance of equipment, depreciation, and all other items, exclusive of additions and betterments, \$834,702,183.66. Deducting the balance of additions and betterments undisposed of, as of October 1, 1921, \$554,850,590.11, leaves a balance of cash required for the completion of final settlements, based upon collecting from the several carriers the amount charged against them on account of additions and betterments, \$279,851,593.55.

In all estimates of amounts necessary to conclude final settlements, such estimates have always been based upon the assumption that the additions and betterments, which, exclusive of the equipment trust



certificates, aggregated \$763,031,625.27, would be collected from the carriers in final settlement.

I am always apprehensive that some confusion may exist because of differences in aggregate amounts given at different times. For instance, comparing the statement I made before the Interstate Commerce Committee of the Senate, the statement herewith submitted, as of October 1, 1921, and some subsequent statements that I have made, as of November 1, it must always be borne in mind that in the progress of liquidation these balances are constantly changing from month to month by reason of the fact that final adjustments are being completed almost daily.

In this particular statement I am calling attention to a specific item of \$37,500,000 which represents funding completed by the Railroad Administration before my connection with it. In some statements heretofore made we have included this \$37,500,000 in the aggregate of funding made. This does not change the balances in any particular, but, as a matter of fact, the \$37,500,000 was funded prior to final settlements, and to be exactly accurate should receive the special consideration which I have given it.

Yours, truly,

JAMES C. DAVIS,  
Director General.

Total amount necessary to complete final settlements between the Railroad Administration and the carriers, and herein the effect of claims for additions and betterments, properly chargeable to capital account, in such final settlements.

Total amount expended by the Railroad Administration for additions and betterments during 26 months of Federal control..... \$1,144,681,582.30

Of this amount there was expended for equipment (100,000 freight cars and 2,000 locomotives), which expenditures are represented by 10-year equipment trust certificates, and are therefore eliminated from the account..... 381,649,957.12

Leaving balance of account for additions and betterments, less equipment trust certificates..... 763,031,625.27

Under special adjustments made by the Railroad Administration prior to final settlements, funding for individual roads (Baltimore & Ohio, \$9,000,000; Boston & Maine, \$8,000,000; Erie, \$3,500,000; New York, New Haven & Hartford, \$17,000,000) aggregated a total of..... 37,500,000.00

This left a balance of additions and betterments to be adjusted in final settlement of..... 725,531,625.27

Up to Oct. 1, 1921, final settlements were made of claims presented by the carriers in the aggregate sum of \$387,017,099.12. In these settlements \$137,313,035.16 of additions and betterments were charged to the carriers, and \$33,443,000 of additions and betterments were funded as a part of and in connection with such final settlements. These settlements have, therefore, reduced the addition and betterment claims by the sum of..... 170,756,035.16

Leaving a balance of additions and betterments to be adjusted in future final settlements of..... 554,786,590.11

It is estimated by the Railroad Administration that, as of Oct. 1, 1921, there is due the carriers from the Government, on accounts growing out of Federal control, and this includes compensation, money taken over, maintenance of way and structures, maintenance of equipment, materials, and supplies, depreciation, and all other accounts, exclusive of additions and betterments..... 834,702,183.66

Deducting the balance of additions and betterments undisposed of Oct. 1, 1921..... 554,850,590.11

Leaves the balance of cash required for final settlements, based upon the estimate of the Railroad Administration as above set forth, and further based upon collecting the balance due on additions and betterments as shown above..... 279,851,593.55

#### EXPLANATION.

In all estimates of the amount necessary to conclude final settlements, same have been based upon the assumption that the additions and betterments would be collected from the carriers on final settlement, as the amount of such additions and betterments was charged in the accounts against the carriers at the time of the completion of same.

In comparing these estimates with estimates heretofore given, it must always be borne in mind that, because of adjustments that are being constantly made, balances are continually changing. The foregoing estimate is as of October 1, 1921.

Mr. CUMMINS. I am now about to consume a moment or two on the question of funding.

We ought to pass this bill even if there is no funding. That, to me, is perfectly evident, but I am standing here for the purpose in part of showing that there ought to be some funding in the future, as there has been in the past, and by so much as the President may fund we must add to the \$279,000,000.

I mentioned the other day the fact that in the transportation act passed February 28, 1920, we gave the President the authority, in settling with the railroads, to fund such part of the indebtedness incurred by the railroads to the Government for additions and betterments as in his judgment the public welfare required. I assume that the President will continue to do just as he has done before. This bill does not propose to interfere with that discretion on his part. We neither enlarge nor diminish his authority, and while I do not speak authoritatively for him it would seem to me that his duty is to proceed with the

settlements, and if he thinks the public welfare with respect to any particular railroad demands that a portion of the indebtedness due from that railroad to the Government be extended in point of time he will extend it and take the securities which the law requires him to take and which it is believed will safeguard the United States in that respect.

Why did we give the President the authority to extend time to the railroads for that part of the expenditures for additions and betterments which he might think the public interest required? We did it for this reason:

Ordinarily, railroads do not pay for additions and betterments from current income. Ordinarily, the expenditures for this purpose are funded. That is, the railroad company—speaking of any particular instance—borrows the money at 10 years, 50 years, or 100 years, and uses that money for the purpose of making these permanent additions and betterments to its property. That is not always true. Some railroads have been able in the past to make additions and betterments which they have charged to capital account from the surplus which they have earned over and above the cost of operation and the payment of interest and the payment of dividends. I shall not pause to enumerate how many railroads have done that thing, but there are a good many of them. I do not recall with absolute certainty the amount of those accumulations on January 1, 1918, when the Government took over the roads, but, as I remember—and I will correct the statement if I find later on that I am mistaken—the railroads had accumulated at that time a surplus, taking them all together, over and above operation, over and above interest, and over and above dividends upon stock, of something like \$2,000,000,000; but this surplus was accumulated upon the part of a very few railroads—few in number but large in importance. I venture to say, although I am now speaking from broad memory, that nine out of ten in number of the railroads in the United States accumulated no surplus whatever, and thought themselves exceedingly fortunate if they were able to pay operating expenses and interest upon their bonded indebtedness, with now and then a dividend upon capital stock.

With regard to all such railroads, they had no surplus to employ. They had no treasury to which they could resort for money to pay for additions and betterments, and when the Government took the railroads over and made those additions and betterments, without any request upon their part and without any participation upon their part—which I am not criticizing, because that was the only way in which it could be done—they had and have no way of paying, out of their current income, for the expenditures which are properly chargeable to capital account; and so we gave to the President in the transportation act of 1920 the authority to fund such of the indebtedness as he thought necessary in order to preserve the transportation system of the United States, simply because we knew that the railroads, taking them individually, could not pay for those expenditures without becoming bankrupt.

We assumed possession of the railroads on the 1st of January, 1918, and that instant the power of any railroad company to borrow money to expend ceased. They had no right to make expenditures for capital account. That all belonged to the Government, and all of the railroads were left without any possibility of borrowing during Federal control the money that was necessary to pay for the expenditures which the director general believed the safety of the public required.

Mr. WATSON of Georgia. Mr. President—

The PRESIDING OFFICER. Does the Senator from Iowa yield to the Senator from Georgia?

Mr. CUMMINS. I yield.

Mr. WATSON of Georgia. The Senator has doubtless seen the latest reports of the railroads as now managed. Their net earnings are slightly below 3 per cent.

Mr. CUMMINS. I think that is accurate for the past year.

Mr. President, I want the Senator from Georgia to understand clearly my position. Up to the 1st of September, 1920, the railroads were abundantly provided for so far as current income was concerned. I think they were paid more money than ought to have been paid them. I said so when the act providing for Federal control, authorizing and validating the taking over of the railroads, if it needed validating, was passed. I voted against that bill largely because, in dealing with individual railroads, the standard which we applied gave to some railroads a great deal more than they ought to have had and gave to some railroads a great deal less than they ought to have had.

Mr. WATSON of Georgia. If the Senator will allow me, of course, I can not vouch for the accuracy of the reports published yesterday in the papers, standard papers, any more than I can for the price of cotton, or grain, or stock, or Liberty bonds;

but we usually take them as correct when we find them in standard papers. It is a well-known fact that the watered stock of these railroads is at least twice as much as the actual investment. I can name a half dozen myself where they have been watered twenty times.

Mr. CUMMINS. I am not dealing with stock at all. I quite agree that a large part of the stock originally issued by the railroads was never paid for. I understand that perfectly. I am trying to make it clear that a great proportion of the railroads can not build their railroads and improve their railroads out of current income; that they must borrow money with which to do that.

Mr. WATSON of Georgia. Would not the Senator's argument apply to the Harrimanized railroads, the New York, New Haven & Hartford, and the J. P. Morganized railroads?

Mr. CUMMINS. Not at all, because the transportation act from beginning to end does not deal with capital stock and it does not deal with bonds; it deals with the value of the property alone.

Mr. WATSON of Georgia. How is that to be measured?

Mr. CUMMINS. The Interstate Commerce Commission ascertains it as best it can. Personally, I think the commission has attached a higher value than ought to have been attached.

Mr. WATSON of Georgia. Congress passed an act providing that the Interstate Commerce Commission should make a physical valuation of the roads, but my understanding is that that physical valuation has never been made.

Mr. CUMMINS. It is the valuation which the commission seems destined to reach under that act which is making some of the trouble we are now experiencing.

Mr. WATSON of Georgia. Mr. President, I think the Senator will realize that the country has about lost all confidence in the Interstate Commerce Commission.

Mr. CUMMINS. The Senator from Wisconsin will admit that the commission is now proceeding under an order from the Supreme Court of the United States to do a thing which it is claimed it must do under the valuation act of 1913—

Mr. WATSON of Georgia. Eight years ago.

Mr. CUMMINS. That, in my judgment, will add \$4,000,000,000 to the valuation of railroad property which ought not to be added to it at all, and I am doing my best to get a bill passed to eliminate that feature of the bill, and the Senator from Wisconsin is entirely with me in that respect, however much we may differ on other things.

Mr. WATSON of Georgia. The Interstate Commerce Commission is understood now to be nothing more than a subsidiary board of directors for the railroads.

Mr. CUMMINS. I will do my very best to reply to any questions of the Senator from Georgia. I am always glad to be interrupted, if we can shed any light upon the subject through the interruptions; but I am speaking about just one thing—that railroads generally must borrow the money with which to construct the railroads and with which to make additions and betterments, and when the Government took possession of the railroads on the 1st of January, 1918, that was the end of any effort upon the part of the railroads to finance themselves in that regard.

Mr. WATSON of Georgia. Mr. President, if the Senator will allow me again, if he eliminates the Harrimanized roads and the Morganized roads, the Louisville & Nashville road, the Pennsylvania Railroad system, and the New York Central, what will be left?

Mr. CUMMINS. Quite a lot; and I am not eliminating anything. I am simply saying that when the President comes to determine whether, in the case of a particular railroad, he will fund any part of the indebtedness due from that railroad to the Government, he will consider the financial condition of that railroad, just as he has in the past; and if he finds that it is not necessary, in order to maintain our transportation system adequately and efficiently, to extend the time on any part of that indebtedness, he will not extend it; but I am assuming that in the future, as in the past, he will find some railroads which do need that indulgence and that he will fund a part of that indebtedness. He may fund anywhere within the range of \$500,000,000. I do not think it will be a very large sum, but I can not anticipate the discretion or the judgment of the President in that respect. If he pursues the plan he has hitherto pursued, the amount funded would not be great. At any rate, even upon any reasonable hypothesis, I think it may be assumed that it will be found in the public interest to fund at least from \$75,000,000 to \$150,000,000. That will not, however, be under this bill, because it has no relation to funding. I have no right to express an opinion about the matter, because I am not familiar with the work which the director general and the

President are called upon to do every day. But suppose it were \$100,000,000; then we would have to add that to the \$279,000,000, making the amount \$379,000,000, to pay which the President must either sell these securities or come to Congress for an appropriation—one or the other. I repeat, and I can not too often repeat, that if he does not exercise his judgment in favor of funding at all we will be \$125,000,000 or \$130,000,000 short of funds necessary to pay the admitted debts of the railroads.

I have given my reason for giving to the President the discretion to fund a part of this indebtedness. I think he ought to possess it. I do not believe there are many Senators who are willing to vote to withdraw it from him or who have ever thought of proposing that course. It is just as necessary as it is to give to the railroads enough to enable them to maintain their property. After all, the broad alternative in the railroad problem is whether we shall give to the railroads rates which will maintain them or do without transportation. That is the real question involved in all legislation.

The weaker railroads, which have no surplus, sometimes are compelled to use much more than their current income in order to maintain themselves, and if the President is not permitted to assist them with fair and reasonable liberality we will not maintain our railroads; many of them can not survive. There are some of them which can. There are some of them which have plenty of money, which were prosperous up to the 1st of September, 1920, when the Government was taking care of them in the generous way which I have suggested; but since that time, for the year ending with the 1st of September, 1921—that is, the year in which the railroads have been compelled to take care of themselves, in which the Government has done nothing for them—as provided in the transportation act, six months after March 1, 1920, taking the railroads as a whole, notwithstanding the great increase of rates, the burdensome increase of rates, which took effect on the 26th of August, 1920, the railroads have not earned within \$75,000,000 of enough to pay the interest upon their bonds, to say nothing about any distribution upon their capital stock, and I venture the prediction that when the calendar year closes, if the rates which are in existence now be maintained, the railroads will not have earned during this calendar year more than enough to pay the interest upon their bonds.

Without reckoning their indebtedness to the Government, their bonded indebtedness amounts to nearly \$12,000,000,000, and it bears interest at the rate of 4½ per cent, possibly 4½ per cent now, since some of the indebtedness has been renewed within the last year. We will pass out of this year, in my judgment, with a deficit, taking the railroads as a whole, in the payment of the interest upon their bonded obligations.

Again, it is very easy to be misled with respect to this. I am now treating the railroads as a whole. There are some of the railroads that have abundant income, and they will be able to pay the interest upon their bonds and will be able to pay a fair dividend upon their stock.

But I am speaking now of the great mass of the railroads. There are 900 railroads, all told, and while many of them do not render a very extended service, still that service is just as essential to the communities which they do serve as is the service rendered to other communities by the Pennsylvania or the Baltimore & Ohio. It is our duty to care equally for all parts of our country and to give all sections and communities an equal opportunity to grow and develop and to share the prosperity which we hope will presently come. I am therefore firmly of the opinion that we ought to contemplate a reasonable funding of some part of this indebtedness, and that we ought to make now the provision necessary to enable the President to discharge the obligations which are contemplated in the act under which the railroads passed to the Government and in the transportation act of 1920.

With these observations upon the general subject, I intend to devote a few moments to the amendments which the committee has proposed to the House bill. I say in advance that I do not intend to ask a vote upon any of the amendments this afternoon. I understand perfectly well that Senators desire to be heard upon the matter, and I want them to be heard fully, so that when I have finished and in view of the fact that we have agreed substantially that another matter shall be taken up to-morrow morning, I intend to ask unanimous consent that the bill be temporarily laid aside. But I desire that Senators shall know what our amendments are in order that they can be reflecting upon the matter.

Mr. KENYON. Mr. President, I would like to ask my colleague if his remarks of last week have been published?

Mr. CUMMINS. They have not. I asked the printer to reserve them from the CONGRESSIONAL RECORD in order that my



entire speech upon the subject, generally speaking, might appear in the same issue of the Record.

The first amendment which we propose to the House bill is as follows:

The President is hereby authorized to sell any bonds, notes, or other securities acquired by him either before or after this section takes effect, under authority of the Federal control act, the transportation act, 1920, or the act entitled "An act to provide for the reimbursement of the United States for motive power, cars, and other equipment ordered for railroads and systems of transportation, and for other purposes," approved November 19, 1919.

I may say that this latter act is the one under which the equipment trust certificates were issued by the specific authority of Congress.

And the proceeds of all bonds, notes, or other securities sold by the President shall be a fund to be used by the President for the purposes described in section 202 of the transportation act, 1920.

I have already read that part of section 202 which relates to the settlement of accounts between the railroad companies and the President.

Any balance not so required shall be paid into the Treasury of the United States as miscellaneous receipts. Any such sale or sales must be made at a price which will save the United States from loss in the transaction and without recourse.

The purpose of this amendment to the House bill is twofold. First, it is to rearrange the bill so that the amendments to the transportation act shall be found in sections 1 and 2 and the amendments which are proposed to the War Finance Corporation act shall be found in section 3. As the House passed the bill there were some amendments which were made to the War Finance Corporation act that should be amendments to the transportation act and some amendments to the transportation act that should be amendments to the War Finance Corporation act. It seemed to me that we ought to keep amendments to these two acts separate and distinct.

The second object of the amendment is to separate the authority of the President to sell securities from the authority of the War Finance Corporation to buy securities. As the bill passed the House the President was not given authority to sell securities to any organization or person except the War Finance Corporation. It seemed to our committee that it was in every way desirable that if he is given authority to sell the securities, the President should have the right to sell them to anybody with whom he can make the most satisfactory arrangements. I can not think there will be any difference of opinion about that.

Mr. NORRIS. Mr. President—

The PRESIDING OFFICER. Does the Senator from Iowa yield to the Senator from Nebraska?

Mr. CUMMINS. Certainly.

Mr. NORRIS. It is not expected that the President will be able, however, to sell to anybody but the War Finance Corporation, is it? Let me ask another question in that connection. Is not that really selling to ourselves after all, and is it not as though we made direct appropriation for the money?

Mr. CUMMINS. I answer the last question in the affirmative. When the President sells to the War Finance Corporation it is simply transferring the securities from one function of the Government to another, and that is the reason I have insisted upon making the authority of the President to sell distinct from the power of the War Finance Corporation to buy.

Answering the first part of the Senator's inquiry, I say that it may not be necessary to use the War Finance Corporation at all. The President in the last two months has disposed of \$100,000,000 of what are known as car-equipment trust certificates. He has sold those certificates without any authority on the part of the War Finance Corporation to buy. In other words, he has not sold them to the War Finance Corporation, although I do not mean by that any disparagement of the War Finance Corporation. I am sure that the persons connected with that body were helpful in the negotiations, but the certificates were not sold to the War Finance Corporation. They were sold to a syndicate entirely outside.

Mr. NORRIS. Mr. President, may I ask the Senator another question?

Mr. CUMMINS. Certainly.

Mr. NORRIS. I understood the Senator to say, and I understood that to be the law, that the President did not have any authority to sell these obligations taken in the funding operations, and that was one of the principal objects of the bill. Has the President authority now to make such a sale?

Mr. CUMMINS. I stated, as I remember it, that with regard to the \$311,000,000 of car-equipment trust certificates, he has the authority to sell.

Mr. NORRIS. Does it extend beyond that?

Mr. CUMMINS. He has no authority to sell the other securities which he has taken in his dealing with the railroads.

Mr. FLETCHER. The securities which the President has sold have been sold through the War Finance Corporation, have they not?

Mr. CUMMINS. I think not.

Mr. FLETCHER. Did he sell them direct? If we authorize the President to sell without any limit to the public, and then if we authorize the War Finance Corporation to sell to the public, we will have them competing in the same market.

Mr. CUMMINS. They are not likely to compete. The War Finance Corporation has nothing to sell until it buys from the President. I assume there would be no conflict between those two organizations. I repeat that the President has the authority to sell the car-equipment trust certificates, but he has no authority to sell the remainder. So far as I know the War Finance Corporation rendered whatever assistance it could in the recent financial transaction to which I have referred. I do not know what part it played in the matter. I only know that the President and the director general organized or helped to organize the purchasers or a series of purchasers for those securities and were successful in disposing of them at par and without recourse on the Government.

The next amendment which the committee will propose is as follows:

In making settlements with the carriers under the transportation act, 1920, no payment or allowance shall be made to any carrier on account of the so-called inefficiency of labor during the period of Federal control; and no final settlement between the United States and any carrier shall be made which does not forever bar such carrier from setting up any further claim, right, or demand of any kind or character against the United States growing out of or connected with the possession, use, or operation of such carrier's property by the United States during Federal control, except a claim specified in clauses (1), (2), or (3) of paragraph (b) of section 2 hereof.

I shall venture to explain this amendment still further when the amendment is properly before the Senate for action, and I desire now merely to say this, so that when Senators are examining it in the meantime they may understand the general object of the amendment. It takes the place of language used in the House bill as follows:

In using any fund or moneys available under this or any other act, for the purposes described in this subdivision, no payments or allowances shall be made to any carrier on account of the so-called inefficiency of labor during the period of Federal control. Such funds and moneys shall not be used in making any settlement between the United States and any carrier which does not forever bar such carrier from setting up any further claim, rights, or demands of any kind or character against the United States growing out of or connected with the possession, use, or operation of such carrier's property by the United States during the period of Federal control.

The difference between the provision of the House bill which I am now discussing and the substitute which we propose for it is twofold. First, the House bill puts a prohibition upon the moneys which are available under this or any other act for the settlement with the railroads; the Senate amendment puts the prohibition directly upon the President and the director general, namely, that in making settlements they must not make any allowance for the so-called inefficiency of labor. We think the language proposed by the Senate committee is much more efficient and much clearer.

Mr. WARREN. I should like to ask the Senator a question.

Mr. CUMMINS. I yield.

Mr. WARREN. Is it correct to assume that as to all matters except the claims of the railroads on account of the inefficiency of labor there is a complete understanding between the railroads and the United States?

Mr. CUMMINS. No. I shall call attention to that matter in a moment.

Mr. WARREN. I presumed from hearing the amendment read that there must be other points at issue.

Mr. CUMMINS. The so-called inefficiency of labor is absolutely barred if a settlement is made; but if there be no settlement made—

Mr. WARREN. According to its language, the amendment, as I heard it read, would, of course, bar all other claims of every nature.

Mr. CUMMINS. It bars every claim except the three that I shall mention in a moment. If there be a settlement made, that is an end of matters between the railroad and the Government. If there be a settlement, in the making of that settlement the director general and the President are forbidden to make any allowance to the railroads on account of the inefficiency of labor.

Mr. WARREN. My question was aimed to bring out whether there are any differences other than the one regarding the inefficiency of labor, any claim for which I understand the Senate

amendment forbids the President and the Attorney General to recognize.

Mr. CUMMINS. There are practically no other differences, except those relating to maintenance, which, of course, are connected with the alleged inefficiency of labor.

The second change that is proposed to be made by the amendment is this: The President and the director general feel that if this particular provision of the act passes Congress as it passed the other House it would prevent partial payments to railroads. Partial payments to railroads are absolutely necessary. Of course, the Government always protects itself against the inefficiency of labor, but sometimes an accounting is so involved that it requires months before a conclusion can be reached. In the meantime the railway company must have a part, at least, of its current income, and this is intended to make that subject clear.

The third respect in which the amendment differs from the House bill is this: The House bill provides that in any settlement that is made there must be a complete discharge on the part of the carrier of all claims or obligations due from the Government to them. That is impossible. The Government has undertaken to hold the railroad companies harmless on account of certain claims for loss or damage which occurred during Federal control. No human being can tell when those losses and claims will be finally adjudicated. The Government has also undertaken to hold the railroads harmless for taxes that are assessed against the railroad property during Federal control. No one can tell when that obligation will be discharged, or, in the event of failure to discharge it on the part of the Government, when such taxes would ripen into a lien upon the railroad property. So the director general up to this time in his final settlements with the railroad companies has excepted those claims. I have before me, and it is attached to the report so that every Senator may see, the exact form of the final settlement which the director general has hitherto used with the railroad companies. There have been a great many of them with which he has settled. This amendment is intended to except just those claims which the director general has excepted in the final settlements which he has made.

Mr. WARREN. That is what prompted my question. I wanted to know how much there was yet to be settled in the way of taxation, and so forth.

Mr. WATSON of Georgia. Mr. President—

Mr. CUMMINS. I yield to the Senator from Georgia.

Mr. WATSON of Georgia. I should like to ask the Senator from Iowa why should not the general law of set-off apply and the person who is found to owe more than the other pay the difference?

Mr. CUMMINS. There is only one answer to that, and it is this: Suppose the President is settling with a railroad and he says to the railroad, "There is due from you to the Government \$500,000 on account of improvements which we made to your property during Federal control." The railroad says to the Government, "You made those improvements for the public interest; indeed, the railroad is liable for them; it makes no question about that; but if we had been in possession of the railroad when those expenditures were made we could have borrowed the money for a reasonable length of time with which to make them. Now, if you compel us to take out of our current income and earnings sums which we ordinarily would charge to capital account, we are bankrupt and the territory through which we run must do without our service." It is altogether a matter for the public interest. I do not care whether there is any money loaned to the railroads or not. All I am trying to do and all that I think the President is trying to do is to preserve our system of transportation in those instances where if payment from the railroads is exacted bankruptcy necessarily follows.

With regard to those railroads which have accumulated a surplus and can pay these advances for capital expenditures, the President does not fund the indebtedness due from them. The act is only intended to give that measure of relief which, I think, every reasonable man will approve as necessary to keep our railroads in operation, not the strong—they need no help—but the weak. The fact is the entire transportation act has for its spirit the effort to maintain the railroads as a whole, to keep in operation those which are unable to maintain themselves in the crisis through which we are passing. The distinguishing feature of the transportation act is to compel a fairer and a larger division of through earnings as between the trunk lines and the short lines. There is no one thing in which it is more conspicuous than in its effort to accomplish that result. So I can only repeat that I think the President should not, and I think he will not, set off all of the indebtedness created by additions and betterments, when to do so would cripple the par-

ticular railroad and make it impossible that the service which everybody expects the railroad to render shall be rendered.

But I proceed with the amendments, and I intend to be very brief about them. I wish to say, further, as to the exceptions to which I have just referred, which are not included in the receipt or contract of final settlement, that I have attached to the report a copy of the standard contract or so much of the standard contract as relates to the exceptions, and every Senator by referring to the report itself can ascertain just what claims are excepted from the final settlement.

The next amendment can be understood by a comparison between the House text and the proposed Senate amendment. The House text provides that no settlement shall be made between the United States and any carrier "which does not forever bar such carrier from setting up any further claim, rights, or demands of any kind or character against the United States growing out of or connected with the possession, use, or operation of such carrier's property by the United States during the period of Federal control."

The amendment makes an exception in the following words: except a claim specified in clauses (1), (2), or (3) of subdivision (b) of section 202 hereof.

That is the section to which I have just been referring, and I need not enlarge upon it.

The only other amendment that is of any consequence and that is not rather formal in its character is the amendment which is proposed to that part of the House bill which gives to the President the authority to sell securities. We have already given him that authority, if the amendment we propose is adopted, and we strike out of the House bill that provision which confers upon the President the authority to sell and leave it simply with the authority on the part of the War Finance Corporation to buy to the extent of \$500,000,000; otherwise that part of the House bill is unchanged. I think all Senators understand why that amendment has been proposed.

In this connection, in view of the question that was asked the other day by the Senator from Montana [Mr. WALSH], I desire to read the part of the House bill which remains unchanged, the committee not having amended it in any way. The concluding paragraph of the House bill reads as follows:

No purchase shall be made by the corporation under this section at any time when such purchase interferes with the corporation in granting the fullest aid for financing the handling and exporting of agricultural products by the corporation under this act as now or hereafter amended. It is the intention that this section shall be so construed and administered as to give the preference to such financing and exporting of agricultural products.

Mr. President, I have now finished my review of this bill, and unless Senators desire to ask me some questions I shall presently yield the floor.

Mr. WATSON of Georgia. Mr. President, just one question. I ask the Senator whether or not his proposition to have these railroad securities taken over by the Government necessarily implies that the Government is to give a higher price for them than can be obtained anywhere else?

Mr. CUMMINS. Oh, no. The transportation act specifically provides that these securities shall be taken at 6 per cent, and that the President shall demand and insist upon such securities as are safe and sound, and will save the Government harmless. This act also provides that if the President is unable—of course, I am simply paraphrasing it—to dispose of these securities at 6 per cent, somebody must suffer loss, and that loss must be borne by the railroads. He must dispose of the securities without loss to the Government and without any recourse upon the Government.

Mr. SMITH. Mr. President, I wish to call the attention of the Senator to a statement that he made to the Senator from Nebraska [Mr. NORRIS] which perhaps was not exactly satisfactory to him, judging by some things that have transpired since, when the Senator said that the amount that the Government owed the railroads in excess of what the railroads owed the Government amounted to something over \$200,000,000. When asked the question if this was independent of any funding on the part of the Government, the impression left was that the two accounts, if balanced one against the other without any negotiation at all or any transaction, would leave that difference.

Mr. CUMMINS. Yes, Mr. President; I put it in another way: If the railroads were to come to the Government at this moment and pay the Government every penny that the Government claims is due from them, not including that part already funded, the Government would still owe the railroads \$279,000,000 as of the 1st of October.

Mr. SMITH. Yes; that was true at that time; but in order that the Senate may understand fully just the difference that appeared between the two aggregate amounts—the \$1,144,000,000 and the \$1,100,000,000—I think it would help to clarify the



matter to state that up to the time to which the Senator calls attention the car-trust certificates and the actual funding by the Government have reduced the \$1,144,000,000 down to \$554,000,000. If a settlement should be made, there would be a difference of the \$279,000,000; but the amount that is represented by the car-trust certificates and the subsequent funding down to the date to which the Senator calls attention is still in the form of an obligation on the part of the railroads either to the Government if it holds the securities or to the parties to whom the Government has sold the securities. So that we have offset the account of the railroads just as far as we have accepted their obligations in settlement, and the proposition in the bill now pending is that the President may, if he sees fit, accept \$500,000,000 of securities from the railroads; and in that event, if he accepts the \$500,000,000 in the form of securities from the railroads, it will increase our indebtedness to the railroads to something like \$700,000,000 up to the present state of the settlement.

The Senator from Nebraska asked whether the securities given by the railroads to the Government were taken in settlement. They were. The difference between what the Government owed the railroads and what the railroads owed the Government at the beginning was in favor of the Government; but in proportion as the Government accepted the railroad obligations in the form of long-time or short-time paper it reduced that difference until now the amount that is unfunded, unsettled, is five hundred and some odd million dollars, and the difference between that and what the Government owes the railroads for current expenses is the \$279,000,000. If there were no further funding and we should subtract what the railroads owe us, yet unfunded and unpaid in cash, there would be a difference of \$279,000,000.

Mr. CURTIS. Mr. President, I want to ask the Senator from Iowa if he will not modify the notice he gave a few minutes ago. That is, if the Newberry case is not reached to-morrow, he will go on with the railroad bill, will he not?

Mr. CUMMINS. Oh, I have assumed that that would be the case. I have yielded precedence only because of the insistence that the Newberry case should be heard, and my sense of the right of the matter.

Mr. CURTIS. I say, in case an agreement is reached to take it up at some other time.

Mr. CUMMINS. Is there doubt about it?

Mr. CURTIS. I understand that it has not been settled, and may not be settled until night; so I did not want any erroneous impression to go out with reference to what would be done to-morrow.

Mr. CUMMINS. I intend to go on with the railroad bill as rapidly as is reasonable, and I want every Senator to have a chance to say what he thinks about it. I wish to have it fully discussed. I have never found any great advantage in pressing a bill unduly and unfairly, but so far as this afternoon is concerned I have finished what I have to say. I realize that it is not to be expected that anyone here is ready at this moment, unless it is my friend the Senator from South Carolina [Mr. SMITH], to take up this question for discussion. I intend to go on with the bill, at least if the Senate will permit me, until it is finished, with just two exceptions—one to which I have agreed and the other is inevitable. I have agreed that the Newberry case may intervene, because I think it is a case which ought to be disposed of; and I recognize that if anyone wants to speak upon what is known as the antibeer bill, inasmuch as a time has been fixed for voting upon it, any Senator can very properly interrupt the progress of this bill by speaking upon that measure.

With the understanding, therefore, that if the matter to which we have all referred does not arise to-morrow I shall ask the Senate to proceed with the consideration of this bill, I ask that it be temporarily laid aside.

Mr. NELSON. Mr. President, I trust the bill will not be laid aside. I desire to make some remarks while it is before the Senate.

Mr. CUMMINS. I withdraw my request until the Senator from Minnesota has been heard.

#### AMENDMENT OF NATIONAL PROHIBITION ACT.

Mr. NELSON. Mr. President, I avail myself of this opportunity to discuss the constitutional objections that were made to the conference report on the so-called beer bill, and I propose to discuss it purely from a legal and technical standpoint.

The chief controversy over the conference report upon H. R. 7294 relates to section 6 as agreed to by the conferees.

This section reads as follows:

That any officer, agent, or employee of the United States engaged in the enforcement of this act, or the national prohibition act, or any other law of the United States, who shall search any private dwelling

as defined in the national prohibition act, and occupied as such dwelling, without a warrant directing such search, or who while so engaged shall without a search warrant maliciously and without reasonable cause search any other building or property, shall be guilty of a misdemeanor and upon conviction thereof shall be fined for a first offense not more than \$1,000, and for a subsequent offense not more than \$1,000 or imprisoned not more than one year, or both such fine and imprisonment.

It is insisted that this section is unconstitutional and in conflict with the fourth amendment to the Constitution.

This amendment reads as follows:

The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

And it should be construed in the light of, and in conformity with, the principles of the common law, with which the framers of the Constitution were familiar.

The amendment contains two separate and distinct prohibitions, to wit: First, it prohibits unreasonable searches and seizures; and second, it prohibits the issuance of warrants except upon probable cause shown, supported by oath or affirmation, and particularly describing the place to be searched and the persons or things to be seized.

There is in the amendment no prohibition against search or seizure without a warrant. Such a prohibition would have been subversive of the common law and fatal to the safety of human life and the repression of crime.

The second prohibition in the amendment was aimed against such general warrants as had been in vogue for many years prior to the noted Wilkes case, in 1766, when the validity of such warrants was questioned and brought to issue in the Court of King's Bench. That court held such warrants to be illegal and contrary to the principles of the English constitution. Pomeroy, in his introduction of Constitutional Law, clearly states the case in the following language:

This clause of the Constitution was particularly aimed at what were known in the English law as general warrants. These general warrants were used more especially in the case of political offenses, and were issued by the Government, directing the officers to search all suspected places and seize all suspected persons without describing any place or person. The execution of the warrant was left to the caprice of the individual who had it in charge. Although these warrants were so plainly contrary to the spirit of the English common law and destructive of individual rights and liable to become instruments of tyranny in the hands of an unscrupulous official they continued in use down to a time immediately prior to the American Revolution. The practice was finally declared illegal by the Court of King's Bench during the presidency of Lord Mansfield, in the case of *Money v. Leach*. The case arose on a warrant issued by one of the secretaries of state requiring the officers "to make diligent search for the authors and publishers" of a certain seditious libel, and them or any of them having found to apprehend and seize, together with their papers. (Pomeroy, Constitutional Law, tenth edition, p. 158, sec. 241.)

I have a sample of the warrant which was issued in this case which I shall attach to my remarks.

The fourth amendment contains no prohibition against arrest, search, or seizure without a warrant. That was left under the rules of the common law. The amendment provides not that no arrest, search, or seizure should be made without a warrant, but prescribes that there shall be no unreasonable searches and seizures; in other words, that the people shall be secure in their persons, houses, papers, and effects against unreasonable searches and seizures; not against all searches and seizures but simply against unreasonable searches and seizures. And this brings us to the question in what cases arrests, searches, and seizures may be made without a warrant under the principles of the common law and statutory law prevailing in this country.

It was the rule of the common law at the time of the adoption of the Constitution, and it has been the rule of the common law of this country, and of most of the statutory law, that a peace officer—an officer charged with the enforcement of law—may arrest a criminal when caught in the act of committing a crime, and when thus arrested he may search him for evidence pertaining to the crime and, as a general rule, retain such evidence for the use of the court in the prosecution or trial of the case, and this applies to all criminal cases, misdemeanors, as well as felons.

In support of this statement I quote, among other cases, the following authorities which are directly in point:

I quote the following from First Hale's Pleas of the Crown, page 587, a work prepared and compiled in the early part of the eighteenth century:

I come in the next place to arrests, ex officio, without any warrant. If any affray be made in the presence of a justice of peace, or if a felon be in his presence, he may arrest him and detain him, ex officio, till he can make an arrest to send him to goal, but then the warrant must be in writing to the gaoler (p. 23, Car. B. R. Sanford's case), and so he may by word command any person present to arrest (Dalt. cap., p. 328).

He further states:

A constable may ex officio arrest a breaker of the peace in his view, and keep him in his house or in the stocks till he can bring him before a justice of peace.

So if A be dangerously hurt and the common voice is that B hurt him, or if C thereupon comes to the constable and tells him that B hurt him, the constable may imprison him till he knows whether A dies or lives (T., 43 Eliz., B. R. Dumbleton's case) or can bring him before a justice.

So if a felony be committed and A acquaint him that B did it, the constable may take him and imprison him, at least until he can bring him before some justice of peace.

Blackstone in his Commentaries, book 4, page 292, states the common-law doctrine as follows:

2. Arrests by officers without warrant may be executed, first, by a justice of the peace, who may himself apprehend or cause to be apprehended, by word only, any person committing a felony or breach of the peace in his presence; second, the sheriff; and, third, the coroner may apprehend any felon within the county without warrant; fourth, the constable, of whose office we formerly spoke, hath great original and inherent authority with regard to arrests. He may, without warrant, arrest anyone for a breach of the peace committed in his view and carry him before a justice of the peace; and in view of felony actually committed, or a dangerous wounding, whereby felony is likely to ensue, he may upon probable suspicion arrest the felon if he can not otherwise be taken; and if he or his assistants be killed in attempting such arrests it is murder in all concerned.

Russell on Crimes, volume 1, page 725, states the doctrine as follows:

A constable may arrest any person who in his presence commits a misdemeanor or breach of the peace if the arrest is effected at the time when, or immediately after, the offense is committed.

In volume 9, Laws of England, by Lord Halsbury, pages 309 and 310, is this statement:

A constable and also, it seems, a private person may upon lawful arrest of a suspected offender take and detain property found in the offender's possession if such property is likely to afford material evidence for the prosecution in respect of the offense for which the offender has been arrested.

The Supreme Court of Massachusetts in the case of Commonwealth v. Phelps (209 Mass., 410) asserts:

The further objection made by the defendant that an arrest without a warrant is in conflict with the fourteenth article of the declaration of rights of the constitution of the Commonwealth was disposed of in *Rohan v. Sawin* (5 Cush., 281). It was there stated that these provisions were in restraint of general warrants to make searches and that they do not conflict with the authority of officers or private persons under proper limitations to arrest without a warrant when authorized by the common law or by statute. To the same effect see *Wakely v. Hart* (6 Bin., 316). The same is true of the fourth amendment to the Constitution of the United States.

The court discussed the question directly in reference to the constitution of Massachusetts, and then concluded by saying:

The same is true of the fourth amendment to the Constitution of the United States.

Chief Justice Redfield, of Vermont, delivered the opinion of the court in the case *In re Powers*, Twenty-fifth Vermont, 265, a liquor case. Under the law of Vermont the officers of the law were allowed to arrest a man for drunkenness, and if they found any bottles of whisky in his possession they had a right to take them. In that case the court said:

It seems to us that the eleventh article of our State constitution and the corresponding provisions in the United States Constitution have no reference to the subject now before the court. It is in these words: "That the people have a right to hold themselves, 'their houses, papers, and possessions free from search or seizure,' and therefore warrants, without oath or affirmation first made, affording sufficient foundation for them, whereby any officer or messenger may be commanded or required to search suspected places, or seize any person or persons, his, her, or their property, not peculiarly described, are contrary to that right, and ought not to be granted." This seems to be directed against general warrants, and general search warrants in particular, not specifically describing the persons, places, or property to be searched or arrested. This class of warrants, which in troublous and unsettled periods in English history, were issued to a very alarming extent by their secretaries of state and other magistrates, perhaps, was prohibited at the final settlement of the realm upon the Prince of Orange and the Hanover family, I think, if not earlier, and similar provisions have been transferred to the United States and to most of the State constitutions. It is very obvious this proceeding is not of that character. And it has never been supposed to prohibit arrests by private persons or without warrant in that class of cases where delay would be perilous. Necessity is the first law of government as well as of nature, and is not to be abrogated by implication.

In the case of *Wakely v. Hart et al.* (6 Binney, Pa., 317) the court declares the rule to be as follows:

But the plaintiff insists that by the constitution of this State no arrest is lawful without a warrant issued on probable cause supported by oath. Whether this be the true construction of the constitution is the main point in the cause. It is declared in the ninth article, section 7, "that the people shall be secure in their persons, houses, papers, and possessions from unreasonable arrests, and that no warrant to search any place or seize any person or thing shall issue without describing them as nearly as may be, nor without probable cause supported by oath or affirmation." The provisions of this section, so far as concerns warrants, only guard against their abuse by issuing without good cause or in so general and vague a form as may put it in the power of the officers who execute them to harass innocent persons under pretense of suspicion, for if general warrants are allowed it must be left to the discretion of the officer on what persons or things they are to be executed. But it is nowhere said that there shall be no arrest without warrant. To have said so would have endangered

the safety of society. The felon who is seen to commit murder or robbery must be arrested on the spot or suffered to escape. So, although not seen, yet if known to have committed a felony, and pursued with or without warrant, he may be arrested by any person. And even when there is probable cause of suspicion a private person may without warrant at his peril make an arrest. I say at his peril, for nothing short of proving the felony will justify an arrest. These are principles of the common law, essential to the welfare of society, and not intended to be altered or impaired by the constitution. The whole section, indeed, was nothing more than an affirmation of the common law, for general warrants have been decided to be illegal; but as the practice of issuing them had been ancient, the abuses great, and the decisions against them only of modern date the agitation occasioned by the discussion of this important question had scarcely subsided, and it was thought prudent to enter a solemn veto against this powerful engine of despotism. I am therefore of the opinion that the defendants were justified in making the arrest if they could prove the plaintiff guilty of larceny; consequently the record tending to prove the larceny was legal evidence.

In the case of *Getchell v. Page* (103 Me., 390) the court states the law to be as follows:

It is well settled that an officer making an arrest on a criminal charge may also take into his possession the instruments of the crime and such other articles as may reasonably be of use as evidence upon the trial. The officer not only has the lawful power to do so, but he would be blameworthy if he failed to do so. The maintenance of public order and the protection of society by efficient prosecution of criminals require it. The title to the property remains in the owner, but the lawful possession is temporarily in the officer for evidentiary purposes, subject to the order of the court. (*Thatcher v. Weeks*, 79 Maine, 547; *Spaulding v. Preston*, 21 Vt., 10; *Bishop Crim. Pro.*, 211.) The plaintiff does not seek to controvert this principle of the common law.

In the case of *Rohan v. Sawin* (5 Cush. (Mass.), 284-5) the court lays down the rule in the following terms:

It has been contended that an arrest of this character without a warrant was in violation of the great fundamental principles of our National and State Constitutions, forbidding unreasonable searches and arrests, except by warrant founded upon a complaint made under oath. Those provisions doubtless had another and different purpose, being in restraint of general warrants to make searches, and requiring warrants to issue only upon a complaint made under oath. They do not conflict with the authority of constables or other peace officers or private persons under proper limitations to arrest without warrant those who have committed felonies. The public safety and the due apprehension of criminals charged with heinous offenses imperiously require that such arrests should be made without warrant by officers of the law. As to the right appertaining to private individuals to arrest without a warrant, it is a much more restricted authority and is confined to cases of the actual guilt of the party arrested; and the arrest can only be justified by proving such guilt. But as to constables and other peace officers, acting officially, the law clothes them with greater authority, and they are held to be justified, if they act, in making the arrest, upon probable and reasonable grounds for believing the party guilty of a felony; and this is all that it is necessary for them to show in order to sustain a justification of an arrest for the purpose of detaining the party to await further proceedings under a complaint on oath and a warrant thereon. It is not necessary, therefore, in the present case for the defendant to establish the actual guilt of the plaintiff of the offense imputed to him. It was only necessary to show that upon the representation made to him of the commission of a felony, and the other circumstances coming to his knowledge, he had reasonable ground to suspect the plaintiff of having committed the crime of receiving stolen goods, knowing them to be stolen.

In the case of *Holker v. Hennessey* (141 Mo., 539) a case of obtaining property by false pretenses, the Supreme Court lays down the rule as follows:

Generally speaking, in the absence of a statute, an officer has no right to take any property from the person of the prisoner except such as may afford evidence of the crime charged or means of identifying the criminal or may be helpful in making an escape. The officer has the undoubted right to make the search, and considering the nature of the accusation he may, when acting in good faith, take into his possession any articles he may suppose will aid in securing the conviction of the prisoner or will prevent escape. "He holds all, whether money or goods, subject to the order of the court, which, in proper circumstances, will direct him to restore the whole or a part to the prisoner." (*Bish. Crim. Proc.*, secs. 211, 212; *Wharton, Crim. Pl. and Pr.*, secs. 60, 61.) We find no statute of this State giving the arresting officer authority to search a prisoner, but no statute is necessary. The power exists from the nature and object of the public duty the officer is required to perform. Such authority is directly given to a committing magistrate by statute (section 4308), but unless the arresting authority has the authority immediately, on making the arrest, all evidence of crime and of identification of the criminal might be destroyed before the prisoner could be taken before the magistrate.

We have no doubt the search of the prisoners in this case was entirely justifiable, considering the nature of the crime charged and other circumstances. In the circumstances also he was justified in taking from their persons and keeping in his possession the money found upon them, though it may have been in no manner connected with the charge or proof against them. Money is the most effective kind of property a prisoner could have in his possession to be used as a means of escape, and the safe-keeping of the prisoner justified the retention of the money at least until he was brought before the magistrate.

In the case of *Weeks v. United States* (232 U. S., 392), in discussing that case, the court makes the following statement:

What then is the present case? Before answering that inquiry specifically, it may be well by a process of exclusion to state what it is not. It is not an assertion of the right on the part of the Government, always recognized under English and American law, to search the person of the accused when legally arrested to discover and seize the fruits or evidences of crime. This right has been uniformly maintained in many cases. (*1 Bishop on Criminal Procedure*, 211; *Wharton, Crim. Pleas and Practice*, 8th ed., 60; *Dillon v. O'Brien and Davis*, 16 Cox C. C., 245.) Nor is it the case of testimony offered at a trial where the court is asked to stop and consider



the illegal means by which proofs, otherwise competent, were obtained—of which we shall have occasion to treat later in this opinion. Nor is it the case of burglar's tools or other proofs of guilt found upon his arrest within the control of the accused.

In the case of *Dillon v. O'Brien and Davis*, volume 16, Cox Criminal cases, 245, the syllabus lays down the rule, in conformity with the opinion of the court, as follows:

When a person is arrested for committing a felony or misdemeanor, any property in his possession believed to have been used by him for the purpose of committing the offense may be seized and detained as evidence in support of the charge; and, if necessary, such property may be taken from him by force, provided no unnecessary violence is used.

See Wharton's Criminal Procedure (10th ed.), section 35; also section 97 and all the cases cited in note 4 to that section, which go to show that in nearly all the States of the Union the doctrine that I have stated above prevails. See also section 98. I also cite 1 Bishop Crim. Pro. (2d ed.), sections 178, 179, 183, and 211.

In the case of *Boyd v. United States* (116 U. S., 623), a leading case, the court held, because certain papers were intended to be used as evidence, that under the fifth amendment it was compelling a man to give evidence against himself, and therefore the search was unreasonable in that case as to those papers.

In that case Justice Bradley, among other matters, states:

The search for and seizure of stolen or forfeited goods, or goods liable to duties and concealed to avoid the payment thereof, are totally different things from a search for and seizure of a man's private books and papers for the purpose of obtaining information therein contained or of using them as evidence against him. The two things differ toto caelo. In the one case the Government is entitled to the possession of the property; in the other it is not. The seizure of stolen goods is authorized by the common law; and the seizure of goods forfeited for a breach of the revenue laws, or concealed to avoid the duties payable on them, has been authorized by English statutes for at least two centuries past; and the like seizures have been authorized by our own revenue acts from the commencement of the Government. The first statute passed by Congress to regulate the collection of duties, the act of July 31, 1789 (1 Stat., 29, 43), contains provisions to this effect. As this act was passed by the same Congress which proposed for adoption the original amendments to the Constitution, it is clear that the Members of that body did not regard searches and seizures of this kind as unreasonable, and they are not embraced within the prohibition of the amendment. So, also, the supervision authorized to be exercised by officers of the revenue over the manufacture or custody of excisable articles, and the entries thereof in books required by law to be kept for their inspection, are necessarily excepted out of the category of unreasonable searches and seizures. So, also, the laws which provide for the search and seizure of articles and things which it is unlawful for a person to have in his possession for the purpose of issue or disposition, such as counterfeit coin, lottery tickets, implements of gambling, etc., are not within this category. (*Commonwealth v. Dana*, 2 Met. (Mass.), 329.) Many other things of this character might be enumerated.

In the case of stolen goods the owner from whom they were stolen is entitled to their possession; and in the case of excisable or dutiable articles, the Government has an interest in them for the payment of the duties thereon and until such duties are paid has a right to keep them under observation or to pursue and drag them from concealment.

I find on looking up the matter that there are 32 States in the Union which allow by statute an arrest to be made without a warrant. In 32 States they can arrest a person if he commits the offense in the presence of a peace officer. I will read the names of those States for the benefit of doubting Senators:

Alabama, Arkansas, California, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, New Hampshire, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Virginia, and Wisconsin.

Thirty-two States have adopted laws of this kind, so that it can be said to be the common law of the States or the common law of the great majority of the States in the Union that a peace officer, a prohibition officer, has the right to arrest a criminal offender caught in the act of committing the crime; and when he arrests him, if he captures him with counterfeit coin, if he catches him with smuggled goods, if he catches him with goods that are stolen, if he catches him with liquor under the prohibition law, he has the right not only to arrest him without a warrant but to search him and to retain the wet goods as evidence against him.

In the case of *John Bad Elk v. United States* (177 U. S., 535), the court, in discussing under what circumstances an arrest can be made without a warrant, quotes the Compiled Laws of South Dakota and makes the following statement:

The law upon the subject of arrest in that State is contained in the Compiled Laws of South Dakota, 1887, section 7139, and the following sections, and it will be seen that the common law is therein substantially enacted. The sections referred to are set out in the margin.

Section 7148 reads as follows:

A peace officer may, without a warrant, arrest a person—  
1. For a public offense committed or attempted in his presence.  
2. When the person arrested has committed a felony, although not in his presence.

3. When a felony has in fact been committed and he has reasonable cause for believing the person arrested to have committed it.

4. On a charge made upon reasonable cause of the commission of a felony by the party arrested.

Judge Deady, of the United States district court, one of the ablest of our district judges, in the case of *Ex parte Morrill* (35 Fed., 267), in discussing the question as to when a person could be arrested without a warrant, after quoting the fourth amendment, states:

It has never been understood that this provision was intended to or does prevent an arrest by a peace officer—a sheriff or constable—for a crime committed in his presence. (Whart. Crim. Pl., sec. 8; 1 Bish. Crim. Proc., sec. 181.) The knowledge derived by the officer from his observation, acting under the sanction of his official oath, is considered equivalent to information supported by the oath or affirmation of another.

Now, a warrant of arrest may issue on "probable cause" supported by oath, and by analogy a peace officer may arrest on probable cause derived from his own observation. At common law a peace officer might arrest without warrant "on reasonable grounds of suspicion"; and the facts and circumstances which furnish such grounds of suspicion amount to "probable cause" under the Constitution, which is such cause as will constitute a defense to an action for false imprisonment or malicious prosecution. (Whart. Crim. Pl., sec. 9; 1 Bish. Crim. Proc., 182; Rap. & L. Law Dict., "False Imprisonment," "Malicious Prosecution.") Probable cause is a probability that the crime has been committed by the person charged. The facts stated upon oath "must induce a reasonable probability that all the acts have been done which constitute the offense charged." (Cranch, C. J., in *United States v. Bollman*, 1 Cranch, C. C., 379; *Wheeler v. Nesbitt*, 24 How., 551.)

United States District Judge Paul, in the case of *Carico v. Wilmore* (51 Fed., 198), states:

Officers who by virtue of their offices are conservators of the peace, have at common law the right to arrest without warrant all persons who are guilty of a breach of the peace, or other violation of criminal law, in their presence. (1 Amer. & Eng. Enc. Law, 734.) The Revised Statutes of the United States provide as follows:

"Sec. 3452. Every person who shall have in his custody or possession any goods, wares, merchandise, articles, or objects on which taxes are imposed by law, for the purpose of selling the same in fraud of the internal revenue laws, or with design to avoid the payment of the taxes imposed thereon, shall be liable to a penalty of \$500, or not less than double the amount of taxes fraudulently attempted to be evaded."

A violation of this statute would be a misdemeanor. (Code Va., sec. 3879.) If committed in the presence of a sheriff, the offender could be arrested without a warrant. (*Muscoe v. Com.*, 86 Va., 443; 10 S. E. Rep., 534; and *Davis Crim. Law*, 402.)

I do not think that anyone familiar with the decisions of our State and Federal courts can well question the authority of an officer to arrest without a warrant a person in the act of committing a crime. When such an arrest has been made, a search by the arresting officer may be made for the token and evidence of the crime.

See also the cases of *Brooks v. Commonwealth* (61 Penn. State R. (11 Smith), 352); *Davis v. Russell* (5 Bingham's Reports (Eng.), 354); *Beckworth v. Philby* (6 Barn. and Cress. (Eng.), 635); *United States v. Hart* (1 Peters C. C., 390).

The fourth amendment does not prohibit searches or seizures without a warrant. It only prohibits unreasonable searches or seizures, and an unreasonable search or seizure is one for which there is in law a want of probable cause. In other words, it recognizes the rule of the common law then prevailing, as described in the decisions I have already quoted.

To hold that no criminal can in any case be arrested and searched for the evidences and tokens of his crimes without a warrant would be to leave society to a large extent at the mercy of the shrewdest, the most expert, and the most depraved of criminals, facilitating their escape in many instances.

In the case of *Davis v. Russell* (5 Bingham's Reports, pp. 363-364) Chief Justice Best says:

It has been further contended that, without a warrant from a magistrate, a constable has no right to apprehend upon suspicion, unless there is danger of escape if he forbear to apprehend. The law, however, is not so, for though a private individual can not arrest upon bare suspicion, a constable may. This has been decided in so many cases that it is unnecessary to refer to them; and unless the law were so, there would be no security for person or property.

A prohibition officer in the performance of his duty is in the situation of a constable, technically and legally.

Mr. STANLEY. Mr. President, I do not wish to interrupt the Senator except to ask a question.

Mr. NELSON. I yield for that purpose.

Mr. STANLEY. Is it the contention of the Senator that prohibition officers can search the property of citizens upon bare suspicion?

Mr. NELSON. Certainly. In respect to that subject matter they have the powers of constables.

In the case of *Adams v. New York* (192 U. S., 598), the court says:

But the contention is that, if in the search for the instruments of crime other papers are taken, the same may not be given in evidence. As an illustration, if a search warrant is issued for stolen property, and burglars' tools be discovered and seized, they are to be excluded from testimony by force of these amendments. We think they were never intended to have that effect, but are rather designed to protect against

himself in a criminal trial, and to punish wrongful invasion of the home of the citizen or the unwarranted seizure of his papers and property, and to render invalid legislation or judicial procedure having such effect.

The framers of the Constitution were familiar with the common law on the subject, and hence they were content to adopt the common-law rule that no unreasonable searches or seizures should be made in any case, and that if an attempt to search or seize should be made under a warrant such warrant could only issue on the showing under oath of probable cause therefor. In either case, whether with or without warrant, the existence of probable cause is essential, and if a warrant is resorted to it can not be of the general character of that in the *Wilkes* case, but must "particularly describe the place to be searched and the person or thing to be seized."

An arrest, search, or seizure is unreasonable when in law there is no probable cause for it. In the case of *Wheeler v. Neshitt* (24 Howard (U. S.), 544), the court defines what is probable cause. It says:

Probable cause is the existence of such facts and circumstances as would excite the belief in a reasonable mind acting on the facts within the knowledge of the prosecutor that the person charged was guilty of a crime for which he was prosecuted.

In other words, there must be the same degree of probable cause as would justify the issuance of a warrant.

The only limitation I can find on this general rule is that found in *Boyd v. United States* (116 U. S., 616), where the court holds that the seizure of a person's papers to be used against him in a criminal case is compelling him to be a witness against himself contrary to the fifth amendment, and hence that it is an unreasonable seizure. A portion of the syllabus states the case as follows:

Search and seizure of a man's private papers to be used in evidence for the purpose of convicting him of crime, recovering a penalty, or of forfeiting his property, is totally different from the search and seizure of stolen goods, dutiable articles on which duties have not been paid, and the like, which rightfully belong to the custody of the law.

But in this connection I call attention to Judge Freeman's note to the case of *State v. Turner*, in 136 American State Reports, pages 135 to 162. See also *Commonwealth v. Dana* (2 Metcalf (Mass.), 337).

In the case of *Carl v. Ayers* (53 N. Y., 14), a case in which an arrest was made without warrant, the court defines "probable cause" in the following language:

Probable cause which will justify a criminal accusation is defined to be a reasonable ground of suspicion, supported by circumstances sufficiently strong in themselves to warrant a cautious man in his belief that the person accused is guilty of the offense with which he is charged. (*Munns v. Dupont*, 3 Wash. C. C. 37; *Foshay v. Ferguson*, 2 Denio, 617; *Bacon v. Towne*, 4 Cush., 218.)

In the case of *Munns v. Dupont* (3 Wash. C. C. Repts.), Justice Washington, who, I think, was a member of the Supreme Court, lays down the rule as follows:

What, then, is the meaning of the term "probable cause"? We answer, a reasonable ground of suspicion supported by circumstances sufficiently strong in themselves to warrant a cautious man in the belief that the person accused is guilty of the offense with which he is charged.

Section 6, as agreed to in the conference report, is clearly within the pale of the fourth amendment to the Constitution. Indeed, in one respect it is more restrictive, in that it requires a warrant to search a dwelling, a requirement not found in the fourth amendment. As regards all other searches and seizures, it leaves them where the fourth amendment leaves them. They must be reasonable; in other words, based upon probable cause as defined by the courts. And while a remedy by civil action for false imprisonment exists and has long existed, section 6 for the first time gives a remedy by criminal prosecution, so that he who makes a search or seizure maliciously and without probable cause is not only liable for damages in a civil action as heretofore, but is also liable criminally to a fine of \$1,000 for a first offense, and for any subsequent offense to such a fine and to imprisonment of not more than one year. We have thus given individuals whose property or person is searched or seized a double shield of protection.

I desire to cite at this point a copy of a specimen warrant, the one issued in the famous *Wilkes* case. That warrant reads:

George Montague Dunk, Earl of Halifax, Viscount Sunbury, and Baron Halifax, one of the lords of His Majesty's most honorable privy council, lieutenant general of His Majesty's forces, and principal secretary of state; these are in His Majesty's name to authorize and require you (taking a constable to your assistance) to make strict and diligent search for the authors, printers, and publishers of a seditious and treasonable paper entitled "The North Briton, No. 45," Saturday, April 3, 1763, and printed for G. Kearsley, in Ludgate Street, London; and them, or any of them, having found, to apprehend and seize, together with their papers, and to bring in safe custody before me to be examined concerning the premises, and further dealt with according to law; and in due execution thereof, all mayors, sheriffs, justices of the peace, constables, and all other His Majesty's officers, civil and military,

and loving subjects whom it may concern, are to be aiding and assisting to you, as there shall be occasion; and for so doing this shall be your warrant.

Given at St. James's the 26th day of April, in the third year of His Majesty's reign.

DUNK HALIFAX.

To NATHAN CARRINGTON, JOHN MONEY, JAMES WATSON, and ROBERT BLACKMORE, four of His Majesty's messengers in ordinary.

Mr. President, I will only say in conclusion that I have discussed this matter purely from its legal and constitutional standpoint, and my argument may be considered more of a brief than otherwise.

#### AMENDMENT OF TRANSPORTATION ACT OF 1920.

Mr. NEW obtained the floor.

Mr. CUMMINS. Mr. President, I renew my request for unanimous consent that the unfinished business, House bill 8331, be laid aside temporarily.

The PRESIDING OFFICER. The request of the Senator from Iowa is for unanimous consent that the unfinished business be temporarily laid aside. Is there objection? The Chair hears none, and it is so ordered.

#### RAILROAD BETWEEN SEWARD AND FAIRBANKS, ALASKA.

Mr. NEW. Mr. President, I rise to ask unanimous consent for the present consideration of House bill 8442, being order of business 317.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

Mr. HARRISON. Let the bill first be stated by its title.

The PRESIDING OFFICER. The title of the bill for which consideration is asked by the Senator from Indiana will be stated.

The READING CLERK. A bill (H. R. 8442) to amend an act entitled "An act to authorize the President of the United States to locate, construct, and operate railroads in the Territory of Alaska, and for other purposes," approved March 12, 1914, as amended.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

Mr. OVERMAN. I ask that the bill may be read.

The PRESIDING OFFICER. The bill will be read.

The reading clerk read the bill, as follows:

Be it enacted, etc., That the act entitled "An act to authorize the President of the United States to locate, construct, and operate railroads in the Territory of Alaska, and for other purposes," approved March 12, 1914, as amended, is further amended by adding at the end of section 2 a proviso to read as follows:

"Provided further, That in order to complete the construction and equipment of the railroad between Seward and Fairbanks, together with necessary sidings, spurs, and lateral branches, there is hereby authorized to be appropriated, in addition to all sums heretofore appropriated therefor, the sum of \$4,000,000, to be immediately and continuously available until expended."

Mr. OVERMAN. Does the bill provide an immediate appropriation of \$4,000,000?

Mr. NEW. The bill contemplates an appropriation of \$4,000,000. The reason for the immediate consideration of the bill is in order that the proposed appropriation may be estimated for in the budget which is to be submitted to Congress early in its forthcoming session. Unless the bill is passed the item can not be estimated for.

Mr. JONES of Washington. Mr. President, I think the Senator from Indiana misunderstood the question of the Senator from North Carolina. As I understand, this bill does not carry an appropriation at all; it simply increases the limit of cost of the railroad, so that, as the Senator from Indiana has said, an estimate may be sent to Congress and an appropriation be made hereafter.

Mr. NEW. That is correct; I misunderstood the question of the Senator from North Carolina.

Mr. OVERMAN. I did not understand the scope of the bill.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the bill was considered as in Committee of the Whole.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

#### EXECUTIVE SESSION.

Mr. CURTIS. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to, and the Senate proceeded to the consideration of executive business. After 10 minutes spent in executive session the doors were reopened; and (at 4 o'clock and 35 minutes p. m.) the Senate adjourned until to-morrow, Tuesday, November 15, 1921, at 12 o'clock meridian.



## NOMINATIONS.

*Executive nominations received by the Senate November 14, 1921.*

## POSTMASTERS.

## ALABAMA.

Pauline Balkcorn to be postmaster at Newton, Ala. Office became presidential July 1, 1920.

## ARKANSAS.

Jack Grayson to be postmaster at Prescott, Ark., in place of J. A. Marr, deceased.

## CALIFORNIA.

Earl Van Gorden to be postmaster at Cambria, Calif. Office became presidential April 1, 1921.

George C. Gianola to be postmaster at Pescadero, Calif. Office became presidential April 1, 1921.

James F. Wheat to be postmaster at Redlands, Calif., in place of R. W. Thomas, deceased.

James N. Long to be postmaster at Richmond, Calif., in place of Waverley Stairley. Incumbent's commission expired August 25, 1920.

## COLORADO.

Samuel Coen to be postmaster at Walden, Colo., in place of E. A. Osier, deceased.

## FLORIDA.

William H. May to be postmaster of Tallahassee, Fla., in place of G. I. Davis. Incumbent's commission expired August 3, 1920.

## GEORGIA.

Robert N. Gay to be postmaster at Garfield, Ga. Office became presidential January 1, 1921.

Rosa L. Lindsey to be postmaster at Irwinton, Ga. Office became presidential January 1, 1921.

William N. Casey to be postmaster at Kingsland, Ga. Office became presidential January 1, 1921.

Jefferson D. Stalvey to be postmaster at Lake Park, Ga. Office became presidential January 1, 1921.

Venter B. Godwin to be postmaster at Lenox, Ga. Office became presidential April 1, 1921.

Janie Pinkston to be postmaster at Parrott, Ga. Office became presidential January 1, 1921.

## IDAHO.

Milton L. March to be postmaster at Huston, Idaho. Office became presidential July 1, 1921.

## ILLINOIS.

Guy R. Correll to be postmaster at Hutsonville, Ill., in place of G. C. Lindley. Incumbent's commission expired January 17, 1920.

## INDIANA.

Mary J. Haines to be postmaster at Amboy, Ind. Office became presidential January 1, 1921.

## IOWA.

Chester B. De Veny to be postmaster at New Hartford, Iowa. Office became presidential January 1, 1921.

Earl Miller to be postmaster at Cantril, Iowa, in place of C. A. Jones. Incumbent's commission expired March 16, 1921.

## KANSAS.

Mina V. Townsend to be postmaster at Nashville, Kans. Office became presidential October 1, 1921.

William T. Brown to be postmaster at Wilsey, Kans. Office became presidential October 1, 1920.

Claude C. Wheat to be postmaster at Augusta, Kans., in place of H. B. Walker. Incumbent's commission expired March 16, 1921.

Sarah Lee to be postmaster at Louisburg, Kans., in place of A. D. White. Incumbent's commission expired December 16, 1919.

## KENTUCKY.

William B. Buford to be postmaster at Nicholasville, Ky., in place of J. B. Stears. Incumbent's commission expired May 15, 1920.

## MAINE.

William R. Elliott to be postmaster at Skowhegan, Me., in place of Clarence Mantor, deceased.

## MASSACHUSETTS.

Harry D. Whitney to be postmaster at Milford, Mass., in place of James Lally. Incumbent's commission expired July 17, 1921.

## MICHIGAN.

William H. Richards to be postmaster at Perrinton, Mich. Office became presidential April 1, 1921.

## MINNESOTA.

Katherine C. McCaffrey to be postmaster at La Crescent, Minn. Office became presidential April 1, 1921.

Laurence A. Weston to be postmaster at Waubun, Minn. Office became presidential April 1, 1920.

## MISSOURI.

Arthur F. Goetz to be postmaster at Canton, Mo., in place of C. H. Smith, resigned.

## NEBRASKA.

Leslie J. Hummel to be postmaster at Burwell, Nebr., in place of L. J. Hummel. Incumbent's commission expired January 5, 1920.

Harry P. Cato to be postmaster at Valley, Nebr., in place of C. B. Nichols. Incumbent's commission expired July 21, 1920.

## NEW HAMPSHIRE.

Charles E. Beede to be postmaster at Fremont, N. H. Office became presidential July 1, 1921.

## NEW JERSEY.

Annie Hoskings to be postmaster at Bloomingdale, N. J. Office became presidential January 1, 1921.

George Whetham to be postmaster at Haskell, N. J., in place of George Whetham. Incumbent's commission expired March 29, 1920.

## NEW MEXICO.

Philip Jagels to be postmaster at Bernalillo, N. Mex. Office became presidential January 1, 1921.

Laura J. Smith to be postmaster at Koehler, N. Mex. Office became presidential July 1, 1921.

Philip N. Sanchez to be postmaster at Mora, N. Mex. Office became presidential January 1, 1921.

Guy Miner to be postmaster at Des Moines, N. Mex., in place of C. E. Byrne. Incumbent's commission expired January 23, 1921.

## NEW YORK.

F. L. Babcock to be postmaster at Massena Springs, N. Y. Office became presidential October 1, 1921.

Thomas W. Crane to be postmaster at Locust Valley, N. Y., in place of R. H. Goss, deceased.

George H. Fischer to be postmaster at Mayville, N. Y., in place of Adam Hersperger. Incumbent's commission expired March 16, 1921.

Edwin G. Conde to be postmaster at Schenectady, N. Y., in place of Edwin Clute, deceased.

## NORTH DAKOTA.

Ida G. H. Morrow to be postmaster at Drake, N. Dak., in place of H. K. O. Schilling. Incumbent's commission expired January 5, 1920.

Olaf N. Hegge to be postmaster at Hatton, N. Dak., in place of H. M. Haakenson. Incumbent's commission expired January 17, 1920.

## OHIO.

Carl Ledman to be postmaster at Byesville, Ohio, in place of E. H. Dixon. Incumbent's commission expired January 18, 1920.

Edgar H. Bailey to be postmaster at Eaton, Ohio, in place of W. H. Bucke. Incumbent's commission expired July 10, 1920.

Orin Breckinridge to be postmaster at Grove City, Ohio, in place of A. L. Van Sciever, deceased.

## OKLAHOMA.

Ethelbert H. Moats to be postmaster at Calumet, Okla., in place of J. W. Haydon. Incumbent's commission expired January 19, 1921.

## PENNSYLVANIA.

James H. Barnett to be postmaster at Jenners, Pa. Office became presidential July 1, 1921.

Johanna Priester to be postmaster at Wheatland, Pa. Office became presidential January 1, 1921.

Harry W. Thatcher to be postmaster at Bethlehem, Pa., in place of A. H. Barthold. Incumbent's commission expired March 16, 1921.

Charles W. Newman to be postmaster at Wyalusing, Pa., in place of F. G. Ackley. Incumbent's commission expired May 16, 1920.

## SOUTH DAKOTA.

Chester T. Chester to be postmaster at Arlington, S. Dak., in place of H. R. Richardson, removed.

## TENNESSEE.

James G. McKenzie to be postmaster at Big Sandy, Tenn., in place of Leon Caraway. Incumbent's commission expired January 2, 1921.

Henry W. Addington to be postmaster at Bullsgap, Tenn., in place of Y. A. Quillen. Incumbent's commission expired January 2, 1921.

Willard J. Springfield to be postmaster at Chattanooga, Tenn., in place of T. C. Howell. Incumbent's commission expired January 23, 1921.

## VIRGINIA.

Walter C. Stout to be postmaster at Cumberland, Va. Office became presidential April 1, 1920.

## WASHINGTON.

James S. Edwards to be postmaster at Ritzville, Wash., in place of Antoine Faucher. Incumbent's commission expired January 5, 1920.

## WEST VIRGINIA.

Mary White to be postmaster at Matewan, W. Va., in place of A. L. Hatfield, resigned.

## WISCONSIN.

George A. Slaikeu to be postmaster at Luck, Wis., in place of G. A. Slaiken, to correct name.

Frank E. Christensen to be postmaster at Necedah, Wis., in place of C. T. O'Brien, resigned.

## CONFIRMATIONS.

*Executive nominations confirmed by the Senate November 14, 1921.*

## UNITED STATES DISTRICT JUDGE.

John A. Peters to be United States district judge, district of Maine.

## NAVAL OFFICE OF CUSTOMS.

John J. Deane to be naval officer of customs, collection district No. 28, with headquarters at San Francisco, Calif.

## COLLECTOR OF INTERNAL REVENUE.

Charles M. Dean to be collector of internal revenue, first district of Ohio.

Leslie Jensen, to be collector of internal revenue, district of South Dakota.

## POSTMASTERS.

## FLORIDA.

Myrtle B. Johnson, Jensen.

Tom E. Chaires, Odessa.

## SOUTH CAROLINA.

William B. Blakeley, Andrews.

## WITHDRAWAL.

*Executive nomination withdrawn from the Senate November 14, 1921.*

## POSTMASTER.

H. F. Woodcock to be postmaster at Maupin, in the State of Oregon.

## HOUSE OF REPRESENTATIVES.

Monday, November 14, 1921.

The House met at 12 o'clock noon.

The Chaplain, Rev. James Spera Montgomery, D. D., offered the following prayer:

Lord God of Hosts, we hope we are grateful for the condescending mercy of Thy goodness and for the growing revelation of Thy truth. At Thy altar we give Thee praise and thanksgiving for the birth of the world's new morning. O God, long has it been waiting and hoping for the dawn of this day, when the dayspring from on high would indeed begin to break through the darkness and usher in the light of harmony, peace, and good will. O Lord of the ages, help, help, we beseech Thee, that none of Thy servants may fail or falter and that human welfare may no longer reek on the battle fronts of the world. Here and now may we renew our vows of obligation and quicken our sense of responsibility and look straight into the face of our tasks with resolute courage, and with Thee as our guide. And Thine shall be the glory forever. In the name of Jesus. Amen.

The Journal of the proceedings of Friday was read and approved.

## ENROLLED BILL SIGNED.

Mr. RICKETTS, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bill of the following title, when the Speaker signed the same:

H. R. 8643. An act to extend the tariff act approved May 27, 1921.

## PRESIDENT'S ADDRESS AT ARLINGTON.

Mr. MONDELL. Mr. Speaker, I ask unanimous consent that the President's address delivered at Arlington on Friday may be printed in the CONGRESSIONAL RECORD.

The SPEAKER pro tempore (Mr. WALSH). The gentleman from Wyoming asks unanimous consent that the address of the President delivered at Arlington on Friday may be printed in the CONGRESSIONAL RECORD. Is there objection? [After a pause.] The Chair hears none.

The address is as follows:

ADDRESS AT THE BURIAL OF AN UNKNOWN AMERICAN SOLDIER, ARLINGTON CEMETERY, NOVEMBER 11, 1921.

Mr. Secretary of War and ladies and gentlemen, we are met today to pay the impersonal tribute. The name of him whose body lies before us took flight with his imperishable soul. We know not whence he came, but only that his death marks him with the everlasting glory of an American dying for his country.

He might have come from any one of millions of American homes. Some mother gave him in her love and tenderness, and with him her most cherished hopes. Hundreds of mothers are wondering today, finding a touch of solace in the possibility that the Nation bows in grief over the body of one she bore to live and die, if need be, for the Republic. If we give rein to fancy, a score of sympathetic chords are touched, for in this body there once glowed the soul of an American, with the aspirations and ambitions of a citizen who cherished life and its opportunities. He may have been a native or an adopted son; that matters little, because they glorified the same loyalty, they sacrificed alike.

We do not know his station in life, because from every station came the patriotic response of the five millions. I recall the days of creating armies, and the departing of caravels which braved the murderous seas to reach the battle lines for maintained nationality and preserved civilization. The service flag marked mansion and cottage alike, and riches were common to all homes in the consciousness of service to country.

We do not know the eminence of his birth, but we do know the glory of his death. He died for his country, and greater devotion hath no man than this. He died unquestioning, uncomplaining, with faith in his heart and hope on his lips, that his country should triumph and its civilization survive. As a typical soldier of this representative democracy, he fought and died, believing in the indisputable justice of his country's cause. Conscious of the world's upheaval, appraising the magnitude of a war the like of which had never horrified humanity before, perhaps he believed his to be a service destined to change the tide of human affairs.

In the death gloom of gas, the bursting of shells and rain of bullets, men face more intimately the great God over all, their souls are aflame, and consciousness expands and hearts are searched. With the din of battle, the glow of conflict, and the supreme trial of courage, come involuntarily the hurried appraisal of life and the contemplation of death's great mystery. On the threshold of eternity many a soldier, I can well believe, wondered how his ebbing blood would color the stream of human life, flowing on after his sacrifice. His patriotism was none less if he craved more than triumph of country; rather, it was greater if he hoped for a victory for all mankind. Indeed, I revere that citizen whose confidence in the righteousness of his country inspired belief that its triumph is the victory of humanity.

This American soldier went forth to battle with no hatred for any people in the world, but hating war and hating the purpose of every war for conquest. He cherished our national rights, and abhorred the threat of armed domination; and in the maelstrom of destruction and suffering and death he fired his shot for liberation of the captive conscience of the world. In advancing toward his objective was somewhere a thought of a world awakened; and we are here to testify undying gratitude and reverence for that thought of a wider freedom.

On such an occasion as this, amid such a scene, our thoughts alternate between defenders living and defenders dead. A grateful Republic will be worthy of them both. Our part is to atone for the losses of heroic dead by making a better Republic for the living.

Sleeping in these hallowed grounds are thousands of Americans who have given their blood for the baptism of freedom and its maintenance, armed exponents of the Nation's conscience.



It is better and nobler for their deeds. Burial here is rather more than a sign of the Government's favor; it is a suggestion of a tomb in the heart of the Nation, sorrowing for its noble dead.

To-day's ceremonies proclaim that the hero unknown is not unhonored. We gather him to the Nation's breast, within the shadow of the Capitol, of the towering shaft that honors Washington, the great father, and of the exquisite monument to Lincoln, the martyred savior. Here the inspirations of yesterday and the conscience of to-day forever unite to make the Republic worthy of his death for flag and country.

Ours are lofty resolutions to-day, as with tribute to the dead we consecrate ourselves to a better order for the living. With all my heart I wish we might say to the defenders who survive, to mothers who sorrow, to widows and children who mourn, that no such sacrifice shall be asked again.

It was my fortune recently to see a demonstration of modern warfare. It is no longer a conflict in chivalry, no more a test of militant manhood. It is only cruel, deliberate, scientific destruction. There was no contending enemy, only the theoretical defense of a hypothetical objective. But the attack was made with all the relentless methods of modern destruction. There was the rain of ruin from the aircraft, the thunder of artillery, followed by the unspeakable devastation wrought by bursting shells; there were mortars belching their bombs of desolation; machine guns concentrating their leaden storms; there was the Infantry, advancing, firing, and falling—like men with souls sacrificing for the decision. The flying missiles were revealed by illuminating tracers, so that we could note their flight and appraise their deadliness. The air was streaked with tiny flames marking the flight of massed destruction; while the effectiveness of the theoretical defense was impressed by the simulation of dead and wounded among those going forward, undaunted and unheeding. As this panorama of unutterable destruction visualized the horrors of modern conflict, there grew on me the sense of the failure of a civilization which can leave its problems to such cruel arbitrament. Surely no one in authority, with human attributes and a full appraisal of the patriotic loyalty of his countrymen, could ask the manhood of kingdom, empire, or republic to make such a sacrifice until all reason had failed, until appeal to justice through understanding had been denied, until every effort of love and consideration for fellow men had been exhausted, until freedom itself and inviolate honor had been brutally threatened.

I speak not as a pacifist fearing war, but as one who loves justice and hates war. I speak as one who believes the highest function of government is to give its citizens the security of peace, the opportunity to achieve, and the pursuit of happiness.

The loftiest tribute we can bestow to-day—the heroically earned tribute—fashioned in deliberate conviction, out of unclouded thought, neither shadowed by remorse nor made vain by fancies, is the commitment of this Republic to an advancement never made before. If American achievement is a cherished pride at home, if our unselfishness among nations is all we wish it to be, and ours is a helpful example in the world, then let us give of our influence and strength, yea, of our aspirations and convictions, to put mankind on a little higher plane, exulting and exalting, with war's distressing and depressing tragedies barred from the stage of righteous civilization.

There have been a thousand defenses justly and patriotically made; a thousand offenses which reason and righteousness ought to have stayed. Let us beseech all men to join us in seeking the rule under which reason and righteousness shall prevail.

Standing to-day on hallowed ground, conscious that all America has halted to share in the tribute of heart and mind and soul to this fellow American, and knowing that the world is noting this expression of the Republic's mindfulness, it is fitting to say that his sacrifice, and that of the millions dead, shall not be in vain. There must be, there shall be, the commanding voice of a conscious civilization against armed warfare.

As we return this poor clay to its mother soil, garlanded by love and covered with the decorations that only nations can bestow, I can sense the prayers of our people, of all peoples, that this Armistice Day shall mark the beginning of a new and lasting era of peace on earth, good will among men. Let me join in that prayer.

Our Father who art in heaven, hallowed be Thy name. Thy kingdom come, Thy will be done on earth, as it is in heaven. Give us this day our daily bread, and forgive us our trespasses as we forgive those who trespass against us. And lead us not into temptation, but deliver us from evil, for Thine is the kingdom, and the power, and the glory, forever. Amen.

#### ADDRESSES BEFORE THE FIRST SESSION OF THE CONFERENCE ON THE LIMITATION OF ARMAMENTS.

**Mr. MONDELL.** Mr. Speaker, I ask unanimous consent that the President's address and the address of the Secretary of State delivered at the first session of the Conference on the Limitation of Armaments may be printed in the Record.

**The SPEAKER pro tempore.** The gentleman from Wyoming asks unanimous consent that the President's address and the address of the Secretary of State delivered at the first session of the Conference on the Limitation of Armaments be printed in the Record. Is there objection?

**Mr. RANKIN.** Mr. Speaker, reserving the right to object, will the gentleman from Wyoming yield? Will the gentleman from Wyoming also include in that the addresses made by the other delegates at the opening of the conference? They have been all printed, and I think they should go in the Record, and I should like the gentleman from Wyoming to include that in his request; either put them in separately or as one. I have no objection to his request.

**Mr. MONDELL.** I am not certain that it would be possible to secure to-day accurate copies or translations of those addresses. I should certainly like to have them printed.

**Mr. RANKIN.** I have no objection.

**Mr. MONDELL.** But I doubt if they could be secured to-day.

**Mr. CAMPBELL of Kansas.** Mr. Speaker—

**Mr. MONDELL.** Just a moment. I did not hear what the gentleman said.

**Mr. RANKIN.** I have those speeches. They were published yesterday, I believe, in some of the papers and I cut them out. I shall be very glad to furnish them to the gentleman from Wyoming if he will insert them.

**Mr. MONDELL.** Has the gentleman accurate copies of those statements that the gentlemen who delivered them would want to vouch for? I have no objection to their being printed; in fact, I would be very glad to have them printed, but up to date I have not been able to secure copies. The copies printed must be authenticated copies and bear the O. K. of the gentlemen who delivered the addresses.

**Mr. RANKIN.** They all were written in advance, except, possibly, one or two. I heard all those addresses, and so far as I remember they are accurate as printed.

**Mr. MONDELL.** Mr. Speaker, I would prefer not to include those in my request, in the hope we may secure authenticated copies from those who spoke. I do not think they should go in to-day.

**Mr. CAMPBELL of Kansas.** Mr. Speaker—

**Mr. RANKIN.** I have no objection.

**Mr. McARTHUR.** Mr. Speaker, I ask for the regular order.

**The SPEAKER pro tempore.** The regular order is, Is there objection to the request of the gentleman from Wyoming that the President's address and the address of the Secretary of State at the Conference on the Limitation of Armaments be printed in the Record? The Chair hears none.

The addresses are as follows:

#### ADDRESS OF THE PRESIDENT OF THE UNITED STATES AT THE OPENING OF THE CONFERENCE ON LIMITATION OF ARMAMENTS AT WASHINGTON NOVEMBER 12, 1921.

Mr. Secretary and members of the conference, ladies and gentlemen, it is a great and happy privilege to bid the delegates to this conference a cordial welcome to the Capital of the United States of America. It is not only a satisfaction to greet you because we were lately participants in a common cause, in which shared sacrifices and sorrows and triumphs brought our nations more closely together, but it is gratifying to address you as the spokesmen for nations whose convictions and attending actions have so much to do with the weal or woe of all mankind.

It is not possible to overappraise the importance of such a conference. It is no unseemly boast, no disparagement of other nations which, though not represented, are held in highest respect, to declare that the conclusions of this body will have a signal influence on all human progress—on the fortunes of the world.

Here is a meeting, I can well believe, which is an earnest of the awakened conscience of twentieth-century civilization. It is not a convention of remorse, nor a session of sorrow. It is not the conference of victors to define terms of settlement. Nor is it a council of nations seeking to remake humankind. It is rather a coming together, from all parts of the earth, to apply the better attributes of mankind to minimize the faults in our international relationships.

Speaking as official sponsor for the invitation, I think I may say the call is not of the United States of America alone; it is

rather the spoken word of a war-wearied world, struggling for restoration, hungering and thirsting for better relationship; of humanity crying for relief and craving assurances of lasting peace.

It is easy to understand this world-wide aspiration. The glory of triumph, the rejoicing in achievement, the love of liberty, the devotion to country, the pangs of sorrow, the burdens of debt, the desolation of ruin—all these are appraised alike in all lands. Here in the United States we are but freshly turned from the burial of an unknown American soldier, when a nation sorrowed while paying him tribute. Whether it was spoken or not, a hundred millions of our people were summing up the inexcusable causes, the incalculable cost, the unspeakable sacrifices, and the unutterable sorrows, and there was the ever-impelling question: How can humanity justify or God forgive? Human hate demands no such toll; ambition and greed must be denied it. If misunderstanding must take the blame, then let us banish it, and let understanding rule and make good will regnant everywhere. All of us demand liberty and justice. There can not be one without the other, and they must be held the unquestioned possession of all peoples. Inherent rights are of God, and the tragedies of the world originate in their attempted denial. The world to-day is infringing their enjoyment by arming to defend or deny, when simple sanity calls for their recognition through common understanding.

Out of the cataclysm of the World War came new fellowships, new convictions, new aspirations. It is ours to make the most of them. A world staggering with debt needs its burden lifted. Humanity which has been shocked by wanton destruction would minimize the agencies of that destruction. Contemplating the measureless cost of war and the continuing burden of armament, all thoughtful peoples wish for real limitation of armament and would like war outlawed. In soberest reflection the world's hundreds of millions who pay in peace and die in war wish their statesmen to turn the expenditures for destruction into means of construction, aimed at a higher state for those who live and follow after.

It is not alone that the world can not readjust itself and cast aside the excess burdens without relief from the leaders of men. War has grown progressively cruel and more destructive from the first recorded conflict to this pregnant day, and the reverse order would more become our boasted civilization.

Gentlemen of the conference, the United States welcomes you with unselfish hands. We have no fears; we have no sordid ends to serve; we suspect no enemy; we contemplate or apprehend no conquest. Content with what we have, we seek nothing which is another's. We only wish to do with you that finer, nobler thing which no nation can do alone.

We wish to sit with you at the table of international understanding and good will. In good conscience we are eager to meet you frankly, and invite and offer cooperation. The world demands a sober contemplation of the existing order and the realization that there can be no cure without sacrifice, not by one of us, but by all of us.

I do not mean surrendered rights, or narrowed freedom, or denied aspirations, or ignored national necessities. Our Republic would no more ask for these than it would give. No pride need be humbled, no nationality submerged, but I would have a mergence of minds committing all of us to less preparation for war and more enjoyment of fortunate peace.

The higher hopes come of the spirit of our coming together. It is but just to recognize varying needs and peculiar positions. Nothing can be accomplished in disregard of national apprehensions. Rather, we should act together to remove the causes of apprehensions. This is not to be done in intrigue. Greater assurance is found in the exchanges of simple honesty and directness, among men resolved to accomplish as becomes leaders among nations, when civilization itself has come to its crucial test.

It is not to be challenged that government fails when the excess of its cost robs the people of the way to happiness and the opportunity to achieve. If the finer sentiments were not urging, the cold, hard facts of excessive cost and the eloquence of economics would urge us to reduce our armaments. If the concept of a better order does not appeal, then let us ponder the burden and the blight of continued competition.

It is not to be denied that the world has swung along throughout the ages without heeding this call from the kindlier hearts of men. But the same world never before was so tragically brought to realization of the utter futility of passion's sway when reason and conscience and fellowship point a nobler way.

I can speak officially only for our United States. Our hundred millions frankly want less of armament and none of war.

Wholly free from guile, sure in our own minds that we harbor no unworthy designs, we accredit the world with the same good intent. So I welcome you, not alone in good will and high purpose, but with high faith.

We are met for a service to mankind. In all simplicity, in all honesty and all honor, there may be written here the avowals of a world conscience refined by the consuming fires of war, and made more sensitive by the anxious aftermath. I hope for that understanding which will emphasize the guaranties of peace, and for commitments to less burdens and a better order which will tranquilize the world. In such an accomplishment there will be added glory to your flags and ours, and the rejoicing of mankind will make the transcending music of all succeeding time.

ADDRESS OF CHARLES E. HUGHES, SECRETARY OF STATE OF THE UNITED STATES AND AMERICAN COMMISSIONER TO THE CONFERENCE ON LIMITATION OF ARMAMENTS, ON ASSUMING THE DUTIES OF PRESIDING OFFICER AT THE CONFERENCE, WASHINGTON, D. C., NOVEMBER 12, 1921.

"Gentlemen, it is with a deep sense of privilege and responsibility that I accept the honor you have conferred.

"Permit me to express the most cordial appreciation of the assurances of friendly cooperation which have been generously expressed by the representatives of all the invited Governments. The earnest desire and purpose, manifested in every step in the approach to this meeting, that we should meet the reasonable expectation of a watching world by effective action suited to the opportunity is the best augury for the success of the conference.

"The President invited the Governments of the British Empire, France, Italy, and Japan to participate in a conference on the subject of limitation of armament, in connection with which Pacific and Far Eastern questions would also be discussed. It would have been most agreeable to the President to have invited all the powers to take part in this conference, but it was thought to be a time when other considerations should yield to the practical requirements of the existing exigency, and in this view the invitation was extended to the group known as the principal allied and associated powers, which, by reason of the conditions produced by the war, control in the main the armament of the world. The opportunity to limit armament lies within their grasp.

"It was recognized, however, that the interests of other powers in the Far East made it appropriate that they should be invited to participate in the discussion of Pacific and Far Eastern problems, and, with the approval of the five powers, an invitation to take part in the discussion of those questions has been extended to Belgium, China, the Netherlands, and Portugal.

"The inclusion of the proposal for the discussion of Pacific and Far Eastern questions was not for the purpose of embarrassing or delaying an agreement for limitation of armament, but rather to support that undertaking by availing ourselves of this meeting to endeavor to reach a common understanding as to the principles and policies to be followed in the Far East and thus greatly to diminish, and if possible wholly to remove, discernible sources of controversy. It is believed that by interchanges of views at this opportune time the Governments represented here may find a basis of accord and thus give expression to their desire to assure enduring friendship.

"In the public discussions which have preceded the conference there have been apparently two competing views; one, that the consideration of armament should await the result of the discussion of Far Eastern questions, and another, that the latter discussion should be postponed until an agreement for limitation of armament has been reached. I am unable to find sufficient reason for adopting either of these extreme views. I think that it would be most unfortunate if we should disappoint the hopes which have attached to this meeting by a postponement of the consideration of the first subject. The world looks to this conference to relieve humanity of the crushing burden created by competition in armament, and it is the view of the American Government that we should meet that expectation without any unnecessary delay. It is therefore proposed that the conference should proceed at once to consider the question of the limitation of armament.

"This, however, does not mean that we must postpone the examination of Far Eastern questions. These questions of vast importance press for solution. It is hoped that immediate provision may be made to deal with them adequately, and it is suggested that it may be found to be entirely practicable through the distribution of the work among designated committees to make progress to the ends sought to be achieved without either subject being treated as a hindrance to the proper consideration and disposition of the other.



"The proposal to limit armament by an agreement of the powers is not a new one, and we are admonished by the futility of earlier efforts. It may be well to recall the noble aspirations which were voiced 23 years ago in the imperial rescript of His Majesty the Emperor of Russia. It was then pointed out with clarity and emphasis that 'The intellectual and physical strength of the nations, labor, and capital are for the major part diverted from their natural application and unproductively consumed. Hundreds of millions are devoted to acquiring terrible engines of destruction, which, though to-day regarded as the last word of science, are destined to-morrow to lose all value in consequence of some fresh discovery in the same field. National culture, economic progress, and the production of wealth are either paralyzed or checked in their development. Moreover, in proportion as the armaments of each power increase, so do they less and less fulfill the object which the Governments have set before themselves. The economic crises, due in great part to the system of armaments a l'outrance and the continual danger which lies in this massing of war materials, are transforming the armed peace of our days into a crushing burden, which the peoples have more and more difficulty in bearing. It appears evident, then, that if this state of things were prolonged it would inevitably lead to the calamity which it is desired to avert, and the horrors of which make every thinking man shudder in advance. To put an end to these incessant armaments and to seek the means of warding off the calamities which are threatening the whole world—such is the supreme duty which is to-day imposed on all States.'

"It was with this sense of obligation that His Majesty the Emperor of Russia proposed the conference, which was 'to occupy itself with this grave problem' and which met at The Hague in the year 1899. Important as were the deliberations and conclusions of that conference, especially with respect to the pacific settlement of international disputes, its result in the specific matter of limitation of armament went no further than the adoption of a final resolution setting forth the opinion 'that the restriction of military charges, which are at present a heavy burden on the world, is extremely desirable for the increase of the material and moral welfare of mankind,' and the utterance of the wish that the Governments 'may examine the possibility of an agreement as to the limitation of armed forces by land and sea, and of war budgets.'

"It was seven years later that the Secretary of State of the United States, Mr. Elihu Root, in answering a note of the Russian ambassador suggesting in outline a program of the second peace conference, said: 'The Government of the United States, therefore, feels it to be its duty to reserve for itself the liberty to propose to the second peace conference, as one of the subjects for consideration, the reduction or limitation of armaments, in the hope that, if nothing further can be accomplished, some slight advance may be made toward the realization of the lofty conception which actuated the Emperor of Russia in calling the first conference.' It is significant that the Imperial German Government expressed itself as 'absolutely opposed to the question of disarmament' and that the Emperor of Germany threatened to decline to send delegates if the subject of disarmament was to be discussed. In view, however, of the resolution which had been adopted at the first Hague conference the delegates of the United States were instructed that the subject of limitation of armament 'should be regarded as unfinished business, and that the second conference should ascertain and give full consideration to the results of such examination as the Governments may have given to the possibility of an agreement pursuant to the wish expressed by the first conference.' But by reason of the obstacles which the subject had encountered, the second peace conference at The Hague, although it made notable progress in provision for the peaceful settlement of controversies, was unable to deal with limitation of armament except by a resolution in the following general terms: 'The conference confirms the resolution adopted by the conference of 1899 in regard to the limitation of military expenditure; and inasmuch as military expenditure has considerably increased in almost every country since that time the conference declares that it is eminently desirable that the Governments should resume the serious examination of this question.'

"This was the fruition of the efforts of eight years. Although the effect was clearly perceived, the race in preparation of armament, wholly unaffected by these futile suggestions, went on until it fittingly culminated in the greatest war of history; and we are now suffering from the unparalleled loss of life, the destruction of hopes, the economic dislocations, and the widespread impoverishment which measure the cost of the victory over the brutal pretensions of military force.

"But if we are warned by the inadequacy of earlier endeavors for limitation of armament, we can not fail to recognize the extraordinary opportunity now presented. We not only have the lessons of the past to guide us, not only do we have the reaction from the disillusioning experiences of war, but we must meet the challenge of imperative economic demands. What was convenient or highly desirable before is now a matter of vital necessity. If there is to be economic rehabilitation, if the longings for reasonable progress are not to be denied, if we are to be spared the uprisings of peoples made desperate in the desire to shake off burdens no longer endurable, competition in armament must stop. The present opportunity not only derives its advantage from a general appreciation of this fact, but the power to deal with the exigency now rests with a small group of nations, represented here, who have every reason to desire peace and to promote amity. The astounding ambition which lay athwart the promise of the second Hague conference no longer menaces the world, and the great opportunity of liberty-loving and peace-preserving democracies has come. Is it not plain that the time has passed for mere resolutions that the responsible powers should examine the question of limitation of armament? We can no longer content ourselves with investigations, with statistics, with reports, with the circumlocution of inquiry. The essential facts are sufficiently known. The time has come, and this conference has been called, not for general resolutions or mutual advice, but for action. We meet with full understanding that the aspirations of mankind are not to be defeated either by plausible suggestions of postponement or by impracticable counsels of perfection. Power and responsibility are here and the world awaits a practicable program which shall at once be put into execution.

"I am confident that I shall have your approval in suggesting that in this matter, as well as in others before the conference, it is desirable to follow the course of procedure which has the best promise of achievement rather than one which would facilitate division; and thus, constantly aiming to agree so far as possible, we shall, with each point of agreement, make it easier to proceed to others.

"The question, in relation to armament, which may be regarded as of primary importance at this time, and with which we can deal most promptly and effectively, is the limitation of naval armament. There are certain general considerations which may be deemed pertinent to this subject.

"The first is that the core of the difficulty is to be found in the competition in naval programs, and that, in order appropriately to limit naval armament, competition in its production must be abandoned. Competition will not be remedied by resolves with respect to the method of its continuance. One program inevitably leads to another, and if competition continues, its regulation is impracticable. There is only one adequate way out and that is to end it now.

"It is apparent that this can not be accomplished without serious sacrifices. Enormous sums have been expended upon ships under construction and building programs which are now under way can not be given up without heavy loss. Yet if the present construction of capital ships goes forward other ships will inevitably be built to rival them and this will lead to still others. Thus the race will continue so long as ability to continue lasts. The effort to escape sacrifices is futile. We must face them or yield our purpose.

"It is also clear that no one of the naval powers should be expected to make these sacrifices alone. The only hope of limitation of naval armament is by agreement among the nations concerned, and this agreement should be entirely fair and reasonable in the extent of the sacrifices required of each of the powers. In considering the basis of such an agreement, and the commensurate sacrifices to be required, it is necessary to have regard to the existing naval strength of the great naval powers, including the extent of construction already effected in the case of ships in process. This follows from the fact that one nation is as free to compete as another, and each may find grounds for its action. What one may do another may demand the opportunity to rival, and we remain in the thrall of competitive effort. I may add that the American delegates are advised by their naval experts that the tonnage of capital ships may fairly be taken to measure the relative strength of navies, as the provision for auxiliary combatant craft should sustain a reasonable relation to the capital-ship tonnage allowed.

"It would also seem to be a vital part of a plan for the limitation of naval armament that there should be a naval holiday. It is proposed that for a period of not less than 10 years there should be no further construction of capital ships.

"I am happy to say that I am at liberty to go beyond these general propositions and, on behalf of the American delegation

acting under the instructions of the President of the United States, to submit to you a concrete proposition for an agreement for the limitation of naval armament.

"It should be added that this proposal immediately concerns the British Empire, Japan, and the United States. In view of the extraordinary conditions due to the World War affecting the existing strength of the navies of France and Italy, it is not thought to be necessary to discuss at this stage of the proceedings the tonnage allowance of these nations, but the United States proposes that this matter be reserved for the later consideration of the conference.

"In making the present proposal the United States is most solicitous to deal with the question upon an entirely reasonable and practicable basis, to the end that the just interests of all shall be adequately guarded and that national security and defense shall be maintained. Four general principles have been applied;

"(1) That all capital-ship building programs, either actual or projected, should be abandoned;

"(2) That further reduction should be made through the scrapping of certain of the older ships;

"(3) That in general regard should be had to the existing naval strength of the powers concerned;

"(4) That the capital-ship tonnage should be used as the measurement of strength for navies and a proportionate allowance of auxiliary combatant craft prescribed.

"The principal features of the proposed agreement are as follows:

"CAPITAL SHIPS.

"UNITED STATES.

"The United States is now completing its program of 1916 calling for 10 new battleships and 6 battle cruisers. One battleship has been completed. The others are in various stages of construction; in some cases from 60 to over 80 per cent of the construction has been done. On these 15 capital ships now being built over \$330,000,000 have been spent. Still, the United States is willing in the interest of an immediate limitation of naval armament to scrap all these ships.

"The United States proposes, if this plan is accepted—

"(1) To scrap all capital ships now under construction. This includes 6 battle cruisers and 7 battleships on the ways and in course of building, and 2 battleships launched.

"The total number of new capital ships thus to be scrapped is 15. The total tonnage of the new capital ships when completed would be 618,000 tons.

"(2) To scrap all of the older battleships up to, but not including, the *Delaware* and *North Dakota*. The number of these old battleships to be scrapped is 15. Their total tonnage is 227,740 tons.

"Thus the number of capital ships to be scrapped by the United States, if this plan is accepted, is 30, with an aggregate tonnage (including that of ships in construction, if completed) of 845,740 tons.

"GREAT BRITAIN.

"The plan contemplates that Great Britain and Japan shall take action which is fairly commensurate with this action on the part of the United States.

"It is proposed that Great Britain—

"(1) Shall stop further construction of the four new Hoods, the new capital ships not laid down but upon which money has been spent. These four ships, if completed, would have tonnage displacement of 172,000 tons.

"(2) Shall, in addition, scrap her predreadnaughts, second line battleships, and first-line battleships up to, but not including, the *King George V* class.

"These, with certain predreadnaughts which it is understood have already been scrapped, would amount to 19 capital ships and a tonnage reduction of 411,375 tons.

"The total tonnage of ships thus to be scrapped by Great Britain (including the tonnage of the four Hoods, if completed) would be 583,375 tons.

"JAPAN.

"It is proposed that Japan—

"(1) Shall abandon her program of ships not yet laid down, viz, the *Kii*, *Oicari*, No. 7, and No. 8 battleships, and Nos. 5, 6, 7, and 8 battle cruisers.

"It should be observed that this does not involve the stopping of construction, as the construction of none of these ships has been begun.

"(2) Shall scrap three capital ships (the *Mutsu* launched, the *Tosa*, and *Kago* in course of building) and four battle cruisers (the *Amagi* and *Akagi* in course of building, and the *Atoga* and *Takao* not yet laid down, but for which certain material has been assembled).

"The total number of new capital ships to be scrapped under this paragraph is seven. The total tonnage of these new capital ships when completed would be 289,100 tons.

"(3) Shall scrap all predreadnaughts and battleships of the second line. This would include the scrapping of all ships up to but not including the *Settsu*; that is, the scrapping of 10 older ships, with a total tonnage of 159,828 tons.

"The total reduction of tonnage on vessels existing, laid down, or for which material has been assembled (taking the tonnage of the new ships when completed) would be 448,928 tons.

"Thus, under this plan there would be immediately destroyed, of the navies of the three powers, 66 capital fighting ships, built and building, with a total tonnage of 1,878,043.

"It is proposed that it should be agreed by the United States, Great Britain, and Japan that their navies, with respect to capital ships, within three months after the making of the agreement, shall consist of certain ships designated in the proposal and numbering for the United States, 18; for Great Britain, 22; for Japan, 10.

"The tonnage of these ships would be as follows: Of the United States, 500,650; of Great Britain, 604,450; of Japan, 299,700. In reaching this result, the age factor in the case of the respective navies has received appropriate consideration.

"REPLACEMENT.

"With respect to replacement, the United States proposes:

"(1) That it be agreed that the first replacement tonnage shall not be laid down until 10 years from the date of the agreement;

"(2) That replacement be limited by an agreed maximum of capital ship tonnage as follows:

	Tons.
"For the United States.....	500,000
"For Great Britain.....	500,000
"For Japan.....	300,000

"(3) That subject to the 10-year limitation above fixed and the maximum standard, capital ships may be replaced when they are 20 years old by new capital ship construction;

"(4) That no capital ship shall be built in replacement with a tonnage displacement of more than 35,000 tons.

"I have sketched the proposal only in outline, leaving the technical details to be supplied by the formal proposition which is ready for submission to the delegates.

"The plan includes provision for the limitation of auxiliary combatant craft. This term embraces three classes, that is (1) auxiliary surface combatant craft, such as cruisers (exclusive of battle cruisers), flotilla, leaders, destroyers, and various surface types; (2) submarines; and (3) airplane carriers.

"I shall not attempt to review the proposals for these various classes, as they bear a definite relation to the provisions for capital fighting ships.

"With the acceptance of this plan the burden of meeting the demands of competition in naval armament will be lifted. Enormous sums will be released to aid the progress of civilization. At the same time the proper demands of national defense will be adequately met and the nations will have ample opportunity during the naval holiday of 10 years to consider their future course. Preparation for offensive naval war will stop now.

"I shall not attempt at this time to take up the other topics which have been listed upon the tentative agenda proposed in anticipation of the conference."

Mr. MONDELL. Mr. Speaker, I ask unanimous consent that the President's address and the address of the Secretary of State delivered at the first session of the conference on the limitations of armaments may be printed as a House document.

The SPEAKER pro tempore. The gentleman from Wyoming asks unanimous consent that the address of the President and the Secretary of State delivered at the first session of the conference on the limitations of armaments be printed as a House document. Is there objection?

Mr. RANKIN. Mr. Speaker, will the gentleman yield? Will the gentleman from Wyoming include in that also copies of those other speeches made at the opening as soon as authentic copies are secured?

Mr. MONDELL. If the gentleman will allow me, I doubt if that ought to be done. I have no objection to their being printed in the RECORD, but the responses which were made by the foreign representatives were in no wise intended to be responsive to the proposition of the head of the American delegation, and while they were all of them very eloquent and in every way worthy of commendation and approval they do not discuss the questions actually presented by Secretary Hughes. They were pleasantly spoken felicitations and statements of a general nature.



Mr. RANKIN. I want to say to the gentleman from Wyoming I shall not object, but I make the unanimous-consent request that they, with the other speeches that are authenticated, be inserted in the RECORD.

The SPEAKER pro tempore. Is there objection?

Mr. GARNER. Mr. Speaker, reserving the right to object, what will it cost to print these as a public document? Has the gentleman consulted the Printing Committee and would it come within the rule of limitation?

Mr. MONDELL. The cost would be comparatively small, as the gentleman knows.

Mr. GARNER. Will it come within the limitation of the authorization for such publications?

Mr. MONDELL. Yes.

Mr. GARNER. How many copies does the gentleman propose? The limit, I believe, is 900.

Mr. MONDELL. I think we shall want a considerable number of those documents.

Mr. GARNER. That is not the gentleman's request. The gentleman's request is that it be furnished as a House document. How many copies are printed under that request?

Mr. MONDELL. If the gentleman will wait until I have concluded my statement, I wish to say that I have asked to have it printed as a House document. I desire to have that done. I had intended also to get the view of the House as to the total number that ought to be printed. My own belief is that there should be a very considerable number of those documents printed.

Mr. GARNER. The gentleman will have to couple them together. We will have to know what he wants before he gets unanimous consent. He had best make his request as he intends it to be finally. We can not take it up by tidbits. The House is entitled to know. If the House intends to print it as a House document and then have a thousand or a million—

Mr. MONDELL. Does the gentleman from Texas object?

Mr. GARNER. I do until I know what you intend to do.

Mr. DYER. Regular order, Mr. Speaker.

Mr. MONDELL. I will make the request—

The SPEAKER pro tempore. The regular order is, is there objection?

Mr. GARNER. Mr. Speaker, reserving the right to object—

The SPEAKER pro tempore. The regular order has been demanded.

Mr. GARNER. By whom, may I ask?

The SPEAKER pro tempore. By the gentleman from Missouri [Mr. DYER].

Mr. GARNER. Then the gentleman from Missouri forces an objection. I object. Let the gentleman from Missouri take the responsibility. We are trying—

Mr. DYER. I am perfectly willing to assume the responsibility.

Mr. MONDELL. Does the gentleman from Texas object to having these documents printed?

Mr. GARNER. I ask for recognition, Mr. Speaker, to address the House for two minutes.

The SPEAKER pro tempore. The gentleman from Texas asks unanimous consent to address the House for two minutes. Is there objection?

Mr. MONDELL. Mr. Speaker, if I can not have the opportunity to submit a request in regard to the matter, I do not believe I shall yield to some one else to discuss the matter. [Applause.]

#### DISTRICT OF COLUMBIA CALENDAR.

The SPEAKER pro tempore. Under the rule the order for to-day is business on the calendar from the District of Columbia Committee.

#### PHYSICAL EXAMINATIONS IN JUVENILE COURT.

Mr. FOCHT. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the state of the Union and call up the bill H. R. 7883.

The SPEAKER pro tempore. The gentleman from Pennsylvania calls up a bill, which the Clerk will report by title.

The Clerk read as follows:

A bill (H. R. 7883) to provide for the examination of persons brought before the juvenile court of the District of Columbia.

The SPEAKER pro tempore. The gentleman from Pennsylvania moves that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of the bill reported by the Clerk.

The motion was agreed to.

Accordingly the House resolved itself into the Committee of the Whole House on the state of the Union, with Mr. McARTHUR in the chair.

The CHAIRMAN. The House is in Committee of the Whole House on the state of the Union for the purpose of considering the bill H. R. 7883, which the Clerk will report.

The Clerk read as follows:

A bill (H. R. 7883) to provide for the examination of persons brought before the juvenile court of the District of Columbia.

*Be it enacted, etc.,* That there is hereby created and established a clinic attached to the juvenile court of the District of Columbia for the mental and physical examination and study of persons who may be brought before the said juvenile court whenever in the discretion of the judge of said court such examination and study shall be deemed necessary before, during, or after trial.

That the judge of the juvenile court shall have power to appoint the following: A physician (male) at a salary of \$5,000 per annum, who shall have had special training as a psychiatrist in the diagnosis of insanity and mental defects; a psychiatric case worker at a salary of \$1,800 per annum; and a psychologist at a salary of \$2,000 per annum, and who shall devote their entire time to such work; and a physician (female) at a salary of \$1,000 per annum, who shall devote part time to such work for the purpose of conducting such clinic under the supervision of the judge of said court. Such officers shall perform such duties and be governed by such regulations as may be prescribed by the presiding judge, and such judge is authorized to remove any of them for cause.

SEC. 2. That the appropriation of \$9,800 for this purpose, or so much thereof as may be necessary, be, and the same is hereby, authorized, 40 per cent to be paid out of any money in the Treasury not otherwise appropriated and 60 per cent to be paid out of the revenue of the District of Columbia for the fiscal year ending June 30, 1922.

Mr. UNDERHILL. Mr. Chairman, unless the House desires to have some further explanation of this bill, I think the bill and the report will speak for themselves.

Mr. SANDERS of Indiana. Will the gentleman yield?

Mr. UNDERHILL. Certainly.

Mr. SANDERS of Indiana. In line 6 on the first page it says:

Who may be brought before the said juvenile court.

Does that mean brought before the court by judicial process for crime or for this examination?

Mr. UNDERHILL. Brought before the court for some judicial crime.

Mr. SANDERS of Indiana. Does not the gentleman think that the language of the bill ought to be plain that that is what it is?

Mr. UNDERHILL. Mr. Chairman, I am perfectly willing to accept any suggestion from any legal light or mind in the House. I am not a lawyer.

Mr. SANDERS of Indiana. It just occurred to me that the language did not make it clear that you are only dealing with persons who are brought before the court by judicial process in the ordinary way. It says:

There is hereby created and established a clinic attached to the juvenile court of the District of Columbia for the mental and physical examination and study of persons who may be brought before the said juvenile court.

Mr. UNDERHILL. Mr. Chairman, I do not believe that there could possibly be any misunderstanding, because only those who have been charged with some crime are brought before this court. No others are. Consequently you could not bring them before the court, although I think it would be a very wise provision if they could be brought before it. The gentleman probably is not aware of the condition that exists in the city of Washington. We have a beautiful city. Everything on the surface is all that heart could desire, but underneath there is a condition existing which is a menace to the whole population. If the gentleman could have been before our committee early in the session and heard the testimony of those whose business it is to make a study of such questions, he would have been alarmed, as members of the committee were. And although we could not meet the situation as we would have desired, although we could not protect the people of the community as we desired, still through this bill we are enabled to reach some of the children, some of whom come in daily contact with the lives of the Members and their families. That was the purpose of the bill, and in order that every interest might be safeguarded we did not go as far as many members of the committee would have liked to go. It is a difficult question to discuss before the Members of Congress and before the galleries. One's language must necessarily be guarded. Suffice to say, that out of over 1,200 children, school children of the city of Washington, examined by the clinic which existed during the war or part of the war, 22 and a fraction per cent of colored girls examined were found to be afflicted with an almost unmentionable disease. And although the disease is not contagious, it is so highly infectious that the two terms are almost analogous. When this disease can be transmitted by contact, either through the touching of a door knob, the handling of books, laundering of clothing, serving meals, and all that sort of thing, you can imagine to what an

extent this infection might be spread if means were not taken to control it.

Mr. SANDERS of Indiana. I am inclined to think that the subsequent language which says, "shall be deemed necessary before, during, or after trial," would clarify the former language. It would only mean those persons who were brought there by judicial process. It might be desirable—I do not know that I agree with the gentleman—to give the judge complete power to bring anybody there by judicial process. But I took it that it was not the purpose of this bill to do it, and the only suggestion I made was as to clarifying the language.

Mr. UNDERHILL. I thank the gentleman.

Mr. DYER. The gentleman provides in this bill that there shall be two physicians appointed—one a man physician at a salary of \$5,000, and a woman physician at a salary of \$1,000. Will the gentleman tell us why there is so great a discrepancy between the salaries of the two physicians?

Mr. UNDERHILL. The clinic that existed during the war had the services of one male physician. The cases that come before the court frequently are of a class and character that only a strong, able-bodied male physician would be proper to deal with them. In other words, they are overgrown, abnormal boys, mostly colored, and so a male physician has been provided for full time. If the gentleman will read the bill closely, he will find that the woman physician is engaged for part time, and will make the examination of all of the girls who are brought before the clinic or the court, and be abundantly able to take care of them and examine them during the part time.

Mr. DYER. The gentleman's bill does not provide that the woman physician shall examine all the female patients, or female wards, or whatever you may term them. Does the gentleman intend to provide that the woman physician shall examine all the female cases?

Mr. UNDERHILL. I do not think that is essential. I have perfect faith in the judge of the court, Judge Sellers, that she will see to it that a proper assignment is made of these cases and that a proper physician shall make the examinations.

Mr. LAYTON. Mr. Speaker, will the gentleman yield?

Mr. UNDERHILL. Yes.

Mr. LAYTON. After you have created this surgical and medical bureau in connection with the juvenile court and you have discovered that a dozen or fifty or a hundred of these offenders who are haled before the court are afflicted with venereal diseases of the various forms, what are you going to do with them after that?

Mr. UNDERHILL. Well, Mr. Chairman, I will say to the gentleman from Delaware that that is a problem which this bill can not possibly reach. It is a problem that has got to be met sooner or later, and the sooner the better. It is a good deal better to spend a few thousands of dollars for a preventive measure than later on to spend millions to try to stamp out a disease or a menace which, if it is allowed to spread and grow, will eventually touch every family, every man, woman, and child in the community.

The War and the Navy Departments took up this work for the protection of our defenders during the war. Through lack of appropriation, they have had to discontinue that work in Washington.

Almost every other city and State in the Union has passed laws for the protection of their people. They learned a lesson during the war which they have not forgotten.

Mr. LAYTON. Will the gentleman let me ask him some more questions?

Mr. UNDERHILL. Wait until I answer the first one. And they are making provision to take care of and to cure these people who are infected. The city of Washington, which is governed largely by this body, has been very backward. It has made no provision as yet, but if this clinic finds a diseased person they can order that person to the hospital for proper treatment.

Mr. LAYTON. Under what law?

Mr. UNDERHILL. I can not tell the gentleman the law now.

Mr. WINGO. Mr. Chairman, will the gentleman yield?

Mr. UNDERHILL. I will.

Mr. WINGO. I will state to the gentleman that evidently there is some Federal law, because there have been two cases, one at Fort Smith, Ark., in the Federal court there, and another in a Federal court in Iowa, under which Federal authorities undertook to maintain a quarantine and punish for violations. I think it may be under the authority of the Public Health Service to quarantine people. I think that question was raised, based upon interstate travel of the diseased persons, possibly. But I hope the gentleman will develop the idea. This provides for a compulsory physical examination, does it not?

Mr. UNDERHILL. Yes.

Mr. WINGO. What authority now can order a compulsory mental examination in the District?

Mr. UNDERHILL. There is absolutely no authority to-day in the District of Columbia.

Mr. WINGO. Evidently there is some authority authorized to take care of some insane person in the District of Columbia. Ordinarily probate courts have that jurisdiction in the States. That is my information. Now, has the District of Columbia a separate probate court?

Mr. UNDERHILL. I can not answer that question. I am not a lawyer.

Mr. DYER. I will say that the probate work is done by one of the justices of the supreme court. He acts as a judge in such matters as assigned to same from time to time by general term.

Mr. WINGO. With the permission of the gentleman, I wish to inquire, Has that judge now authority to order compulsory mental and physical examinations of persons?

Mr. DYER. He has authority in probate matters to determine whether a person should be committed to an asylum.

Mr. WINGO. I presume he has authority in mental cases, but there is no authority to order a physical examination unless it be under the orders of the Public Health Service that are relied upon, as I think. I am speaking without very definite information about the two cases I referred to.

Mr. UNDERHILL. That applies only, I will say to the gentleman from Arkansas, to contagious diseases. It does not apply to diseases of this nature.

Mr. WINGO. Yes. The two cases I referred to were infectious venereal diseases.

Mr. UNDERHILL. Those are infectious, and there is no court that is authorized to order an examination.

Mr. RAKER. Mr. Chairman, will the gentleman yield?

Mr. UNDERHILL. Yes.

Mr. RAKER. Referring to the bill, on page 1, line 11, a physician is to be appointed and the salary fixed at \$5,000, and then, on lines 5 and 6, on page 2, the bill authorizes a physician, a female, at \$1,000 per annum. What objection would the gentleman have to striking out the word "male," in line 11, page 1, so that the juvenile judge might determine from her experience whether it would be better for the boys and girls to have a male and a female physician.

Mr. UNDERHILL. I will say that this feature of the bill was drawn by Judge Kathryn Sellers. It was drawn after experience both with and without a clinic. The majority of cases coming before this court are of boys of abnormal size and development. It requires a male physician's full time to carry on the work as it was carried on during the war. It was thought wise, however, in addition to the male physician to have a female physician who might be employed part of the time, and who could examine the girls who come before the court in very much reduced numbers.

Mr. RAKER. The gentleman's explanation is luminous as to the effect of the bill. Will the gentleman give us the benefit of his experience and information on this subject relative to the proportion of boys and the proportion of girls that come before the juvenile court for examination and treatment?

Mr. UNDERHILL. During the short time the clinic was in existence in the city of Washington there were 348 white males, 460 colored males, 62 white girls, and 118 colored girls brought before the court.

Mr. RAKER. One further question. There are then 180 females that have come before the court in that length of time. Some go to the Reformatory School for Girls. Does not the gentleman believe that we ought to get a female physician and pay her a higher wage than is designated in this bill? Two thousand dollars, \$3,000, \$4,000, or \$5,000 is nothing for the good it will do for the girls who ought to have a physician to give her time and attention to it. Some of us see these things irrespective of whether the doctors agree or not, and there ought to be results, and you ought to have a female physician and pay her enough to give her time to the work. Does not the gentleman think that ought to be done?

Mr. UNDERHILL. I appreciate the spirit of the gentleman from California and am willing to accept some suggestions that he may make. But this bill is drawn along the lines which the United States Government clinic established during the war. At that time they had the whole time and services of a male physician, and in addition to that a physical examination of girls was made by Dr. Ellen Oppenheimer, of the Public Health Service. It was found that they did not require the whole time of the female physician. I think that all the necessities of the situation will be met by the terms of the present bill.

Mr. RAKER. I have Judge Sellers's statement before the committee, and I rely a good deal on her statement and her



judgment, knowing her splendid record in the juvenile court, and her statements on this matter would lead me a long ways. But let me ask the gentleman, Does Judge Sellers say that she is satisfied with this provision for a female physician?

Mr. UNDERHILL. It may be embarrassing to Judge Sellers for me to say that she has been criticized very harshly by some women of the country, who seem to think that she has apparently discriminated between the male and the female physicians. In spite of that she has stuck by her guns for the good of the juvenile court and the clinic, and not simply to create an office for a woman.

Mr. RAKER. In justice to Judge Sellers I want to say that there are 800 husky boys and 180 girls, and the question is whether a female physician is paid enough to take care of those girls?

Mr. UNDERHILL. I think sufficient is paid her and she will be able to give sufficient time. Not only that, but I pledge you that if it is not enough Judge Sellers will come back here for a higher salary, and she will find backers in the gentleman from California and myself.

Mr. RAKER. She certainly will.

Mr. RAYBURN. Will the gentleman yield?

Mr. UNDERHILL. I will.

Mr. RAYBURN. There is no clinic connected with the juvenile court now?

Mr. UNDERHILL. Not in Washington.

Mr. RAYBURN. The gentleman expects the clinic to deal with more than psychiatric diseases?

Mr. UNDERHILL. Yes.

Mr. RAYBURN. Does not the bill cut the physicians off from anything except psychiatric cases by the language of this bill? In other words, the second paragraph of the bill reads as follows:

That the judge of the juvenile court shall have power to appoint the following: A physician (male) at a salary of \$5,000 per annum, who shall have had special training as a psychiatrist in the diagnosis of insanity and mental defects.

Now, it seems to me that the way that language is framed the physicians would have to devote all their time to psychiatric cases and not to anything else.

Mr. UNDERHILL. No; the cases are tabulated, and under the proceedings of the clinic had during the war they attended to all those cases. If I had the time, I would give the gentleman a classification of all the cases examined.

Mr. RAYBURN. That is not answering my question. I am trying to take the language of the gentleman and suggest something that will make it mean what he wants it to mean. This language says that these physicians shall be appointed, and they are the only board, and then the bill refers specifically to the psychiatric cases and says that that is the only thing they are to devote their time to. Under the language of the bill I doubt whether they can devote their time to anything else.

Mr. UNDERHILL. I think the gentleman need have no fear along that line. I do not think anybody would for a moment raise the question of what branch of work these physicians would best occupy themselves.

Mr. RAYBURN. But the gentleman mentioned one branch only and says that they are to devote their entire time to that. I do not see how under that language they can devote themselves to anything else.

Mr. UNDERHILL. I acknowledge a deficiency of knowledge in respect to the word "psychiatric."

Mr. RAYBURN. This psychiatric trouble is a mental trouble.

Mr. UNDERHILL. Yes.

Mr. RAYBURN. And only so. Growing out of the war we had thousands of these cases. They are taken care of at special hospitals where they do not treat people for anything else.

Mr. UNDERHILL. What would the gentleman suggest?

Mr. RAYBURN. I suggest putting in some words that will make it clear or else striking out the words that they shall devote their entire time to this thing.

Mr. ARENTZ and Mr. LAYTON rose.

The CHAIRMAN. Does the gentleman yield?

Mr. UNDERHILL. One at a time.

Mr. LAYTON. I have been trying to get the gentleman's attention for some time.

Mr. GILBERT rose.

Mr. UNDERHILL. I yield to the gentleman from Kentucky [Mr. GILBERT].

Mr. GILBERT. I will suggest to the gentleman from Texas [Mr. RAYBURN] and also to the gentleman from Massachusetts [Mr. UNDERHILL] that such language must be read in connection with line 5 on page 1—

for the mental and physical examination and study of persons who may be brought before the said juvenile court.

A proper construction of line 4 on page 2 does not confine it simply to the mental work but has reference to the entire work as set out by the bill, and they would also have supervision over mental and physical defects of all kinds of children brought before that court as a matter of law.

Mr. UNDERHILL. I thank the gentleman from Kentucky.

Mr. LITTLE. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman yield to the gentleman from Kansas.

Mr. UNDERHILL. I will first ask the gentleman from Texas if that does not meet his objection?

Mr. RAYBURN. Not at all. I read all of that before I asked the question. The first paragraph of the bill talks about a clinic. Then you appoint a board of doctors down here to carry that out, and name specifically what they shall devote their time to.

Mr. LITTLE. Mr. Chairman, will the gentleman yield?

Mr. UNDERHILL. Yes.

Mr. LITTLE. This bill provides that these doctors can do something before a clinic. Where at any other place in the bill is it told of anything else that they can do, in the gentleman's opinion?

Mr. UNDERHILL. According to the gentleman from Texas—

Mr. LITTLE. Oh, I am not asking him, I am asking the gentleman from Massachusetts. The gentleman wrote the bill and he ought to know. Is there any passage in the bill that gives these men any right to do anything else than before a clinic?

Mr. UNDERHILL. Let me first correct the gentleman from Kansas. I wish I had the legal knowledge to draw such a bill, but the bill was drawn by Judge Sellers.

Mr. FOCHT. Mr. Chairman, will the gentleman yield?

Mr. UNDERHILL. Yes.

Mr. FOCHT. I will say to the gentleman and also to the gentleman from Delaware [Mr. LAYTON] that there is now in process of formulation before the committee what we regard as a companion bill to this which makes provision for the care and treatment of these people who are sentenced by the juvenile court. We have been unable to frame the bill or to report it out principally on account of the decision of the Court of Appeals which has some reference to the jurisdiction over these people. Hence we proceed with this and go as far as we can with it.

Mr. LITTLE. So far it is conceded that there is nothing in the bill which gives a man any right to do anything except at a clinic. Does the gentleman want him to have any other power than that?

Mr. FOCHT. For confinement and enforced treatment?

Mr. LITTLE. I do not care. Does the gentleman want him to do anything else?

Mr. FOCHT. Yes.

Mr. LITTLE. Why, then, not say so and put it in the bill?

Mr. FOCHT. We have just gone as far as we can with this bill.

Mr. LITTLE. But such a sentence can be placed in the bill. As the bill now stands these men can not do anything except at a clinic. The doctor gets \$5,000 a year for that, and if the gentleman wants this bill to pass I should think it would be easy for him to write some sentence and say that in addition to these duties this man can do certain other things.

Mr. DYER. Mr. Chairman, will the gentleman yield?

Mr. UNDERHILL. Yes.

Mr. DYER. Does the gentleman from Kansas think that the Congress can legislate to give a physician authority to compel a person to submit to an examination?

Mr. LAYTON. That is the question.

Mr. FOCHT. That is the serious question, and we are working it out, but we can not do that this fall.

Mr. ARENTZ. Mr. Chairman, will the gentleman yield?

Mr. UNDERHILL. Yes.

Mr. ARENTZ. The judge of the juvenile court is under the jurisdiction of the Attorney General of the United States; is not that true?

Mr. UNDERHILL. I take the gentleman's word for it.

Mr. ARENTZ. The youths coming under the jurisdiction of the doctor to be appointed by this judge are strictly District of Columbia people?

Mr. UNDERHILL. Yes.

Mr. ARENTZ. Coming under that same jurisdiction would be the Board of Children's Guardians, the House of Detention, the National Training School for Boys, and the National Training School for Girls. All of the children that would come under the jurisdiction of these different associations or departments would be of about the same age as those under the control of the District of Columbia or under the jurisdiction of the juve-

nile court. Why not include in this bill a broader field so as to cover the Board of Children's Guardians, the House of Detention, the National Training School for Boys, and the National Training School for Girls, and then have the men make the appointment who really know something about these other institutions—in other words, the Commissioners of the District of Columbia.

Mr. UNDERHILL. Mr. Chairman, we are seeking to cure an evil that exists. We are trying to meet a situation in the best and most direct form.

We do not expect to reform all evils that surround or are underneath the city of Washington. We do not wish to connect or to complicate this by bringing in a whole lot of other institutions or different departments. We want to give Judge Sellers, of the juvenile court of the city of Washington, an opportunity to have a clinic for these children who are diseased and have them examined as she sees fit.

Mr. ARENTZ. The Commissioners of the District of Columbia are responsible for conditions within the District. They are responsible for conditions in these different institutions which I have mentioned—the Board of Children's Guardians, the House of Detention, the National Training Schools for Boys and Girls. Why should they not have jurisdiction? Are we going to try to save money by appointing four more physicians to look after each one of these four different institutions? It seems to me if we are going to help the juvenile court in a broad way we would place this proposed clinic under the jurisdiction of the District of Columbia Commissioners, thus relieving the juvenile court of this responsibility, and put it where it belongs, in the District of Columbia health service and not under the jurisdiction of the Federal Government.

Mr. LAYTON. Will the gentleman yield?

Mr. UNDERHILL. When I reply to the gentleman. As I tried to say in the first place, we are not trying to meet every evil that exists. The District of Columbia Commissioners have got enough to do now apparently, and I am not criticizing them, but I might possibly have a word to say as to the way they are doing it; but there has never been a criticism of the juvenile court since it has been established in the city of Washington, and I want to say that this clinic would be for the benefit of the juvenile court and not for Commissioners of the District.

Mr. RAKER. Is not this the fact: In the institutions named the patients are all under judgment of the court, but in these cases they are pending in the juvenile court and no final order has been made by the juvenile court. We reach out before the final judgment is made sending these boys and girls to the reform school or the national training school and see what can be done for them to take care of them before any final judgment is made.

Mr. UNDERHILL. That is the fact. And, Mr. Chairman, I would call the committee's attention to the testimony before the committee where the superintendent of one of these institutions named was free to say that they had to destroy clothing and they had to destroy bedding because of the condition of these children and which without previous examination they had no means of knowing.

Mr. RAKER. A further question. By proper treatment given the boy or girl taken up by juvenile court many of the cases brought before it can be corrected and dismissed without final judgment being entered against them?

Mr. UNDERHILL. That is exactly the fact. Furthermore, practically all of such cases can be and have been treated in their own homes, and in all the existence of the court there never has been but one instance when the parents did not willingly cooperate with the court itself.

Mr. RAKER. Thereby saving the boy or girl from going to the institution?

Mr. VESTAL. If the gentleman will permit, returning to the objection raised by the gentleman from Texas, I take it is well founded. On page 2 I would suggest this sort of an amendment; I do not know whether it will reach the point made. After the word "and," in line 3, insert "who shall devote their entire time to the examination and treatment of all cases coming under the jurisdiction of said juvenile court."

Mr. LITTLE. How many people do they examine in a year in the clinic?

Mr. UNDERHILL. They probably examine over 2,000.

Mr. LITTLE. Then I think it is a good suggestion; that is all right. I think the suggestion is a good one.

Mr. LAYTON. Will the gentleman yield?

Mr. UNDERHILL. I will.

Mr. LAYTON. Does the power the gentleman seeks to confer by this bill upon the Juvenile Court or its head begin before or after commitment?

Mr. UNDERHILL. It begins, according to the bill, before, during, and after trial.

Mr. LAYTON. What right under heaven in a free country have you got to undertake to invade the rights of an individual before he has been committed to an institution?

Mr. UNDERHILL. Mr. Chairman, I do not want to hurt the gentleman's feelings, but I am sick and tired of hearing the question raised of the right of personal liberty when the life of the Nation is at stake.

Mr. LAYTON. The life of the Nation has been going on for 150 years.

Mr. UNDERHILL. It may have been going on for 150 years, but there is no reason why it should not go on for 150 years more, unless some mean, low-down, contemptible, trifling individual wants to stand upon the question of personal liberty when it affects my child, your child, and the children of the people of this District and of the whole country. I do not care for it at all.

Mr. LAYTON. In my judgment, and I want the House to see it, this is a bill in character with other bills beginning here in Washington, insidious in its character, that means to confer upon the Public Health Service of the United States ultimately the power of invading the domestic life of our people. Now, I am not in favor of it.

Mr. UNDERHILL. Mr. Chairman, I am the father of four children, two boys and two girls, and if this Congress will pass a law requiring that every man, woman, and child of the United States shall have a physical examination, I for one will gladly submit my children to that examination. We do not know from time to time whether these children have been exposed to infection or not. A good girl or a good boy who have a good home, who are indisposed, go to the family physician. The family physician has no idea that they have been exposed to such infection, no idea of what the matter is until, perhaps, the disease has worked its insidious way to such an extent that it is incurable.

Mr. KING. Will the gentleman yield?

Mr. UNDERHILL. I will.

Mr. KING. I see that this bill provides for the appointment of a psychologist at a salary of \$2,000 per annum. Would the gentleman, as a matter of information, answer one or two questions in reference to that? Who determines who the psychologist shall be, and what training does the psychologist have to have?

Mr. UNDERHILL. A psychologist is, in other words, a social worker. Such a worker can go into the home; will advise in any case, whether it be that of disease or mental trouble or even financial trouble.

Mr. KING. Psychology is the study of the soul, is it not?

Mr. UNDERHILL. Let us not get into these technicalities.

Mr. KING. I want some information on this bill. Who says that a certain man is qualified to be appointed at \$2,000 a year as an examiner of the soul—a teacher of psychology?

Mr. LAYTON. Or a member of the legal profession, who does not know anything about it.

Mr. KING. I am serious about the matter. Who says one man is more of a psychologist than another? I thought the last election did away with psychology and witchcraft, but it seems not. Will the gentleman answer what he means by "psychologist" in this bill?

Mr. UNDERHILL. The gentleman might be willing, but is utterly unable to go into definition and technicalities which the gentleman would like to inject into the discussion. That is not necessary. What we want, as Secretary Hughes said the other day, is action. I, as a layman, am rather confused by the attacks of all these legal lights in the House, but I am fighting a condition that exists, and not a theory, and I am not raising any technical questions. I am standing simply and absolutely upon the statement of Judge Sellers that this bill is what she wants, and I am fighting for her and fighting for the children of the land.

Mr. SANDERS of Indiana. Will the gentleman yield?

Mr. UNDERHILL. I will.

Mr. SANDERS of Indiana. The gentleman has been much interrupted by people who ask questions to get their thoughts into the Record. Will the gentleman have time to yield me five minutes?

Mr. UNDERHILL. I will yield five minutes to the gentleman now.

Mr. STAFFORD. Before the gentleman yields to the gentleman from Indiana, will he kindly yield to me in order that I may direct an inquiry to him?

Mr. UNDERHILL. Yes.



Mr. STAFFORD. The question was suggested by the gentleman from Nevada [Mr. ARENTZ], but I do not know whether the gentleman gave a direct answer or not. In the hearings on this bill the health commissioner suggested that instead of these officials being under the direct charge of the judge of the juvenile court they should be under the jurisdiction of the health department. The health department to-day has under its jurisdiction 12 medical inspectors, 4 dental inspectors, 8 dental operators, and 10 nurses, who look after the welfare of the children of the schools of the District. There is also testimony here by Mr. Charles T. Walker, in charge of juvenile delinquency in Philadelphia, wherein he shows that in the administration of a similar law these officials are under the jurisdiction of the health authorities. This is a matter pertaining to the health of the District. We have a health department here. Why should we create a branch office independent of the health office, which regulates the health of the people, and take it out of the jurisdiction of the health department entirely?

Mr. UNDERHILL. I would reply to the gentleman by reading a communication which I have received only recently, as follows:

I understand the main reason the committee had for placing the clinic under the health office of the District was to make it purely a District institution and a charge upon the financial resources of the District.

That was contemplated by the committee in the first place. Then it says:

As a matter of fact, the juvenile court is not under the supervision of the executive branch of the District government, except that the expenses incident to running the court are appropriated for under the bill making the general appropriation for the expenses of the District and these appropriations are presented through the District Commissioners. All appointments and separations in the court are made by the presiding judge. So that it would seem logical that the provision for the payment of services rendered the court by the members of the clinic should be made along with the other appropriation for other officers and employees of the court instead of under the section providing for the services in the health department of the District. The charge upon the District would be placed just as safely if the appropriation were so placed as if lodged in the section providing for service rendered in the health office of the District.

We do not want to cause a quarrel between the two departments. We do not want to have a conflict of authority between these two departments, and perhaps I would be unwise in stating that the testimony before the committee showed that the health authorities of the city of Washington were not all that they might be, perhaps all that they could be, but they did not have the time to give specific attention to this one specific condition, and which an intelligent, upright judge who knows the situation could render if given authority.

Mr. STAFFORD. The health department of the District has not authority to-day to appoint an official to do this work?

Mr. UNDERHILL. No; they have not.

Mr. STAFFORD. And yet the gentleman will admit that the work is one that exclusively relates to the health of the people of the District?

Mr. UNDERHILL. I will not admit that—not exclusively.

Mr. STAFFORD. The justification is that it relates to the health of the people of this District, and we have a health department. And now you are proposing to create a health department, outside of the jurisdiction of the health department, under the jurisdiction of a judge. These cases have to be followed after they are dismissed from the juvenile court. There is one branch of the Government that has jurisdiction of health, and that is the health department, and the gentleman up to this time, with all due respect, has not advanced an argument to meet the contention of the health officer and of the commissioner, and of the probation officer in charge of juvenile delinquency in Philadelphia, where this health work is under the jurisdiction of the health department.

Mr. LITTLE. Mr. Chairman, will the gentleman yield right there?

Mr. UNDERHILL. Yes.

Mr. LITTLE. Has the health department got any place where they can take care of this particular class of work?

Mr. STAFFORD. The health department will have a place where they will take charge of these cases. The juvenile judge has no place to-day where she can take charge of them. The purpose is to provide a place where, after they have been examined, they will be able to take charge of the cases, and the health officer and the health department to-day, under the jurisdiction of their own office in the examination of the school children of the District, in the clinics that they carry on with school children, follow out this same identical work, so far as the school children are concerned. Permit me to read, as the hearings disclose, what is the work of the health officer.

Mr. LITTLE. The gentleman need not read it. I will take his word for it.

Mr. STAFFORD. Dr. Fowler says physical examinations are made from time to time. A large number of school children are examined. When mental defects are found a statement is sent to the parents of the children, calling attention to it. If they are able to pay for the medical treatment they are sent to a hospital, and if they are unable to pay for the treatment the school nurses follow up these cases and take them to the hospitals or dispensaries and provide the necessary treatment if the parents are willing. There is an establishment in the District of Columbia to-day for that purpose. Now, you are proposing an independent activity under the supervision of the juvenile court, whereas I contend it is properly under the jurisdiction of the health department.

Mr. LITTLE. Will the gentleman answer my question? Is there any place that takes care of these cases in court?

Mr. STAFFORD. No. You want to provide that they shall be appointed by the District Commissioners and be a part of the health department of the District of Columbia.

Mr. LITTLE. It would not save any money, would it?

Mr. STAFFORD. Yes. It is proposed in this bill to pay a man \$5,000 a year with only 500 cases—

Mr. LITTLE. Two thousand cases.

Mr. STAFFORD. No. The evidence shows only a thousand cases in more than 14 months. There are no 2,000 cases.

Mr. LITTLE. Mr. Chairman, will the gentleman yield?

Mr. UNDERHILL. Yes.

Mr. LITTLE. Let me say this: If there is no provision in the law—and the gentleman from Wisconsin [Mr. STAFFORD] suggests that there is none—I do not see why he should object to it in some form.

Mr. STAFFORD. We are now taking up the enactment of the bill in harmony with the existing law. We object to its being placed under a judge, when it should be in the charge of the health authorities of the District.

Mr. LITTLE. The gentleman is for the bill, but he feels it to be his duty to oppose it.

Mr. UNDERHILL. The Commissioners of the District of Columbia showed no interest in this situation or the conditions. The doctors of the District of Columbia showed no interest in this serious situation.

The only person in the District of Columbia apparently who realized the seriousness of the situation, the only person in the District of Columbia before whom the children of the District come day after day and day after day, the only person in the District of Columbia who had the interest and safety of the people at heart apparently was Judge Sellers, who presides over the juvenile court. Judge Sellers came before our committee on another matter, and presented statistics there that were appalling, not alarming merely, but appalling. They were of such a character that your committee, although it was not looking for additional work, asked the judge if something could not be done in order to relieve the situation and save the children of the city of Washington from infection, and at my personal request Judge Sellers took this question up and drew this bill.

When the clinic was abolished in April Commissioner Rudolph was asked to assign Dr. Hickling to report for half a day a week, only half a day a week, and he replied to the effect that Dr. Hickling was too busy to perform any service for the juvenile court, but that he hoped that he would be able to make satisfactory arrangements. But he did not do it, and nothing was done until Judge Sellers came before our committee and submitted this bill.

There may be some legal defects in the bill; the bill might have been drawn better; but we are asking your aid and assistance in correcting a condition that is not only a scandal to the city of Washington but a real menace to the people of the city. Now, I am willing to accept the amendment of the gentleman from Indiana [Mr. VESTAL] to insert the words suggested in order to make the meaning of the bill absolutely clear from the legal standpoint.

Mr. COOPER of Wisconsin. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman from Massachusetts yield to the gentleman from Wisconsin?

Mr. UNDERHILL. In a moment. I do not want to complicate the situation; I do not want to jeopardize the success of the clinic by placing it in any other department than under the jurisdiction of Judge Kathryn Sellers. Unless that can be done, I do not want the bill enacted at all.

I yield to the gentleman.

Mr. COOPER of Wisconsin. I want to ask the gentleman from Massachusetts one or two questions. A clinic is a public examination?

Mr. UNDERHILL. Not necessarily.

Mr. LAYTON. Yes; necessarily. That is just what a clinic is.

Mr. COOPER of Wisconsin. A clinic is public.

Mr. LAYTON. Exactly.

Mr. COOPER of Wisconsin. Not only is the patient there, not only is the physician there, but any other person or persons whom he invites in. A clinic is a public affair to that extent. That is, outside third parties are admitted. There have been clinics conducted at the Rush Medical College in Chicago with a hundred in attendance. They are called "clinics."

Let me ask the gentleman a question: Should there be any female person, any white girl, physically examined in the presence of third persons in the absence of a female physician?

Mr. UNDERHILL. O Mr. Chairman, there is no danger. The gentleman from Wisconsin builds up a bogey man or a man of straw and then tries to tear him to pieces. No one is going to have anything of that sort, for it would be against all ideas of law and decency. I do not know what definition the gentleman may ascribe to a clinic. I have always understood that it might be a consultation of physicians, not necessarily open to the public.

Mr. COOPER of Wisconsin. I will say to the gentleman from Massachusetts that I have not built up any bogey man. I asked what I thought was a sensible question, in a polite manner, and the gentleman from Massachusetts gets infuriated and charges me with building up a bogey man, when he himself acts as near like one as anybody I ever saw. [Laughter.]

Mr. UNDERHILL. Well, I apologize to the gentleman. I did not intend to wound his feelings. My education leads me to talk from the shoulder instead of using diplomatic language.

Mr. LAYTON. A parliamentary inquiry, Mr. Chairman.

The CHAIRMAN. The gentleman will state it.

Mr. LAYTON. I want to inquire how debate will proceed, and whether there will be any opportunity for other Members of the House to debate this question.

The CHAIRMAN. The time of the gentleman from Massachusetts will expire at 1 o'clock and 15 minutes. Then the Chair will recognize some one in opposition.

Mr. FOCHT. Mr. Chairman, I hope gentlemen will not object to a motion to close general debate now and proceed to consider the bill under the 5-minute rule for amendment.

Mr. SANDERS of Indiana. That is not in order at this time.

Mr. FOCHT. Otherwise we will not get anywhere in considering this little bill.

Mr. SANDERS of Indiana. Mr. Chairman, how much time is there remaining?

The CHAIRMAN. There is three minutes more in the control of the gentleman from Massachusetts.

Mr. UNDERHILL. I will yield the balance of my time to the gentleman from Indiana.

Mr. SANDERS of Indiana. Mr. Chairman, I understand that the gentleman from Texas [Mr. BLANTON] will be recognized in opposition, and I want to ask him if he will yield me some time.

Mr. BLANTON. Mr. Chairman, I ask for recognition in opposition to this bill. I am opposed to the bill and am a member of the committee.

The CHAIRMAN. The time of the gentleman from Massachusetts having practically expired, the gentleman from Texas is recognized.

Mr. BLANTON. Mr. Chairman, I yield 10 minutes to the gentleman from Indiana [Mr. SANDERS] and reserve the balance of my time.

Mr. SANDERS of Indiana. Mr. Chairman, this measure it seems to me is a very remarkable one. I hesitate to oppose it because the gentleman from Massachusetts is very earnest in his desire to bring about legislation which will help correct certain evils that he has described. Having carefully read the bill I am satisfied that the measure does not reach the proposition the gentleman has in mind at all. I am also very sure that this measure departs from all precedents in the matter of the organization of the health department. Notice the terms of the bill. I hope Members will acquaint themselves with its provisions. The first thing done is to create a clinic. It is attached to the Juvenile Court of the District of Columbia:

For the mental and physical examination and study of persons who will be brought before the said juvenile court whenever in the discretion of the judge of said court such examination and study shall be deemed necessary before, during, or after trial.

Of course, that is a compulsory examination of the child charged with some offense, no matter how innocent the child might be of the offense. That is one thing that is remarkable and unusual in this measure. In the legislation that we have passed heretofore we have been very careful to guard against compulsory physical examination. It is true that in cases of infectious or contagious diseases an examination in that regard is permitted. But this is a general sweeping power for the

physical examination of any child that is charged with any misdemeanor, irrespective of whether there is any evidence the child is troubled with any disease or whether it is in any way connected with the proof of crime.

Mr. GRAHAM of Illinois. Will the gentleman yield?

Mr. SANDERS of Indiana. Yes.

Mr. GRAHAM of Illinois. And that is not all; they do not even have to be charged with a crime. Suppose it is a dependent or delinquent child?

Mr. SANDERS of Indiana. I questioned the gentleman from Massachusetts about that, and he said it was only intended to apply to those brought before the court. In line 8 it says "before, during, or after trial."

Mr. ZIHLMAN. Will the gentleman yield?

Mr. SANDERS of Indiana. Yes.

Mr. ZIHLMAN. The gentleman must know that the judge who presides over the juvenile court stated before the District Committee that no child had ever been examined who has not been found guilty and that no child had ever been examined without the consent of its parents.

Mr. SANDERS of Indiana. Listen; the bill provides "whenever in the discretion of the judge of said court such examination and study shall be deemed necessary before, during, or after trial." If you meant after trial you could have said so. If you meant that the child should not be examined unless the parents consented, it would be written in the bill, and if you amend it I shall make no objection on that point.

But that is not the burden of the objection I am making. I want to bring sharply before the committee, however, that this bill does provide clearly that they can physically examine the child without the consent of its parents, a compulsory physical examination.

Now, aside from that question, notice the second paragraph, that the judge shall have the power to appoint the following:

A physician (male) at a salary of \$5,000 per annum, who shall have had special training as a psychiatrist in the diagnosis of insanity and mental defects; a psychiatric case worker at a salary of \$1,800 per annum; and a psychologist at a salary of \$2,000 per annum, and who shall devote their entire time to such work; and a physician (female) at a salary of \$1,000 per annum.

And then it further provides:

Such officers shall perform such duties and be governed by such regulations as may be prescribed by the presiding judge, and such judge is authorized to remove any of them for cause.

Just think of it; think of how that departs from anything we have done before. We create a clinic, put a judge of the court in full power over the clinic, who says just what the physician's functions shall be, who says just how long they shall serve, and they will serve a lifetime unless the judge of the court changes it. Now, the gentleman from Massachusetts says that this measure is justified in order to prevent the spread of venereal diseases.

There is not a single line nor a single word in the entire bill that deals with that question or justifies the inference that that question is dealt with. On the contrary, it is absolutely excluded. This bill, in the first place, permits the examination of all patients, and provides that the doctors and all personnel shall deal only with mental cases. The gentleman can not justify the bill upon the ground that it is to deal with these cases which he has mentioned. The bill is not susceptible of that construction.

Mr. UNDERHILL. Mr. Chairman, will the gentleman yield?

Mr. SANDERS of Indiana. Yes.

Mr. UNDERHILL. Will not the amendment of the gentleman from Indiana [Mr. VESTAL] take care of that?

Mr. SANDERS of Indiana. What is that amendment?

Mr. VESTAL. On page 2, line 4, after the word "to," strike out the words "such work" and insert "to the examination and treatment of all cases coming under the jurisdiction of said juvenile court." That does not exclude any sort of work that may come under it.

Mr. SANDERS of Indiana. That will help it; but why should they put these mental and nervous specialists, the psychologists, in charge of treating ptomaine poisoning? That is more than I know.

Mr. BANKHEAD. Mr. Chairman, the gentleman's position is that, although mental and physical examination is mentioned in the first paragraph of the bill, yet when it comes down to the appointment of these specialists and to defining their duties, they are confined specifically to mental diseases.

Mr. SANDERS of Indiana. Yes. Not only is their duty by the bill confined to that, but their qualifications are confined to it. What can a mental specialist know of treating such diseases as those the gentleman talks about? But, gentlemen, are we going to create a health department No. 2 here in the District of Columbia? We have a health department now that has



charge of health. It may be that that health department has not been giving the attention it ought to to these patients, and if it has not, then the appointing power will take care of that. If that department has not the power to deal with it, then let legislation be brought in to give to the proper department this great health function. Let us not give it to the judicial department, so that it may be entitled to deal with problems that properly belong to the health department.

The CHAIRMAN. The time of the gentleman from Indiana has expired.

Mr. BLANTON. Mr. Chairman, I find myself impelled to oppose this bill on three grounds, any one of which I believe should be sufficient for its defeat. I realize, however, the futility of speaking against a measure reported practically unanimously by the committee, defended practically unanimously by the committee, with but 36 of my colleagues to hear the debate and to really understand the measure. I realize the futility of wasting words in opposition to a measure under such circumstances.

First, let me call your attention to this provision in the bill, and in doing so I am taking up the least important reason first for opposing it.

Mr. GRAHAM of Illinois. Mr. Chairman, will the gentleman yield?

Mr. BLANTON. In just a moment. On page 2, referring to the appropriation authorized to be made in the bill, the measure provides that "40 per cent is to be paid out of any money in the Treasury not otherwise appropriated." That 40 per cent is the money of your constituency and of my constituency in the Public Treasury. It is the money of the whole people of the United States. No one would seriously object to any large city, or any city for that matter, providing necessary civic enterprises for its inhabitants and the health and happiness of its people.

Mr. UNDERHILL. Mr. Chairman, will the gentleman yield?

Mr. BLANTON. In just a moment. The city of Washington, embracing the District of Columbia, has a population of 437,000 people. Hundreds of these people, thousands of them, if you will, were born and raised here in Washington and have no connection whatever with the Government of the United States. They are engaged in private commercial business that has no connection with their Government. They have no relation whatever with governmental affairs. Every single proposition of civic enterprise that is brought about in the District is brought about for their pleasure and their benefit and their happiness, just as the civic enterprises in your home city and mine are brought about by our home people and for their benefit. I am one of those who has ever believed that there are certain civic enterprises here in the District of Columbia that are so intimately interwoven and connected with the private happiness and welfare of the people who live here, which have no connection or relation whatever with the Government of the United States, that the whole people should not be called upon year after year to pay 40 per cent of the expense thereof. The city of Washington should have a clinic for its poor people, for its juveniles, for people who can not afford financially to go to the doctors and pay the expense. The city of Washington should have schools, and good schools, for its 65,000 children, but I am here as one Member of this Congress who asks you over and over again the question, What is there about the schools of the city of Washington that calls for the whole people of the United States to come in and pay 40 per cent each year of their expense?

Mr. UNDERHILL. Will the gentleman yield?

Mr. BLANTON. In just a moment.

Mr. UNDERHILL. I want to ask the gentleman a question—

The CHAIRMAN. The gentleman declines to yield.

Mr. BLANTON. I do not want to be uncivil to the gentleman. He has had an hour. I am presenting my views. I am sure that they are diametrically different from the views of many of my colleagues, but they are my views just the same. The people in Boston and the people in Chicago provide their own school buildings and their own school books for the education of their children. It is paid for out of their own pockets. They do not call upon the people of the other 46 States to pay 40 per cent of the expense. When the city of Chicago and the great city of Boston provide proper and necessary clinics for their children they do not call on the cities of the other 46 States to come in and pay 40 per cent of the expense.

Mr. SPROUL. Will the gentleman yield?

Mr. BLANTON. Just a moment. If the distinguished gentleman from Chicago and myself should form a commercial building enterprise and go out here and buy some vacant land situated in the District and begin to build houses upon it in order

to make money, we could have all the alleyways paved, and the people of this Government in the 48 States would be called upon to pay 40 per cent of its cost furthering that enterprise, by which we would profit year after year; and men have grown rich and are millionaires here under such a practice, which is continued on here by Congress year after year. When is it going to stop? You can not make it stop with only 35 or 36 Congressmen here on the floor to listen to the debate on such bills, because when the others come in from their offices to vote they can not understand the facts connected with the debate and the proposition that is embraced within such a measure.

Mr. SPROUL. Now will the gentleman yield?

Mr. BLANTON. Not just now. I want to give some facts—

Mr. SPROUL. I want to give the gentleman some facts.

Mr. BLANTON. I will yield to the gentleman, since he is so insistent.

Mr. SPROUL. I want to ask the gentleman from Texas if he is aware of the fact that at the Eastern High School the low bid has been thrown out, and they insisted upon letting it to the second bidder at an extra expense of almost \$18,000, notwithstanding the architect and engineer in charge said the low bidder was doing satisfactory work and was in every way satisfactory?

Mr. BLANTON. I am sorry the distinguished gentleman led me away from my argument, but his question is very apropos to the issue involved, so I am going to take time to comment upon it. The gentleman is eminently correct. He has been eminently correct in his position on this proposition before the committee for months past. Take the Eastern High School. It is situated here now in a part of Washington where the people's children who will attend that school can get to it without going to the trouble of walking several miles. But the site for the new building has been selected out yonder a number of blocks beyond Lincoln Park, on East Capitol Street, several blocks beyond the end of the car line, if you please, put out there in what the gentleman from Illinois has denominated as a bog and a swamp and where nobody lives. Why? It will build up property out there for private property owners and make them rich, and you are spending right now \$1,500,000 for that building, 40 per cent of which is paid by the whole people of the United States—the people of Pennsylvania and the other States of this Union. What interest have they in the Eastern High School here in the District of Columbia. It is only for the education of children here in the District. But when we have a municipal architect here paid to design school buildings in the District, with a dozen different employees in his office under him paid for helping do such work, when it was arranged to build nine more buildings here not long ago the commissioners employed nine outside architects to plan the nine buildings, one architect for each building, and paid nine different fees. Those fees of 3 per cent on the cost, 40 per cent of same, will be paid out of the pockets of your people and of mine. The distinguished gentleman from Illinois is well fixed in his determination to try to stop this matter, but his insistence before the committee has been almost as futile as mine. Let me go to another question.

Mr. SPROUL. Mr. Chairman, I raise the point of order that there is no quorum present. I think this is a matter important enough to have Members here to listen to it.

The CHAIRMAN. Debate is not in order. The gentleman from Illinois raises the point of order that there is no quorum present. The Chair will count. [After counting.] Eighty-five Members are present, not a quorum, and the Clerk will call the roll.

The Clerk called the roll, and the following Members failed to answer to their names:

Anderson	Cullen	Green, Iowa	Kreider
Ansorge	Dale	Greene, Vt.	Langley
Atkeson	Dempsey	Griest	Lazaro
Bacharach	Drane	Griffin	Lea, Calif.
Bell	Drewry	Hays	Lee, N. Y.
Benham	Dunn	Herrick	Little
Bland, Ind.	Elliott	Hukriede	Longworth
Bond	Elston	Humphreys	Luce
Bowers	Fairfield	Husted	Luhning
Brand	Fenn	Hutchinson	Lyon
Britten	Fish	James	McKenzie
Brown, Tenn.	Fitzgerald	Jeffers, Nebr.	McLaughlin, Pa.
Burke	Flood	Johnson, Ky.	Mann
Campbell, Kans.	Fordney	Jones, Pa.	Mansfield
Cantrill	Freeman	Kahn	Martin
Carter	French	Kelley, Mich.	Mead
Chandler, N. Y.	Funk	Kelly, Pa.	Michaelson
Chindblom	Gahn	Kendall	Montoya
Clague	Gallivan	Kennedy	Moore, Va.
Classon	Garrett, Tex.	Kiess	Morin
Cockran	Glynn	Kindred	Mott
Codd	Goldsborough	Kitchin	Mudd
Copley	Gorman	Kleccka	Murphy
Crisp	Gould	Kline, N. Y.	Nolan
Crowther	Graham, Pa.	Knight	O'Brien

O'Connor	Reavis	Sinclair	Tincher
Oldfield	Reed, N. Y.	Sisson	Tyson
Oliver	Reed, W. Va.	Slemp	Vare
Olpp	Riddick	Snell	Voigt
Parker, N. J.	Riordan	Steenerson	Volk
Parrish	Roach	Stevenson	Volstead
Patterson, N. J.	Rosenberg	Stiness	Ward, N. Y.
Perkins	Rosenbloom	Stoll	Wason
Perlman	Rossdale	Sullivan	Wingo
Peters	Rucker	Tague	Wise
Petersen	Sabath	Taylor, Ark.	Yates
Pringley	Schall	Taylor, Colo.	
Rainey, Ala.	Shelton	Thompson	
Rainey, Ill.	Siegel	Tilson	

The committee rose; and the Speaker pro tempore (Mr. WALSH) having resumed the chair, Mr. McARTHUR, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee, having had under consideration the bill H. R. 7883, finding itself without a quorum, under the rule he caused the roll to be called, whereupon 279 Members answered to their names, and he presented the list of absentees for entry in the RECORD and Journal.

The SPEAKER pro tempore. The committee will resume its sitting.

Accordingly the committee resumed its sitting.

Mr. BLANTON. Mr. Chairman, at the instance of the gentleman from Illinois—how much time have I remaining?

The CHAIRMAN. The gentleman has 38 minutes remaining.

Mr. BLANTON. Mr. Chairman, I am willing, not to be taken out of my time, for the chairman to make a unanimous consent request.

Mr. FOCHT. Mr. Chairman, I would like to ask the gentleman if he will consent that the committee rise for a few moments. I move that the committee do now rise. I made the statement so it might be understood it is only for a moment. The motion was agreed to.

Accordingly the committee rose; and the Speaker pro tempore (Mr. WALSH) having resumed the chair, Mr. McARTHUR, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee, having had under consideration the bill H. R. 7883, had come to no resolution thereon.

#### FUTURE ORDER OF BUSINESS.

Mr. MONDELL. Mr. Speaker, I ask unanimous consent that it may be in order on to-morrow to take up for consideration the Lehlbach reclassification bill.

The SPEAKER pro tempore. The gentleman from Wyoming asks unanimous consent that it may be in order to-morrow to take up for consideration the so-called Lehlbach reclassification bill. Is there objection?

Mr. BLANTON. Mr. Speaker, I object.

Mr. MONDELL. Mr. Speaker, I ask unanimous consent that it be in order on Thursday next to take up for consideration the so-called maternity bill.

The SPEAKER pro tempore. The gentleman from Wyoming asks unanimous consent that it may be in order on Thursday next to take up for consideration the so-called maternity bill. Is there objection?

Mr. LAYTON. Mr. Speaker, I object.

#### ADDRESSES OF PRESIDENT AND SECRETARY OF STATE AT FIRST SESSION, DISARMAMENT CONFERENCE.

Mr. MONDELL. Mr. Speaker, I present the following resolution.

The SPEAKER pro tempore. The gentleman from Wyoming presents the following resolution, which the Clerk will report.

The Clerk read as follows

*Resolved*, That the address of the President of the United States and of the Secretary of State delivered before the Conference on the Limitation of Armaments on November 12, 1921, be printed as a House document, and that 53,000 additional copies be printed for the use of the House of Representatives, 160 copies to each Member.

The SPEAKER pro tempore. Is there objection to the present consideration of the resolution?

Mr. GARRETT of Tennessee. Mr. Speaker, reserving the right to object, the resolution provides for so many for the use of each Member, but it does not provide for the distribution through the folding room.

Mr. BLANTON. A point of order, Mr. Speaker.

The SPEAKER pro tempore. The gentleman will state it.

Mr. BLANTON. I raise the point of order, Mr. Speaker, if the resolution is going to take any length of time, that I yielded the floor only for the purpose of a unanimous-consent request being made.

Mr. MONDELL. I withdraw the resolution, if there is objection.

Mr. BLANTON. I do not object to the resolution.

The SPEAKER pro tempore. Is there objection?

Mr. KNUTSON. If there is going to be any objection, the RECORD should show who objected.

Mr. GARRETT of Tennessee. Mr. Speaker, I wanted to call the attention of the gentleman from Wyoming to the fact that the resolution does not provide that this quota shall be distributed through the folding room.

Mr. JOHNSON of Washington. I would like to answer the gentleman. It has been the custom to do that, but I have ascertained just now that it is not necessary at all. When the printing of a document is ordered in this way, in the form of this resolution, it has to be distributed through the folding room. So words to that effect would be surplusage.

The SPEAKER pro tempore. Is there objection to the present consideration of the resolution?

Mr. ROGERS. Would the gentleman think it proper to incorporate in this resolution a proposition to add the address of the President at Arlington the day before? I think that most of us feel that that address paved the way for the exercises on the following day.

Mr. CAREW. Mr. Speaker, I object.

The SPEAKER pro tempore. The gentleman from New York objects.

Mr. JOHNSON of Washington. Did the gentleman object to the resolution or the last proposal?

Mr. CAREW. I object to all the proceedings, sir.

#### EXAMINATION OF PERSONS BROUGHT BEFORE JUVENILE COURT.

Mr. FOCHT. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill H. R. 7883. The motion was agreed to.

Accordingly the House resolved itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill H. R. 7883, with Mr. McARTHUR in the chair.

The CHAIRMAN. The gentleman from Texas [Mr. BLANTON] is recognized for 38 minutes.

Mr. BLANTON. Mr. Chairman, along the line of the suggestion made by the distinguished gentleman from Illinois [Mr. SPROUL] I want to further emphasize the point I attempted to make, that the Public Treasury of the United States owes no more duty to the 65,000 school children of Washington, with respect to their health and education, than it does to the school children of every other city in the United States. The 65,000 school children of Washington have no connection whatever with the Government. Their health and education is no part of the governmental functions of this Nation. And yet, as I said, of this \$1,500,000 the Eastern High School building that is now being constructed is to cost, the whole people of the United States have been called upon to pay 40 per cent of this large sum. And the cost of building the splendid Western High School was paid 50 per cent out of the Treasury of the whole people. The cost of the splendid Central High School, a plant that is worth over a million and a half dollars to-day, was paid for one half by the whole people of the United States. The cost of the Dunbar High School, and the cost of every other of the many fine schools in this District have been paid at the rate of 50 per cent by the whole people of this Government. The million-dollar Connecticut Avenue Bridge and numerous other expensive civic enterprises here were paid for 50 per cent by the whole people of the United States. Why, when you have an army of garbage gatherers in every city wherein we live when we are at home, the Government does not pay any part of the expenses. I ask you what connection is there with the Government of this country with respect to the gathering of garbage from the private residences of this city? As to the gathering of the ash-can contents, the gathering of the trash boxes from behind the residences of this city, what connection is there between that function and the governmental business of this country?

Mr. ROSE. Will the gentleman yield?

Mr. BLANTON. In just a moment.

The people of the United States some day, when they wake up and find these things have been going on for years, are going to ask us embarrassing questions when we go before them on the hustings that we can not answer.

But I must get to another point of this bill, my second point, as to why this bill should not pass. Have you carefully read the language on the first page of this bill? Have you lawyers decided what that language means? Have you reached the conclusion that I have, that it goes further than any other piece of legislation that has ever been passed on the floor of this House with regard to infringing upon the inherent rights of the people of this country? Let me read it to you:

There is hereby created and established a clinic attached to the juvenile court of the District of Columbia—



## Notice—

for the mental and physical examination and study—

Of whom? Of criminals, of juveniles, of somebody else in whom you are interested? No. Listen to the language—of persons.

It does not say "persons charged with crime"; not persons, if you please, who are delinquents; not persons who are juvenile; but, without any explanation at all, the generic word "persons" is used. Examination, mental and physical, and study even of persons in this District. That embraces every person in the District, of the 437,000 people living here. What else?

Who may be brought before the said juvenile court whenever, in the discretion of the judge of said court, such examination and study shall be deemed necessary.

It does not stop there. Oh, no. Does it limit it to the persons who may be brought before that court? Oh, no. Does it limit it to the persons who may have a trial before that juvenile court? Oh, no. Read the language:

Whenever \* \* \* such examination and study shall be deemed necessary—

Now, listen—before, during, or after trial.

Before trial; before they have had a trial; whenever the juvenile judge down there thinks that somebody, some person here, some young girl or boy of the 437,000 people in this District, should be examined physically or that a study should be made of them the judge can order it done by this public clinic. You may be willing to take that right away from the people of the city of Washington, but I am not.

Mr. BLACK. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman from Texas yield to his colleague?

Mr. BLANTON. I do.

Mr. BLACK. I have read the bill, and taking the bill as a whole it occurs to me that it refers only to those persons who are before the juvenile court for some action of the court.

Mr. BLANTON. Well, what is meant by "before trial"?

Mr. BLACK. Well, construing the language as a whole, as I think the court would construe it—and I am not announcing my opinion of the bill—I think it refers to persons before the court.

Mr. BLANTON. It is not limited to persons against whom some complaint is found, some juvenile. It says "persons," and it affects them before trial. But suppose the theory of the gentleman from Texas [Mr. BLACK] is correct, that it is limited to a juvenile; what is a juvenile? Get your Webster's Dictionary and see what it says in defining the word "juvenile." A juvenile is "an immature person," and with regard to the jurisdiction of our courts over juveniles it has been held that where an immature person is not properly cared for by its parents, it is a delinquent, and the court has jurisdiction over the person of such juvenile. That is one definition. In another it has been held that whenever a father or mother is of such notoriously bad habits, their child, ipso facto, becomes delinquent; that child is a juvenile over which the juvenile court has jurisdiction.

There does not have to be alleged any complaint, I will say to the gentleman from Texas. The court sits every day of its existence with jurisdiction absolutely over the person of every juvenile. It is not necessary for a complaint to be brought. They have direct jurisdiction to have them brought before them on their own motion, if you please. Do you want to go that far in this bill?

I have been one of those who, in the exercise of the police power of this Government, believed that the interests of the whole people was paramount over the interests of a few, with respect to intoxicating liquor and narcotics. I have been one of those who thought it was wise to take away from a man what he thought was an inherent right to drink intoxicating liquor at will and have it sold throughout the land. But I am not willing to go as far as this bill indicates. The most sacred thing that we revere is the person of the individual members of our family. Whenever you provide that a juvenile judge down here, on his own motion, in his own discretion, can order a young girl down there before him and have her physically examined, or have her watched under study of physicians, against her will and the will of her parents, whether innocent or guilty of any offense, you are going further than any piece of legislation has gone that has ever been passed on the floor of this House.

But there is another reason, as I said, a third reason, why this bill should not pass. It is a duplication of effort, a duplication of governmental functions. We have a health department already here. We have clinics for the 65,000 school chil-

dren of this District. Why, we have a separate school for the tubercular scholars.

Whenever a child is afflicted with any contagious disease, that child, under the Public Health Service that is now in existence and operating under the present law, can be ordered to be separated from the other school children in this district. There is not a day passes when some of the school children are not examined by some of the Public Health physicians here. I say it is an unwarranted duplication of enterprise on the part of this Government. You promised faithfully to the people that you were going to stop it; that you were going to coordinate the various branches of this Government and stop some of the unwarranted and wasteful expense.

But I have not the right to take up any further time, because there are other gentlemen who have asked me for time. I would like to go into the merits of this bill in detail before the gentlemen of the Congress if I had the time, but I have not. I now yield three minutes to the gentleman from Minnesota [Mr. NEWTON]. How much time have I?

The CHAIRMAN. The gentleman from Texas has 38 minutes.

Mr. BLANTON. I yield three minutes to the gentleman from Minnesota [Mr. NEWTON] and reserve the balance of my time.

The CHAIRMAN. The gentleman from Minnesota is recognized for three minutes.

CHARLES LEO O'CONNOR.

Mr. NEWTON of Minnesota. Mr. Chairman and gentlemen of the committee, about one week ago the House paused in its deliberations to pay fitting tribute to a brave and heroic member of the United States Army who had performed exceptional and valiant service overseas during the late war. The unidentified soldier whose body lies in Arlington to-day with his 2,000,000 buddies could not have gone overseas had it not been for the service of the brave men of the United States Navy who throughout the war lived up to the highest traditions of our great Navy. In this Navy of ours none performed more valiant service than the men who "put them across"—the men of the transport service.

Among the many transports that so successfully conveyed our troops was the *Mount Vernon*. It repeatedly carried from 6,000 to 7,000 soldiers. In September of 1918 while homeward bound this ship was torpedoed when 300 miles off from the French coast. A hole was blown into the ship over 30 feet in width and 20 feet in height. Nevertheless the ship was successfully put about and came in under its own power to the harbor at Brest. There under the supervision of its most able and efficient captain, Capt. Dismukes, the ship was speedily repaired and was again a great unit in our transport system. The saving of that ship, the bringing it back into port under its own power and its speedy repair was due to the heroism and efficiency of Capt. Dismukes, his fellow officers, and the brave and efficient crew.

We are fortunate this day that one of the members of this gallant and efficient crew is a visitor in the gallery. On the occasion in question as chief water tender he was down in one of the firerooms. The torpedo struck almost opposite. He was burned from scalding steam and hot gases, but nevertheless had sufficient presence of mind—

The CHAIRMAN. The time of the gentleman from Minnesota has expired.

Mr. BLANTON. Mr. Speaker, I yield to the gentleman two more minutes.

The CHAIRMAN. The gentleman from Minnesota is recognized for two minutes more.

Mr. NEWTON of Minnesota. Burned, stunned, and bruised though he was, he had sufficient presence of mind to remember that the air-tight compartment door leading into the next room must by all means be closed. He also knew that by shutting this door that he closed his only avenue of escape. Through the door was the path of safety. To close the door meant almost certain death, but the performance of duty. This man remained at his post to close the door.

A friendly Providence thought that this man should be saved. The rush of the incoming waters forced him into a ventilator shaft, where he was later rescued by his comrades. Frightfully burned, he spent months in the hospital, but was saved to again serve his country.

His captain recommended that he be especially honored and cited for his brave act. On Friday last this man, a chief water tender of the United States Navy, marched alongside the body of the unknown warrior as one of the active pallbearers.

I am, therefore, calling the attention of the Members of the House to this brave and gallant seaman of the United States

Navy, Charles Leo O'Connor, chief water tender of the U. S. S. *Mount Vernon* during the late war.

[Mr. O'Connor stood up in the gallery, amid applause of the Members.]

Mr. Chairman, I ask unanimous consent to insert as a part of my remarks the citation awarded him.

The CHAIRMAN. The gentleman from Minnesota asks unanimous consent to extend his remarks in the Record. Is there objection?

There was no objection.

The citation and order is as follows:

The President of the United States takes pleasure in presenting the distinguished service medal to Charles Leo O'Connor, chief water tender, United States Navy, for service during the World War as set forth in the following citation:

"For extraordinary heroism while serving on the U. S. S. *Mount Vernon*, on September 5, 1918, when that vessel was torpedoed. O'Connor was in the fireroom and was thrown to the floor, sustaining a very serious burn, and was then caught in the rushing water. He voluntarily turned and endeavored to shut the water-tight door leading to the large coal bunkers, instead of trying to save his life."

For the President:

JOSEPHUS DANIELS,  
Secretary of the Navy.

#### EXAMINATION OF PERSONS BROUGHT BEFORE THE JUVENILE COURT.

Mr. BLANTON. Mr. Chairman, I yield five minutes to the gentleman from Delaware [Mr. LAYTON].

Mr. LAYTON. Mr. Chairman and gentlemen, I feel that I can leave this bill very safely in the hands of the gentleman from Indiana [Mr. SANDERS], who gave such an illuminating analysis of the bill that it seems hardly necessary to take much further time in its discussion. But it is an amazing bill, to my mind. Upon the surface it has for its avowed purpose the study of the mental defects of children connected with the juvenile court in the city of Washington. The white person in the woodpile—I will not call him a nigger, because the white person is very much a white person and I very much like him, for I see his face and it is in a way a good face. The real purpose of this bill is not disclosed at all in the verbiage of the measure. By the confession of the gentleman from Massachusetts [Mr. UNDERHILL], who belongs to that modern school that thinks that anything that is good can be legislated for regardless of results or regardless of constitutional principles, the purpose of the bill is to strike a blow in the District of Columbia at venereal disease and all its forms.

Now, gentlemen, as a physician, do you think for a moment that I would be averse to doing anything reasonable to accomplish that purpose? Why, certainly not. I am very much in favor of the purpose hidden here, but this bill does not accomplish it. It conceals it. Let us take the bill, and I will try to analyze it if I can. I notice that some Members are now present who were not here when the bill was first taken up.

This bill creates a clinic—and you all know what a clinic is—for the juvenile court. In the composition of that clinic is a gentleman who is going to have \$5,000 a year; a specialist called a psychiatrist. That is pretty good as far as it goes. Possibly you can get an accomplished specialist on mental diseases that would be qualified to diagnose hereditary diseases connected with congenital decadence and mental disorders for \$5,000, but just think of the amazing absurdity of trying to get a psychiatrist at a salary of \$1,800 or a psychologist for \$2,000 a year, all of whom must devote their entire time to this work. You could not get anything except a pretender anywhere in the United States or in the world for any such figure.

Now, one other thing. I object to this bill for another reason. Some of you, like the gentleman from Massachusetts, doubtless are going to laugh at this, but I object to the attitude assumed here by us against the masses of the people, an attitude that you would not assume toward your own station in life. You would not pass this bill if it was to apply to the boy and girl up in the finer residential sections of this city. You would not even think of doing it. I say to you that it is absolutely wrong in conception to assume that a boy and a girl cited before the juvenile court—

The CHAIRMAN. The time of the gentleman from Delaware has expired.

Mr. BLANTON. I yield to the gentleman five minutes more.

Mr. LAYTON. This is confined to boys and girls who come before the juvenile court, and they are presumed not to be guilty until they are tried. I ask after having been tried and committed, as I presume they will be, are they not committed to some institution?

Mr. UNDERHILL. Not necessarily.

Mr. LAYTON. Then, what are you going to try them for?

Mr. UNDERHILL. So that they may be treated at home.

Mr. LAYTON. I say, after a child has been cited to the juvenile court, there must be some penalty and they must be

confined in some reformatory institution. If that is correct, there is the place to make your examination.

Mr. BAKER. Will the gentleman yield?

Mr. LAYTON. No; I will not; the gentleman from California has got enough into the Record to satisfy his people for campaign purposes. [Laughter.] These children will go into the reformatory. I say to you as a physician that I am in favor of every examination after the child is committed to the reformatory institution, but I am opposed to it before they have been tried and committed. [Applause.] That is the point I want to make. Now I want to ask a simple question.

We are going along nowadays giving a great deal of authority along certain lines to people who are absolutely incompetent to decide questions. I am not acquainted with Judge Sellers. She may be a solon, so far as I know, but I do know this, that she does not know one single thing, in my judgment, about choosing a proper person to examine the mental diseases of children.

Mr. SANDERS of Indiana. And she may be out of there in a year and somebody else in her place.

Mr. LAYTON. Yes. There is another point I wish to make. She not only chooses them, but here is the significant feature of this bill—

Such officers shall perform such duties and be governed by such regulations as may be prescribed by the presiding judge, and such judge is authorized to remove any of them for cause.

That is limitless power. She may establish such rules and regulations governing anything under the sun that she may want, and in order that she may do it, she is given the right of dismissal if these people do not obey.

Let us not go too far; let us use a little common sense about these things. Bring in a bill here which shall establish, if you please, a proper supervision over children who have once been committed to the custody of the law, and then I shall vote for it, but you have a proposition here that creates two independent bodies, when, as a matter of fact, we now have, in addition, 2,300 doctors in the Public Health Service completely under its direction. Besides that, I imagine there is a public-health service in the city of Washington peculiar to the municipality. Is that correct?

Mr. SANDERS of Indiana. Yes.

Mr. LAYTON. Then, what is the use of having a third one? [Applause.]

The CHAIRMAN. The time of the gentleman from Delaware has expired.

Mr. BLANTON. Mr. Chairman, I yield five minutes to the gentleman from Alabama [Mr. BANKHEAD].

Mr. BANKHEAD. Mr. Chairman and gentlemen of the committee, I am very loath, indeed, to oppose a bill which I am sure has behind it as its purpose a beneficent service to the unfortunate children of the District of Columbia. For a number of years I have been profoundly interested in this question of the conservation of the public health in this country. A number of measures have been proposed in the Congress of the United States to establish a Cabinet office, to create a department of health in the Government of the United States. One of the principal reasons why such a bill has never been successful is because of the fear that under any of the restrictions that were proposed in the various bills introduced it might require some form of compulsory medical attention by some particular school of medicine for some of the people of the United States. I have not so much objection to the bill for what it says as I have for what it omits to say. The bill proposes to establish a clinic for the Juvenile Court of the District of Columbia and to appoint certain specialists, and that they shall be subject to such rules and regulations as may be prescribed by the whim and the caprice, possibly the fallible judgment, of a temporary occupant of the position of judge of that court. There it stops. It does not go on and say what authority or power the judge shall be clothed with in order to carry out the recommendations or the suggestions of these specialists who are provided for, but by implication the judge of that court would have authority to carry out any of the suggestions or the recommendations of any one of these three specialists, however oppressive or fallacious or unjust, with reference to some particular unfortunate juvenile who might be haled before that court. If there is one thing that the people of America have always been zealous in protecting it is liberty of action with reference to the management of the people's own private concerns, and while this bill has no doubt behind it the wholesome general purpose of undertaking to do a benefit for this unfortunate class of children, yet under the phraseology in which it is presented to this committee it seems to me it offers a very dangerous precedent to follow. Under its limitations as now prescribed you will have the whole question of what shall be done with 1 or 10 or 100 unfortunate



children, or incompetents, who have not been adjudged guilty of any offense, left to the judgment, however wrong it may be, of these specialists, these very cheap specialists provided for, as has been pointed out by the gentleman from Delaware—regardless of the desire of their own parents or their guardians. One of my objections to the bill is its failure to fix the authority and limit that authority under which the judge of the court may act in dealing with these juveniles who may come under its jurisdiction.

Some gentlemen of the committee have said that it is for the purpose of treating children in their home before they are convicted of any offense. Very well. The parents of those children might have their peculiar and reasonable notions about the method of treatment. They may desire to employ their own physician. They may believe that the diagnosis by this psychiatrist or by this \$2,000 psychologist might be an error, and they might want to apply their common-sense judgment to the treatment of their own children and have the children under their parental jurisdiction; but for aught appearing in this bill that court or its officials may go into the privacy and sanctity of that home and have absolute and plenary power over the management of the children of that home.

Mr. BARKLEY. Mr. Chairman, will the gentleman yield?

Mr. BANKHEAD. Yes.

The CHAIRMAN. The time of the gentleman from Alabama has expired.

Mr. BLANTON. Mr. Chairman, I yield the gentleman one minute more.

Mr. BARKLEY. I should think that more than 50 per cent of the cases coming before a juvenile court never result in a conviction in the sense that the court would convict somebody of a crime and assess punishment. The juvenile court has wide discretion, and the jurisdiction is more or less informal. Does the gentleman think that because of that fact this bill ought not to pass?

Mr. BANKHEAD. That is the very thing that I am afraid of. The bill is dangerous in its silence on those very propositions.

The CHAIRMAN. The time of the gentleman from Alabama has again expired.

Mr. BLANTON. Mr. Chairman, I reserve the remainder of my time.

Mr. RAKER. Mr. Chairman, I desire to be recognized.

The CHAIRMAN. The gentleman from California is recognized for one hour.

Mr. LAYTON. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. LAYTON. Did the Chair say that the gentleman from California [Mr. RAKER] is recognized for one hour?

The CHAIRMAN. Yes; under the rule.

Mr. LAYTON. Then this must be a three-sided proposition. They have already had two hours.

Mr. RAKER. Mr. Chairman, I shall not use the time allotted to me. I hope I may not criticize anyone because he may differ with me, nor that I shall make any statement that whatever he says he says for the purpose of sending it into his district. I shall not assume to know all about the subject like some people not in Congress claim to know.

There are a few fundamental matters in regard to this bill and this legislation that ought to be known. It has been assumed by gentlemen in their argument against the bill that we are dealing with the jurisdiction of criminal courts as they are applied to men and women who are charged with crime. I trust that the committee in the first place will disabuse its mind of that assumption, because that is not the purpose, nor the object, nor the intent, nor the result of the juvenile-court laws of the various States and of the District of Columbia.

The purpose has been in the enactment of the juvenile-court law, that of correction, for the purpose of reaching out and taking hold of the young boys and young girls under a certain age to the end that they might be protected; that they might be given opportunity for life, liberty, and the pursuit of happiness; and that if their parents do not act the right way, do not act properly, then that the court, the State being fundamentally interested in its citizens, should see that these children are given an opportunity to become fit men and women. Now, those are some of the reasons we have enacted a juvenile-court law. A strict procedure does not apply to the juvenile-court law. Many, many cases, I will say 75 or 80 per cent of the cases, come before the court without any formality. Most of the procedure is informal. You even do away with the court room. You do not have the office surroundings. The judge alone with his probation officers and assistants is visible, and he sits in an ordinary room with an ordinary table, brings the delinquent before him, and the parents and witnesses and questions them.

There is no question of the constitutional right involved where a party can not testify against himself. He finds out what is the matter, what is the trouble with this boy or with this girl. It is not a matter of punishment. Many of the States have enacted laws that a child under certain age can not be prosecuted for certain crimes. They must go to the juvenile court and the court takes charge of them there. That is one of the purposes and the objects of the law. That is the purpose, that is the object of this bill to carry out—what? Let us see. I have never been more surprised in my life than to hear gentlemen talk about questions of the Constitution, of the rights of the citizens being invaded in a case of this kind. Take a concrete example: Here comes a boy 14 or 15 years of age before the juvenile court. He is under arrest on a proper complaint. The judge lays aside the formalities and determines what shall be done with this boy. On examination he determines what is the character and condition of his mind and—

Mr. JOHNSON of Mississippi. Will the gentleman yield?

Mr. RAKER. For a question.

Mr. JOHNSON of Mississippi. Take the case to which the gentleman has referred. Suppose the boy is convicted. Under the law creating the juvenile court if he wishes to appeal his case he must appeal to the court of criminal appeals here in the city—

Mr. RAKER. The District Court of Appeals.

Mr. JOHNSON of Mississippi. The District Court of Appeals, that is the name. The law requires him to present a bill of exceptions setting forth the facts in full, what was done by the court below. I wish to ask the gentleman if he does not think it will work a hardship to the class of people who will be taken to the juvenile court, and does not the gentleman think that could be modified, for instance, by allowing him to give a bond of \$1,000 or \$2,000, an appearance bond?

Mr. RAKER. I will get to that.

Mr. JOHNSON of Mississippi. One further question. It will work a great hardship upon him, because no one except a lawyer can draw a bill of exceptions, and it will necessitate this poorer class of people employing a lawyer to prosecute an appeal, and they do not have the money to do it.

Mr. RAKER. Well, in a good many cities and States they have what is known as defendant counsel to look after these matters and it has worked wonders. You know the object of the law is not to inflict corporal punishment on the man for vindication or for spite or anything of the kind. The whole subject of punishment is for the purpose of correction.

Mr. BANKHEAD. Will the gentleman yield?

Mr. RAKER. I want to talk a little on the question of this bill. The whole purpose of the law is so to adjust things that we can prevent offenses, so to arrange it that the man or woman will not commit them and help to make conditions so that they will not commit them, and if their foot does slip, if you please, that we might better them and lift them up instead of pulling them down.

Mr. BANKHEAD. Of course, we are all in favor of that purpose.

Mr. RAKER. That is what is in this bill.

Mr. BANKHEAD. Will the gentleman allow me to ask about this bill—

Mr. RAKER. I am getting right down to this bill.

Mr. BANKHEAD. From the standpoint of the one who has been brought before the court but who is not convicted. What can be done with him under the provisions of this bill?

Mr. SANDERS of Indiana. If the gentleman will yield further in that connection, will not he also include in that some one who has not been convicted, who is absolutely innocent, who is charged unjustly, and brought before the court?

Mr. RAKER. It is an old, old story in reference to every criminal court, that the defendant is entitled to the benefit of the doubt. We know that. He possibly is innocent. That applies in all criminal courts; he might be innocent. Let us see what this bill is.

Mr. GRAHAM of Illinois. If the gentleman will permit, here is the thought that is in my mind: Do you know of any other jurisdiction in the country where a compulsory physical examination is prescribed by law before the person is tried and convicted? Do you know any place else where it is done?

Mr. RAKER. I wish I had those authorities.

Mr. GRAHAM of Illinois. It is not done in your State, is it?

Mr. RAKER. I want to answer that, in order that there can be no misunderstanding. Under the bill for public health—and practically all the States have it now, although the District of Columbia has not—to my recollection they have compulsory physical examination, and the courts have upheld it.

Mr. JOHNSON of Mississippi. They do not have, I think, physical examination until they are tried and convicted, and then the court sends them out to be examined.

Mr. RAKER. This is a class of cases where the examination is had. When they find that they have certain communicable, dangerous, infectious diseases, where an examination is had, they are notified, and if at a certain length of time they do not proceed to seek medical aid, then physical examination is had, and is compulsory under the statutes. The courts have held that to be good. The juvenile court jurisdiction is given by virtue of the act of April 19, 1906. It has been amended so as to take in delinquent parents. And it was again amended in 1916, holding that any judgment that the court might render should not be considered such a judgment in a criminal case against the delinquent, so as to affect his rights in any way, civil or otherwise. So it is simply a question of handling the delinquent, dependent, or offending child. The jurisdiction is conferred by section 8 of this act, specifically stating what the court shall dispose of and what the court shall handle in regard to delinquents and in regard to uncontrollable children, in regard to those who violate certain of the laws and rules and regulations of the District of Columbia under the Statutes of the United States as they relate to the District of Columbia.

But, gentlemen, get back to our boy who has been arrested and brought before the juvenile court without the many forms that are ordinarily followed in a criminal trial in a court of criminal jurisdiction, State or Federal. The boy, say, is 14 years of age. The juvenile judge in looking over the matter and inquiring finds out that the boy has committed some offense. It shows upon its face. He inquires of the boy and the boy admits it. No trial has been had yet. You say that can not be done in an ordinary trial in a criminal case. That is true. But we have a juvenile court now, with a judge handling this case. It turns out this boy is somewhat defective mentally. Are you going to make provision to help him out? Now, that is the least of the thing involved. Upon an inquiry it develops, not sufficient to be certain, that the boy has an infectious, communicable, dangerous disease. Now, what are you going to do? Now, you are humanitarian. Are you going to handle him as an ordinary criminal or turn him loose? You know he can be cured. The record here shows that 23 per cent of these boys and girls under 17 years of age, school children, if you please, that were brought before the juvenile court last year were afflicted with communicable, infectious, dangerous disease, dangerous not only to their own health but to the health of every other child that attended the school that they attended, by reason of the toilets, by reason of the wash rooms that were used, and other reasons. But the girls might have been servants in the house, and the best girls on earth stood subject to being infected by this same disease. Then you hold up your hands in holy horror and say that this boy before conviction, although he has committed an offense, should not be examined and should not be treated, nor, as a matter of fact, under this law should the juvenile court be given jurisdiction and the power to direct that he be attended to. Then, what results do you get?

You find that you have the physician who can make a thorough examination and determine exactly what is the matter with this young boy. He can let him go home, and he remains at home, and he does not have to go to a public institution at the charge of the District or the State. He is taken care of and treatment is given him, and he is cured. The court puts him out on parole, and then for a year or two years this boy is reported to the juvenile court. And on the report of the probation officer and the probation committee the boy is turned loose, cured, a good citizen. Therefore good has been accomplished by it.

Mr. SANDERS of Indiana. The gentleman is describing a situation. Will the gentleman be kind enough to point to a single line in this bill which will authorize the doing of a single thing the gentleman has here enumerated?

Mr. RAKER. That is exactly what it does. It does nothing else.

Mr. SANDERS of Indiana. I challenge the gentleman to point to any language in the bill that will do what he says.

Mr. RAKER. You are overlooking; you are just shutting your eyes to the question of a juvenile court law. That is what you are doing. You are simply looking at the criminal statutes, trying a man for murder, grand larceny, arson, or thousands of other crimes, before a jury, a man of age and discretion. But here in the District of Columbia, and I think in practically every State in the Union, you can not try a boy under a certain age in the courts as you used to do. They have got to go to a juvenile court. The purpose is for rejuvenation and for correction.

Let me get back to the boy again. We are not always talking from theory. We are talking from experience, what we have seen done in other places by the juvenile court and juvenile court officers and probation officers. This boy has made good.

The charges against him are all dismissed. That is the object and the purpose of this juvenile court law in the District of Columbia.

Mr. ROSE. Will the gentleman yield?

Mr. RAKER. I yield.

Mr. ROSE. I think the gentleman has already stated that he knows of no State in the Union that will permit compulsory examination.

Mr. RAKER. I did not state that.

Mr. ROSE. I have understood that there is a case in Pennsylvania where a magistrate, without information being made against the defendant, ordered an examination of a young girl by the probation officer. What would the gentleman say if that young girl were his daughter in a case of this kind?

Mr. RAKER. I will say to the gentleman that I was reading something, and I did not quite catch his question.

Mr. ROSE. I want to state to the gentleman a case of where a girl was brought before a magistrate and examined by the probation officer, who is a female, where there is no law providing for it. How would the gentleman feel if that young lady should be his daughter and should have been examined without a law providing for such examination, before trial or before conviction could be had?

Mr. RAKER. Forget that trial, because we are all discussing something that is not much involved in the juvenile court law.

Mr. ROSE. Let me state this: Since there are juvenile courts in many of the States of the Union, does the gentleman concede that all of the States of the Union have overlooked this very provision which the gentleman is trying to have enacted into law now?

Mr. RAKER. Put your question and I will try to answer it.

Mr. ROSE. Has not this condition that is now brought before this Congress been observed in every State of the Union? And how many of the States have on their statute books such a law as is now presented?

Mr. RAKER. In the first place, I hate to have to admit it, but I do admit with sorrow and regret that I have no daughter. I would not put it as a personal case. I would put it generally. Remember that this law does not overlook it. This law relates to those charged with the violation of the law.

Mr. ROSE rose.

Mr. RAKER. Now keep still until I get this to you: This relates to those who are delinquent. This relates to children that the father and mother have abandoned.

Mr. CABLE. Mr. Chairman, will the gentleman yield?

Mr. RAKER. Not now.

The CHAIRMAN. The gentleman declines to yield.

Mr. RAKER. This relates to cases where the court's charges have been preferred upon reasonable grounds. I suppose there is not one case out of a thousand where those persons are shown to be not guilty of the offenses charged against them.

Now I yield.

Mr. CABLE. Will the gentleman point out the line in the bill which provides that a person must first be charged with a crime before he can be brought before the juvenile court and examined?

Mr. RAKER. I must repeat again: This same kind of a law is in force in Philadelphia and Boston and Chicago, and in many other cities and many of the States now. I hope the gentlemen of the House hearing this matter to-day will remember that the juvenile court law is on the statute books and in force, that it is functioning and working all the time. The jurisdiction is conferred by section 8 of the act of 1906. These boys and girls are before this juvenile court now. Here are diseased boys and diseased girls; 23 per cent have an infectious or contagious disease, 23 out of every 100 that have gone through the courts, without any homes to go to, neglected by fathers and mothers, and afflicted with all the other ills that overtake a young man or a young woman under such conditions.

Now, that is the actual physical condition. It is not a theory. What are you trying to do now by this bill? We have had it in operation here by consent, Army officers assisting. We had a clinic. They examined every boy and girl that came before them, and they did them good. We have not a clinic now. But the great people of the United States are legislating for this municipality, the National Capital; not that they are residents, it makes no difference where they come from, they are entitled to be here, 50 per cent of them, from every State. They are entitled to bring their boys and girls here and live, and they are entitled to have a full equipment of school facilities and courts in full operation for their care and protection; and not



only for the care and protection of the children, but also of the fathers and mothers and others they associate with.

Now, the only thing is that the judge herself, presiding, a woman of ability, a woman of experience, a woman who has been sitting there for two years and observing the pitiful conditions of these young men and young women as they came before her, simply comes to this legislative body, that has control of this legislation, and says to it, "Will you give me authority to properly care for these unfortunates? Will you enact legislation that will not only protect the remaining citizens of this District and yourselves from contamination and infection from these diseases, or else permit them to continue?"

Why, before the Committee on the District of Columbia some two months ago evidence was given by the leading physicians of the United States, including Brig. Gen. Sawyer, who appeared before the committee, and there is a bill now pending whereby they will take up the question of venereal diseases and their effect on the adults of this District.

Mr. SANDERS of Indiana. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman from California yield to the gentleman from Indiana?

Mr. RAKER. No disease is more dangerous and deadly to the community than that disease, and the only place, the only confines in the United States to-day where you have not law on the subject is the District of Columbia. All the States in the Union provide for adult cases and others, and yet you are questioning here the expenditure of a few dollars for the purpose of protecting these young men and women. You are asked to spend a few dollars to reach into the public schools and take these infested spots out of your public schools for the purpose of saving your own boys and girls in these schools, and at the same time be humane enough to take care of and provide for the young man or young girl that is unfortunate enough to have been thus afflicted.

Now, I yield to the gentleman for a question.

Mr. SANDERS of Indiana. Will the gentleman now be kind enough to indicate the part of the bill that gives any jurisdiction or touches the question of venereal disease or communicable disease?

Mr. RAKER. Yes; I will do it. It is just as plain as can be. You will find it on lines 1 to 8. I will read that part that refers to it all:

That there is hereby created and established a clinic attached to the Juvenile Court of the District of Columbia for the mental and physical examination and study of persons who may be brought before the said juvenile court whenever in the discretion of the judge of said court such examination and study shall be deemed necessary before, during, or after trial.

Now, I will refer to that first provision, for the mental and physical examination.

Mr. SANDERS of Indiana. It is the treatment that I inquire about.

Mr. RAKER. It is all provided for in this bill, and it is well put in. Can you get any further in an examination if you examine the mental and physical condition of a human being? Now, just stop and think; what more is there left that the doctor can go into?

Mr. RAYBURN. The moral condition.

Mr. RAKER. We could not go into the moral condition. So I say, answering the gentleman's question, it covers all the mental condition and the physical condition. The physical condition means from the head to the sole of the foot; every organ, every vein, and every artery that relates to the anatomy of the individual.

Now, going on the other question. The judge of the juvenile court shall have power to appoint the following: A physician, male, at a salary of \$5,000 per annum, who shall have had a special training as a psychiatrist in the diagnosis of insanity and mental diseases. All right; I have read and studied that provision. He is to appoint a physician, and one of the qualifications—this is not a one-sided physician—one of the qualifications is that he must have had experience and know something about the mental condition of human beings. He has all the other attributes of making a physical examination.

Mr. RAYBURN. All the qualifications that the bill calls for is that he must be a psychiatrist.

Mr. RAKER. No; the bill does not say that.

Mr. RAYBURN. And devote his entire time to that.

Mr. RAKER. The gentleman is mistaken. The bill says that he shall have power to appoint a physician who shall have had special training as a psychiatrist in the diagnosis of insanity and mental defects.

Mr. RAYBURN. And devote his entire time to it.

Mr. RAKER. And shall devote their entire time to such work. What work? Go back in lines 5 and 6 and it says

mental and physical examination of these boys and girls. That is what it means, and it can not mean anything else. You can not expect a physician, graduated at one of our best medical colleges, to know only one subject and be an entire ignoramus as to all the rest. But he must know the physical anatomy of a human being.

Mr. RAYBURN. The bill prohibits anything except that he devotes the whole time to the work mentioned in the bill.

Mr. RAKER. Mental and physical examination. There can be no harm in putting into the bill the suggestion made by the gentleman from Indiana [Mr. SANDERS], but that would not be necessary. The question involved here—and I do not want to get involved in discussing the mere meaning of words, but this is for the physician who must have some qualifications outside of the ordinary physician, and that is in the diagnosing of mental troubles. He being a physician, a graduated physician with some experience, he will be able to apply all the knowledge that he has that relates to the physical condition of the boy and girl that he examines, whether it is venereal disease or not, and treat them properly and right, because in the majority of cases it can be determined by the Wasserman test. But the whole objection to this bill seems to be that it gives the court the power to appoint a physician to take care of these children.

Mr. ARENTZ. My objection is that two and a half cases are to be handled each day by a \$5,000 physician and two assistants. That seems an unreasonable burden to put upon the Government and taxpayers.

Mr. RAKER. Let me answer that. Here at a high school are a thousand young men and women practically equally divided. Here is a delinquent going to that school having a dangerous contagious and infectious venereal disease. There is a girl going to the same school and right among the 998 boys and girls attending that school and according to the authority of all the physicians and all the scientists they are subject to be infected with this loathsome disease. Is it too expensive if it costs \$5,000 for a whole year if this doctor could take out that one boy and this one girl from this school and take the canker from the whole school and keep it from being infected and preserve the health of the children of that school so that they will not be subject to the contamination that is on every side of them. This idea of expense, this question of cost, when you are trying to conserve the health of the community, when you are trying to protect the community from these diseases, ought not to be taken into consideration.

Mr. JOHNSON of Mississippi. Will the gentleman yield?

Mr. RAKER. Yes.

Mr. JOHNSON of Mississippi. I want to ask the gentleman where he finds authority to authorize the judge to impose a penalty before the party is found guilty. In line 8, page 1, you authorize the judge before the trial to require this boy or girl to submit to a physical examination. Where do you get the authority for that, certainly not from the Constitution?

Mr. RAKER. I know; but one of the Members suggested that it would do no hurt if the bill had an amendment. But here is a different state of facts. In an ordinary criminal case you take a man before the court and ask him, Did you do this thing or did you do that? and you are violating the provisions of the Constitution. In the juvenile court you do it every day, and the courts have held that you have a right to do it; you are the parent; you stand in the relation of parent to that child. The Government is looking after it, and the citizenry is of more importance to this country than any one function of the Government.

The Government is interested in its children. The Government is interested in the divorces that are granted, and it has so been held by the courts. The Government maintains an interest in the relation of these people to the end that each one may pursue his course in a healthier and proper way.

Mr. JOHNSON of Mississippi. But the gentleman has not answered my question. Where does he get the authority?

Mr. RAKER. Under this act, giving the juvenile court the power.

Mr. JOHNSON of Mississippi. And is not that unconstitutional?

Mr. RAKER. No; I do not think it is. My recollection is that many courts all over the United States, some 25 or 30, have held that it is not an infraction of the Constitution for a juvenile court to bring in a young boy or girl and have them sit down and make an examination of their entire lives. You could not do it in an ordinary criminal case. But a boy 14 years of age is brought before the court and you tell him to come in, and say, "Now, young man, tell me all about it." You do not tell him to be careful, that what he says will be used against him, and you are not violating constitutional law.

It is a duty the Government owes to its citizens, and it is the establishment of a court for the purpose of protecting the children, the same as a parent has the right to inquire what his child has done and is doing.

Mr. JOHNSON of Mississippi. The juvenile court is a court of record, is it not?

Mr. RAKER. Most of them are.

Mr. JOHNSON of Mississippi. I will state as a fact that this is a court of record. An appeal lies from its findings.

Mr. RAKER. Yes.

Mr. JOHNSON of Mississippi. And a man who violates the order of the court may be fined.

Mr. RAKER. Yes.

Mr. JOHNSON of Mississippi. In this case you propose to impose your penalty before you try the man or the boy. It is provided that he must submit to a physical examination before the trial, and that is a penalty, is it not?

Mr. RAKER. I do not think so.

Mr. JOHNSON of Mississippi. That he must submit to a physical examination before, at the time of the trial, or after the trial. You do not give him a chance to prove that he is not guilty of any wrongdoing, but you humiliate him by making him submit to this before you give him a trial.

Mr. MOORE of Ohio. Mr. Chairman, will the gentleman yield?

Mr. RAKER. Yes.

Mr. MOORE of Ohio. And in that connection instead of its being an exposition of what may be wrong with the person before the board, is it not frequently the case, with the consent of those interested, and perhaps, too, with a child old enough to know the facts, that these things are not put on record, and that the court protects rather than anything else against publicity of something that people ought not to know?

Mr. RAKER. That is one of the main purposes of the court, and Heaven knows that it has saved many a young girl and boy and has protected them in after life and made good citizens of them. That is one of the objects of the juvenile court. Let me say a word about this personal examination. There is not so much in that as some of our friends would like to have us believe. I remember being in France. I started home. I wanted to go home. I was asked whether I had a certificate of examination, and I said "No." They then told me to go around and get one. Now, we submitted to an absolutely complete physical examination, even to the taking off of our shoes.

Mr. BANKHEAD. In France?

Mr. RAKER. Yes; before you could get home. There was not anything wrong about that, and that is particularly so in these cases where you are attempting to prevent the spread of an infectious, dangerous, contagious disease. Are you going to let a leper go down the street and say that you can not examine him? If a man starts out here and you think he has the small-pox, are you going to examine him, are you going to arrest him, or are you going to let him go simply because somebody says that you shall not infringe upon his personal rights?

Mr. BARKLEY. Mr. Chairman, I suggest to the gentleman the fact that these physical and mental examinations are held more in many cases to determine whether the alleged delinquent child is guilty of any criminal offense, and may determine in many cases whether any penalty ought to be assessed against him. Certainly the juvenile judge ought to know whether any physical or mental condition had contributed to the alleged delinquency.

Mr. RAKER. I have no doubt that there are at least 25 per cent of the cases that can be and are disposed of by virtue of those conditions.

Mr. BARKLEY. So that instead of the examination being a penalty, it may prevent the imposition of a penalty.

Mr. RAKER. It prevents a penalty and prevents disgrace.

Mr. CLOUSE. Mr. Chairman, will the gentleman yield?

Mr. RAKER. Yes.

Mr. CLOUSE. In referring to the two cases here in one of the high schools in the city, will the gentleman tell us and the members of the committee how the juvenile court in the District of Columbia would acquire jurisdiction of those cases?

Mr. RAKER. Yes. According to the records produced by Brig. Gen. Sawyer and clear on down through the Navy and the War Departments, which are printed by this committee in the hearings had on a bill to protect the public from the spread of venereal diseases, the gentleman will find lots of justification for this. Here is a boy, we will say, who is a delinquent. His father and mother do not take care of him. He goes to the high school. The truant officer files a charge against him and he is taken down to the juvenile court. That court, instead of bringing a jury and a lot of attorneys and others about him, puts the young man down and says, "What is the matter with

you?" The boy replies, perhaps, that his father beats him, that his mother does not give him the necessary clothing, that he is not treated well at home, that, of course, he goes to school but he runs away most of the time. The question is then asked him as to what he has been doing. He does not like to tell all of the things, but after inducement he does, and he tells what has happened to him. He is asked how he is feeling, and he says he feels a little sick, but he does not like to tell in what way; but finally he tells the whole story, and they find that the boy is reeking with a contagious, infectious, dangerous disease. In that case what are you going to do? Are you going to send the boy back to school to let him mingle among the thousands of others there?

Mr. CLOUSE. Assuming that this boy you refer to is not an incorrigible, that he is not a delinquent in that he is provided with his books, his clothing, his means of support, would the gentleman then say that he was a delinquent, so as to give the District court jurisdiction of his person?

Mr. RAKER. Of course, if he is not a truant, if he is not a delinquent, if he has not committed any offense, if he has not been charged with committing an offense, then not in one case out of one hundred thousand would the boy be apprehended; but the truant officer knows whether he has been at school, the teacher knows, the neighbors know. His father and mother can do nothing with him. He goes before the juvenile court; and, instead of finding there an adversary, he finds one who is a friend. The juvenile court judge is supposed to be the friend of the boy and of the girl. The boy will say that for the first time in years he has found a friend.

Mr. BANKHEAD. Mr. Chairman, will the gentleman yield?

Mr. RAKER. Yes.

Mr. BANKHEAD. I am trying to get some little idea of what the committee has in mind.

Mr. RAKER. And the boy tells his story and he is protected. I yield to the gentleman.

Mr. BANKHEAD. Does the gentleman understand that the pending bill enlarges or increases in any way the original jurisdiction of this juvenile court?

Mr. RAKER. To my mind it neither enlarges it nor does it limit it. It gives it another function whereby it can enforce and make effective a law which is now on the statute books. That is my view of it.

Mr. BANKHEAD. I hold in my hand a copy of the law creating the original juvenile court.

Mr. RAKER. I have it before me, I thank the gentleman.

Mr. BANKHEAD. Does the gentleman find in the law any authority conferred upon the courts to compel a compulsory examination on the part of those persons coming before it?

Mr. RAKER. Oh, the gentleman has been in the trial of cases in several—

Mr. BANKHEAD. Answer the question.

Mr. RAKER. I am. Did the gentleman ever see a physical examination given in a court room? Does the gentleman find on the statute books that the court must have specific authority to examine in the trial of a case?

Mr. STEVENSON. Will the gentleman yield?

Mr. RAKER. I will.

Mr. STEVENSON. Does the gentleman mean to say that the court undertakes, when a party to a case is in court involuntarily, to require him to submit to a physical examination without a statute authorizing it?

Mr. RAKER. I made no such statement.

Mr. STEVENSON. Then, can it do it any more if the party happens to be an infant—

Mr. RAKER. Yes.

Mr. STEVENSON. Than if he were a grown man?

Mr. RAKER. Absolutely, because the court has that function.

Mr. STEVENSON. Has the infant more rights than an adult?

Mr. RAKER. There are entirely different functions in different courts constituted for different purposes. I say to the gentleman and every constitutional lawyer, and I see numbers of them before me now, and I make this statement as a fundamental statement, that you bring a man into a court room or before a grand jury and say, "Tell what you know about this case." You are violating his constitutional right, and if you proceed any further and convict him you will have a reversal. The gentleman knows there is a distinction—

Mr. BURTNESS. Will the gentleman yield?

Mr. RAKER. I will.

Mr. BURTNESS. I believe most of the discussion on both sides has proceeded on the theory that this law provides for an absolutely compulsory examination. Is that the real situation?



Mr. RAKER. It does not say so.

Mr. BURTNESS. Or does it simply provide an agency that the juvenile court may use without the court having the absolute authority to compel an examination if it is against the wishes of the person who stands in the position of loco parentis to the child?

Mr. RAKER. I say unhesitatingly under this provision, in answer to the gentleman's question, it is entirely discretionary with the judge as to the number who shall be examined, if any.

Mr. SANDERS of Indiana. Is it discretionary with the patient?

Mr. RAKER. The gentleman has asked a very pertinent question. This bill is discretionary with the judge. The judge can make an order requiring the examination or he may leave practically all of them unexamined. Now, under the practice heretofore, 1,028, each one of the parents have consented. Now, what is left under this law? Let us assume, let us be frank, let us be fair, let us be just in this kind of legislation and say that the judge is going to use some kind of discretion in the future as he has in the past, because he had the clinic before. Now, he has one and he is going to use it in the future as he has in the past for the benefit of the children and—

Mr. CLOUSE. Will the gentleman yield?

Mr. RAKER. I will yield.

Mr. CLOUSE. I would like to know for my own personal information whether or not the ones brought before the juvenile court under the provisions of this bill must be there to answer a criminal or civil charge?

Mr. RAKER. The statute—I have that marked here—the statute says criminal. Now, just a moment.

Mr. CLOUSE. All right.

Mr. RAKER. Under the act of April 27, 1916, has the gentleman got it—

Mr. CLOUSE. I want an answer.

Mr. RAKER. I am going to give an answer; I have it right here. A judgment can not stand as a judgment in a criminal case against a delinquent. Is not that right?

Mr. CLOUSE. I have not the bill before me. If it is a criminal action that is brought in a court, how does the contemplated legislation stand in the light of article 5 of the Constitution, which says that no person shall be compelled in any criminal case to be a witness against himself.

Mr. RAKER. I have answered that once and I will answer again.

Mr. CLOUSE. I would like to know.

Mr. RAKER. Does anybody know of any law that prevents a parent asking a child where he has been and what he has been doing? No; I do not yield further.

Mr. STEVENSON. Will the gentleman yield?

Mr. RAKER. Not for a moment.

Mr. STEVENSON. But the gentleman asked a question.

Mr. RAKER. No—

Mr. STEVENSON. Very well, do not ask questions if the gentleman does not want somebody to answer them.

Mr. RAKER. Does anybody question the reasonableness of the parent asking a child those questions? Now, it is provided in the Federal Constitution and in the State constitutions that a man can not be compelled to be a witness against himself in the trial of a criminal case, neither before the grand jury; if so and it is brought before the court, the court will set it aside on that ground upon presentation. Here is a system known as the juvenile court law for the purpose of correction, for the purpose of analyzing the condition of a child like a parent would in the same place, and therefore that provision of the Constitution does not apply, as has been held by the courts.

Mr. BARKLEY. Even if an attempt were made to use that technical argument against this bill, is it not a fact that in practically every case the examination is intended to show whether there ought to be any penalty at all assessed, or whether there is criminal responsibility on the part of a child, and that it is designed to benefit the child rather than to establish against him any criminal prosecution?

Mr. STEVENSON. Will the gentleman from California yield?

Mr. RAKER. I yield to the gentleman.

Mr. STEVENSON. It may be used to show that he is not guilty of a crime, but with equal facility it may be used to show that he is guilty of a crime. And this is absolute power in the hands of a court. It says whenever in the discretion of the judge such examination and study shall be necessary. While it may be a protection, it may be an assault of a very grievous kind. [Applause.]

Mr. RAKER. It might be a wonderful assault upon a child who is neglected by its parents, who is neglected by the public, who is turned loose, and who has violated the law, to take

that child before the juvenile court, and instead of sending him to a reform school or sending him to some other institution, to send him out to some good home, which can be done under this bill, as it is done under all the juvenile court laws. Instead of penalizing the child you become his parent, you look after him, and you provide him with clothing, provide him with the necessary sustenance of life, you provide him with medicine, you cure his mind, you cure his body, and you make a good, healthy boy of him. Now, is not that an awful thing to do? It seems to me every man, woman, and child ought to be ready and willing to go to the very limit to carry out the provisions of this most humane institution established by the American people in regard to juvenile courts and probation officers for the purpose of protecting the young men and women.

Mr. LAYTON. Will the gentleman yield?

Mr. RAKER. I yield to my distinguished friend from Delaware.

Mr. LAYTON. You are referring now to pure cases of vagrancy, where the children have no father or mother to care for them at all, but would you send one of those cases, afflicted with syphilis, for instance, to a home, and would that home take them, or would a family want them? Except to take them up and hale them before a juvenile court, the whole proceedings stop there. I call this a bill of curiosity, to find out what is the matter with them.

Mr. RAKER. The medical man's disposition is for the medical feature of it. You have seen and I have seen boys taken from the streets and provided with proper sustenance. We have sent them out to homes instead of to institutions, with the consent of the boys, and after four or five years we have seen the proceedings against them dismissed, and we turn the boy out an upright citizen, attached to one of the good ladies of the community. You can find such cases as those by the hundreds and thousands in the United States to-day, and it has been possible by virtue of our juvenile court law. What did we do 20 years ago? Why, there are cases on record where we have tried for murder children of 10 years of age. But the humanity of the American people began to realize that we could institute this kind of a court, and I am going to stay with that proposition, even if it has anything to do with the constitutional right. It is a parent to a child, and this is just another method of giving the juvenile court the right to furnish medicine and care not only for this child but to keep him from intermingling with others.

Mr. LAYTON. In my State for years we had a provision whereby under a proper officer, who is supposed to look after such cases, application could be made to the homes in Philadelphia, and even further afield, to take a boy or girl into such home. But within the last two or three years some Government official, very busy, as they always are, came down there into my State, and you never heard tell of such an apparent disclosure of cruelty, and so forth, that these people who took these children were supposed to have inflicted upon them.

The gentleman is absolutely all right. I agree with him that that is the very practical way of settling this question of the fatherless and motherless. I believe in that. I am not opposed to your bill here in this District if you will only do two or three things to it. Do not you attempt to invade the liberty of those children until they become wards of the State by due process of law, and after you have done that, then take them and give them what they ought to have—food, clothes, and medical treatment.

Mr. RAKER. Just a word, and I am through.

The gentleman from Delaware has spoken about the fatherless. You know, and we all know, that there is more crime committed by the strong-headed boy that does not pay any attention to his parents. He knows more than dad or mother knows when he is 14 years of age, and he runs away from school. The dad says, "I have done all I can and can not help him any longer." The teacher knows that he is gone. I want to give you a practical, concrete case that applies to this. The truant officer knows he is gone. Dad says he is too busy; mother says she has too many social functions to perform; and the boy goes to the bad. Now, what do you do in the juvenile court? Let me tell you—

The CHAIRMAN. The time of the gentleman from California has expired. The gentleman from Pennsylvania [Mr. FOCHT] is recognized.

Mr. FOCHT. Mr. Chairman, I desire to ask unanimous consent that general debate close in five minutes.

The CHAIRMAN. The gentleman from Pennsylvania asks unanimous consent that the general debate close in five minutes. Is there objection?

Mr. JOHNSON of Mississippi. I object.

The CHAIRMAN. The gentleman from Mississippi objects.

Mr. FOCHT. Mr. Chairman, this seems to be a field day on this matter. I had no idea when we called up this bill that there would be any extended debate. I was trustful of the House with respect to its silence to-day on this measure. I wish to assure you, however, that whenever any further bills are taken up by the chairman of the Committee on the District of Columbia he will not be trustful. He will try to have the time for debate fixed before we begin.

Now, we have heard a good deal with reference to the bill to-day, and a good deal that has not had anything to do with it. But the chairman and members of the committee, after having listened to real experts on the question, men who were brought before the committee during the hot summer days and nights, after having listened to Judge Sellers and to experts who came before us, to the people who had seen this measure in operation and who have been parties to its operation, or to the operation of measures of similar character in all the great cities of the country, working, I believe, successfully, we have brought in this bill for your consideration. I know that this law is a success in Philadelphia, for we had before the committee the probation officer of that city.

But you know, my friends, that after all in matters of this kind it is chiefly a question of administration. You take a case of this character: The judge sits on the bench with almost unlimited power. Even the ordinary common-pleas judge of a country court has wide discretionary power. I have vowed many times that I would never vote for a 10 years' tenure of a judge unless he was a man of compassion and pity and good heart, for the public must necessarily be his children.

Mr. STEVENSON. Mr. Chairman, will the gentleman yield for a question?

Mr. FOCHT. I beg the gentleman's pardon. I have not spoken hitherto to-day; and the gentleman has had a great opportunity. There is no one that I would prefer hearing than the gentleman, and some day we will give him a full hour.

Mr. STEVENSON. I wanted to ask you where you learned those extraordinary doctrines? [Laughter.]

Mr. FOCHT. That is a very pertinent question, and I will try to answer. I thank the gentleman for the opportunity. It is a matter of administration. We find it here in governmental departments. We pass acts of Congress; we think we shall have carried into effect what has been in the mind of Congress; and we try to get something through on that hypothesis; and then we go down and find that they have not interpreted our law. About next summer or the 1st of January they are going to tell you just how your law is to operate—the lawmaking heads of departments.

So that I say if a stony-hearted judge sits upon that bench, to Neroize this kind of legislation, you can soon drift into resentment that might approximate anarchy, whereas on the other hand if you have as a judge only the kind of man or woman for whom I vote for judge, who has some heart for the boy or the man or the woman or the girl that is down and out, and particularly diseased and hopeless up to that time, you will get a proper administration of this bill.

But fundamentally, gentlemen, this bill is based upon a high and benevolent purpose. It is progressive; it is constructive. It leads in the right direction. It is offering the pitying hand, the helping hand, to those who do not know how to help themselves and could not help themselves even if they did know. I do not know any gentleman who can conceive perfect legislation. There is no such thing as perfection in human wisdom. There is only one place where you can find out whether it is perfect or not, and that is the place where you try it.

Now, before you have had even an opportunity to amend this bill we find gentlemen here, of high purpose, to be sure, inveighing against it. What are we here for? As I suggested with reference to a measure that we had up some weeks ago, our legislation must conform to the collective intelligence and judgment of this House, not that of one man or of one committee. I know a member of the District Committee who said, after I had called attention to that fact in relation to the other bill, "That is one thing that I will never admit, and that is that the American Congress is not able to function; that it is not able to perfect a bill; that it is not able by its machinery to get the collective judgment of the House."

The only way to do that now is to proceed to have this bill amended if you so desire; and I hope, my friends, before this day passes we may have amendments offered that suggest themselves to the Members who believe in the bill, who believe in taking care of the children, who believe in taking the pest spots out of the schools and from the public highways. Let us proceed without further debate. Let us debate something else. It seems to me it is tiresome to the membership and to the audi-

ence. Let us move on a little, gentlemen, and let us read the bill. [Applause and cries of "Read!"]

The CHAIRMAN. The Clerk will report the bill for amendment.

The Clerk read as follows:

*Be it enacted, etc.,* That there is hereby created and established a clinic attached to the juvenile court of the District of Columbia for the mental and physical examination and study of persons who may be brought before the said juvenile court whenever in the discretion of the judge of said court such examination and study shall be deemed necessary before, during, or after trial.

That the judge of the juvenile court shall have power to appoint the following: A physician (male) at a salary of \$5,000 per annum, who shall have had special training as a psychiatrist in the diagnosis of insanity and mental defects; a psychiatric case worker at a salary of \$1,800 per annum; and a psychologist at a salary of \$2,000 per annum, and who shall devote their entire time to such work; and a physician (female) at a salary of \$1,000 per annum, who shall devote part time to such work for the purpose of conducting such clinic under the supervision of the judge of said court. Such officers shall perform such duties and be governed by such regulations as may be prescribed by the presiding judge, and such judge is authorized to remove any of them for cause.

Mr. LAYTON. Mr. Chairman, I offer the following amendment.

The CHAIRMAN. The Clerk will report the amendment offered by the gentleman from Delaware.

Mr. LAYTON. On page 1, line 8, strike out the words "before, during," and on line 9 the word "or."

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. LAYTON: Page 1, lines 8 and 9: On line 8, after the word "necessary," strike out the words "before, during," and on line 9 the word "or."

Mr. LAYTON. Mr. Chairman, if the amendment that I have offered prevails the language will read as follows:

That there is hereby created and established a clinic attached to the juvenile court of the District of Columbia for the mental and physical examination and study of persons who may be brought before the said juvenile court whenever in the discretion of the judge of said court such examination and study shall be deemed necessary after trial.

Now, in continuation of what I said about the matter of discrimination between persons. Gentlemen, why should we have this discrimination as applied to the juvenile court, to the boys and girls whoever they may be, who come before the criminal court? The gentleman who has charge of this bill stated a truth, and there is no question about it, that we have in the country here a prevalent disease that is found within the palace as within the cottage gate. Every physician knows it, but why discriminate? If you are going to try to eradicate venereal diseases by an attempt to examine a very few boys and girls who will come before the juvenile court and who may, as the gentleman from Massachusetts says, infect those that he comes in contact with, in the name of high heaven why do you not pass a bill providing that everybody that comes before the Supreme Court of the United States shall undergo examination before they enter that holy tribunal? Why do you not have the principle applied to everybody, every gathering, every sort and condition of men? If this were a menace to the life or the health of people that affected only boys and girls, or only those who belong to the common walk of life, the bill would be pertinent.

Mr. DAVIS of Tennessee. Will the gentleman yield?

Mr. LAYTON. Yes.

Mr. DAVIS of Tennessee. I assume that it is not the purpose of the gentleman from Delaware to subject to this examination a boy or girl who has been acquitted. Consequently I suggest that it would be well to strike out the word "trial" and insert the word "conviction."

Mr. LAYTON. I will accept that suggestion because the word "conviction" is the word I want, and it was an oversight that I did not put it in. Mr. Chairman, I ask to perfect my amendment by striking out the word "trial" and inserting the word "conviction."

The CHAIRMAN. The gentleman from Delaware asks unanimous consent to perfect his amendment by striking out, from line 9, the word "trial" and substituting the word "conviction." Is there objection?

There was no objection.

Mr. BARKLEY. Will the gentleman yield?

Mr. LAYTON. No; I only have a little time, and I want to say a few words more. During the war I was so placed that in five months I had to make over 1,500 physical examinations in the express line of venereal trouble. I found as a result an average of 25 per cent afflicted with the disease in some form or other, and I was asked by the corporation that I was serving what was the remedy. Now, my friends, if you want a remedy for this, if you think it a matter of supreme importance that there should be a universal remedy, there is only one, as I wrote to the head of the corporation when he asked



me my opinion. That is this: Pass a law that every physician in the United States, just as he is required by a State law to report every case of smallpox that comes to his notice, let him be required by law to report every case of venereal trouble that comes to his notice. Then let the State take care of them by segregating them in hospitals or camps. Gentlemen, that will do it; but you are not going to do it yet, in my judgment.

Mr. UNDERHILL. Mr. Chairman, I oppose this amendment for the protection of the children themselves. In their behalf I protest against it. The idea of the juvenile court is to help the children that come before the court, not to help the criminal after conviction. That is not the idea. Now, if the judge finds by examination through the duly appointed officer that a child has a disease that affects him mentally, and this disease does affect children mentally, then the judge can use his discretion and act accordingly. Now, what do they do in Philadelphia and other cities? Charles T. Walker testified before the committee as follows:

The present judge is sitting in juvenile court this morning, and he has beside him a physician, Dr. Shallow, a very prominent physician in Philadelphia. While the judge is handling the technique of the law, he is also helping him to act upon the diagnosis made by the physician of the court. It is something we could not do without in the city of Philadelphia, and we are very grateful to the public men who have given such wide power under the law to help these children. As to the bill you have before you at this time, I think it is very important to include at least two of the suggestions made by Dr. Hart—to provide that there should be mental and physical examination, and also that you might confer upon the judge of the juvenile court the authority to allow children to be examined before a hearing. First, we do have authority in Pennsylvania, not only for the child who is arrested for an offense but unfortunate, neglected, or dependent children.

That is the whole purpose of this bill, to help the children and to make society better. That is why we put this provision in.

Mr. BURNESS. Will the gentleman yield?

Mr. UNDERHILL. Yes.

Mr. BURNESS. Is it not true that if this amendment carries the bill will practically be killed, as far as accomplishing any good, for the reason that 90 per cent of the cases brought before the juvenile court are disposed of without a formal trial?

Mr. UNDERHILL. Yes. These cases will be treated at home.

Mr. BURNESS. They want to save the record against the children?

Mr. LAYTON. Why do you not get Congress to hale all of the children in the District of Columbia before the court?

Mr. WOODS of Virginia. Is it not proper and customary that frequently the judge has this examination made before in order to determine whether the child is guilty or is capable of committing a crime?

Mr. UNDERHILL. Certainly.

Mr. CLOUSE. Mr. Chairman, I move to strike out the last word. I am sure that there is no member of the committee who would more readily act to suppress the disease that has been referred to and that evidently has been contemplated in the drafting of this legislation than I, but I say to you that after a careful analysis of the bill I have no doubt in my mind that it will fall far short of the object sought. In the first place, it is provided that there shall be established a clinic in connection with the juvenile court of the District of Columbia, and the purpose of this clinic is to examine the mental and physical condition of persons who may be brought before the court whenever in the discretion of the judge of said court said examination and study may be deemed necessary.

I have had occasion to examine the original act creating the juvenile court of the District of Columbia. It confers jurisdiction on that court over all crimes less than that of felony, and that court therefore is to-day dealing with crimes, not with civil litigation. If that court's jurisdiction is solely confined to the trying of offenses that are known as crimes, then I say to you that, although to refer to the Constitution of the United States may be laughed at nowadays, it is directly in conflict with the Bill of Rights adopted as a part of that document, which is the Magna Charta of our liberty. I ask you why it is that in the enactment of legislation we are so callous of constitutional provisions as to enact legislation that must necessarily be construed by the courts of the country? History tells us that in many instances the judgment of this House has been overturned by the decision of the Supreme Court of the United States, and why? Because we are unmindful of the organic law of the country.

Under Article V of the Constitution of the United States it is expressly provided that no person shall be compelled in any criminal case to be a witness against himself. What are the provisions of the proposed law? The judge of the juvenile court before he has jurisdiction of the person must issue some sort of a process charging him with some kind of an offense,

a crime, and he is then brought into the juvenile court only by reason of that process.

The CHAIRMAN. The time of the gentleman from Tennessee has expired.

Mr. CLOUSE. Mr. Chairman, I ask unanimous consent to proceed for two minutes more.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. CLOUSE. When this person is brought before the judge of the juvenile court, contrary to the express provisions of the Constitution, and before a trial has been had he is subjected to a physical examination, and that may and will be used as evidence in sustaining a verdict of guilty against him. I for one am unwilling to go that far and deprive any man, any boy, or any girl in whose veins flows American blood, who loves freedom and liberty, of the rights which are guaranteed to him under the Constitution of the United States.

Mr. MOORE of Ohio. Mr. Chairman, I rise to oppose the pro forma amendment. If the copy which I hold in my hand is a correct one of the juvenile law of the District of Columbia, then it is chiefly administered by a juvenile judge appointed by the President of the United States and confirmed by the Senate. As suggested by the chairman of the committee, a good deal of this discussion revolves around the problem of administration. As a prosecuting attorney, I know a little about the workings of the juvenile court law in my home State. It seems to me that those who have opposed this law or who are fathering this amendment are speaking about criminal law generally, whereas the juvenile law primarily is not a criminal law. I should say that 90 per cent of the cases come under the head of "neglected" and "dependent" children. If the proposed amendment should be agreed to, it will simply nullify and destroy the effect of the proposed law. Often these children are accompanied in court by their parents, some of them parents who have been careless and who then know for the first time the physical condition of their children and what they have been doing. They will consent to finding out the truth. The object of the juvenile court, as has been said here time after time, is the protection of the child and of society. It is absolutely necessary sometimes to protect a great many boys in a community from one girl, and it is also necessary sometimes to protect the girls in a community from a boy. Ordinarily the object of calling the boy into the court is not to have him charged with crime, but in order that he may know his condition and say whether he will yield to his parents in instructing him and in reporting to the probation officer. If he does not upon examination yield to what they require of him in conduct and in making reports, he can then be sent to the reformatory and society will be protected, but if he can be reformed, his name is kept out of the newspapers and frequently he is made a good citizen. I for one would be willing to trust in this District a person appointed by the President of the United States and confirmed by the Senate whose duty it is to protect the boys and girls of the District and to protect society. I think the amendment ought to be defeated. [Applause.]

Mr. MADDEN. Mr. Chairman, I move to strike out the last two words. We are sitting in the Appropriation Committee room from 9 o'clock in the morning until 6 and 7 o'clock every night trying to see how we can make the revenues meet the outgo. This bill proposes to create a new activity, which will add a new expense. It is a most extraordinary power which it is proposed to confer upon the judge of the juvenile court. It is proposed to authorize the judge of the court to appoint a physician at \$5,000 per annum, who shall have special training. Who is to decide what that training shall be? Then, also, the judge of that court is authorized to employ a worker at \$1,800 a year and another one at \$2,000 a year and another at \$1,000 a year. Nobody knows where the expense will end. Everyone in the United States is clamoring for a reduction of expenses, and here we propose to increase them without any beneficial results. The business of the judge of the juvenile court does not contemplate the activities proposed in this bill.

Mr. UNDERHILL. Mr. Chairman, will the gentleman yield?

Mr. MADDEN. No. The time has come when we must realize that there is some place where we must stop. [Applause.] It is all very well to be sentimental, but sentiment does not pay bills; it creates expenses. The only way in which you can pay the bills of the Government of the United States is by taxing the people. We have no fund in the Treasury of the United States except that which we collect from the people. I am endeavoring to the best of my ability as chairman of the Committee on Appropriations to carry out your mandates for economy.

I am here at the expense of the work which I am charged with doing that I may express my opposition to this unnecessary expenditure. [Applause.]

Mr. UNDERHILL rose.

Mr. MADDEN. No; I do not yield. I have never before heard of such extraordinary powers being given to a judge. The judge is there to decide the law, not to appoint positions or workers, and the time has come, and we ought to realize it, that we must pay some attention to those people who are back home paying the bills, and quit this nonsense of creating obligations against the people without any rhyme or reason. [Applause.] [Cries of "Vote!"]

Mr. STEVENSON. Mr. Chairman, I rise in opposition to the pro forma amendment.

The CHAIRMAN. The gentleman moves to strike out the last two words.

Mr. STEVENSON. Mr. Chairman, I asked the distinguished chairman of this committee a while ago a question which he said he was very glad I had asked, but which up to this time he has failed to answer. I asked him when he said he had made up his mind never to vote for another 10-year term if he proposed to limit the term of these offices which he has created. He has not yet answered it. I want to call the attention of the committee to the fact that in addition to what the chairman of the Committee on Appropriations says, you are creating three or four expensive offices, and you are creating them without any limitation as to term. [Applause.] There is no provision in here about it, and I asked the gentleman if he proposed to limit them, and he said he was mighty glad I asked the question, but I have not heard from him since. I want to know whether it is the proposition in this bill to create four officers for life and put them on the people of the District of Columbia. Now, I would like to know also what a psychiatric case worker at a salary of \$1,800 is for anyhow. You have got a doctor who is a psychiatrist and here is a psychiatric case worker, and he is a fellow who works his mind or somebody else's mind, and he is given \$1,800 for doing that for life according to this bill. Now, there is another thing about it. They say it is for the protection of children, and they lay great stress upon the physical examination. There is a provision for mental examination also, and it has turned out recently that when a psychiatric gets to work on a man who has committed a crime that in a majority of instances they decide that he has the mental development of a child of 8 years of age. They have found that three times down in my section of the Union in the last few weeks. If you put a psychiatric to examine the minds of boys who are brought before the court, they are going to find that they have the mental capacity of an infant and say they are not guilty of anything. Some boys are guilty and some are not, and the mental examination which they propose to make is such that the judge can send them where he pleases, to some penal or reformatory institution so eloquently described by the gentleman from California [Mr. RAKER]. Well, these reformatory institutions have not been the greatest success in the world, and if under the terms of this bill he is to be allowed to send boys to reformatory institutions, we had better go pretty slow, because from the time when Dickens wrote of Dotheboys Hall in Nicholas Nickleby and of Oliver Twist in the almshouse we know that boys who go to these institutions are seldom reformed and frequently ruined, and I do not propose to give such extraordinary powers to anybody. [Applause.]

Mr. BANKHEAD. Mr. Chairman—

The CHAIRMAN. For what purpose does the gentleman from Alabama rise?

Mr. BANKHEAD. I move to strike out the enacting clause of the bill.

The CHAIRMAN. The question is on the motion of the gentleman from Alabama.

The question was taken, and the Chair announced the ayes seemed to have it.

On a division (demanded by Mr. UNDERHILL) there were—ayes 42, noes 23.

Mr. UNDERHILL. Mr. Chairman, I ask for tellers.

Tellers were ordered.

Mr. STAFFORD. Mr. Chairman, on that I make the point of order that there is no quorum present.

The CHAIRMAN. The Chair will count.

Mr. BLANTON. Mr. Chairman, I move that the House do now adjourn.

Mr. STAFFORD. That motion can not be made in the committee.

Mr. BLANTON. I move that the committee do now rise.

The Chair proceeded to count. [After counting.] Sixty-eight Members are present, not a quorum.

Mr. BLANTON. I move that the committee do now rise.

The question was taken, and the motion was rejected.

The CHAIRMAN. A quorum is not present. The Clerk will call the roll.

The Clerk called the roll, and the following Members failed to answer to their names:

Anderson	Elston	Kless	Pringley
Ansorge	Fairfield	Kindred	Purnell
Anthony	Favrot	Kitchin	Rainey, Ala.
Bacharach	Fenn	Kleezka	Rainey, Ill.
Beedy	Fish	Kline, N. Y.	Reavis
Bell	Fitzgerald	Knight	Reed, N. Y.
Black	Flood	Kreider	Riddick
Blakeney	Fordney	Kunz	Riordan
Bland, Ind.	Frear	Lampert	Roach
Bond	Freeman	Langley	Rosenberg
Bowers	French	Lee, N. Y.	Rose
Brand	Funk	Little	Rosenbloom
Brinson	Gahn	Longworth	Rossdale
Britten	Gallivan	Luce	Rucker
Brooks, Pa.	Garner	Lyon	Ryan
Brown, Tenn.	Garrett, Tex.	McFadden	Sabath
Burdick	Goldsborough	McKenzie	Sanders, N. Y.
Burke	Goodykoontz	McLaughlin, Pa.	Scott, Tenn.
Burroughs	Gorman	Magee	Shelton
Butler	Gould	Mann	Siegel
Carter	Graham, Pa.	Mansfield	Slomp
Chandler, N. Y.	Green, Iowa	Martin	Snell
Chandler, Okla.	Griest	Mead	Stiness
Clague	Griffin	Michaelson	Stoll
Clarke, N. Y.	Haugen	Montague	Sullivan
Classon	Hawes	Moore, Va.	Swing
Cockran	Hawley	Morin	Tague
Collier	Hays	Mott	Taylor, Colo.
Collins	Herrick	Mudd	Thomas
Connolly, Pa.	Himes	Murphy	Tilson
Cooper, Ohio	Hukriede	Nolan	Tyson
Cooper, Wis.	Humphreys	O'Brien	Vare
Copley	Husted	Oliver	Vestal
Crisp	Hutchinson	Olpp	Volk
Cullen	Jeffers, Nebr.	Overstreet	Volstead
Dale	Jeffers, Ala.	Parker, N. J.	Wason
Dominick	Johnson, Ky.	Parrish	Wheeler
Doughton	Jones, Pa.	Perkins	Winslow
Dunbar	Kelley, Mich.	Perlman	Wise
Dunn	Kelly, Pa.	Peters	Wright
Echols	Kendall	Petersen	Yates
Elliott	Kennedy	Porter	Young

Thereupon the committee rose; and Mr. WALSH having resumed the chair as Speaker pro tempore, Mr. McARTHUR, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee, having under consideration the bill H. R. 7883, finding itself without a quorum, he had caused the roll to be called, and that 264 Members, a quorum, had answered to their names, and that he presented therewith a list of the absentees for printing in the Journal and Record.

The committee resumed its session, with Mr. McARTHUR in the chair.

The CHAIRMAN. The House is in Committee of the Whole House on the state of the Union for the further consideration of the bill H. R. 7883. Prior to the point of no quorum being made tellers had been ordered on the amendment of the gentleman from Alabama [Mr. BANKHEAD] to strike out the enacting clause. The gentleman from Alabama [Mr. BANKHEAD] and the gentleman from Massachusetts [Mr. UNDERHILL] will take their places as tellers.

The committee again divided; and the tellers reported—ayes 126, noes 52.

So the amendment was agreed to.

Mr. BANKHEAD. Mr. Chairman, I move that the committee do now rise and report the pending bill back to the House with the recommendation that the enacting clause be stricken out.

The motion was agreed to.

Thereupon the committee rose; and Mr. WALSH having resumed the chair as Speaker pro tempore, Mr. McARTHUR, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee, having had under consideration the bill H. R. 7883, had directed him to report the same to the House with the recommendation that the enacting clause be stricken out.

Mr. UNDERHILL. Mr. Speaker, I think on as important a bill as this we should have a roll call, and I therefore demand the yeas and nays.

Mr. BANKHEAD. Mr. Speaker, I move the previous question on the motion to strike out the enacting clause.

The previous question was ordered.

The SPEAKER pro tempore. The gentleman from Massachusetts demands the yeas and nays.

The yeas and nays were refused.

The SPEAKER pro tempore. The question is on agreeing to the recommendation of the committee that the enacting clause be stricken out.

The motion was agreed to.



Mr. UNDERHILL. Mr. Speaker, I move that the House do now adjourn.

The SPEAKER pro tempore. Will the gentleman withhold that for a moment?

Mr. UNDERHILL. I will.

#### LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted as follows:

To Mr. LEE of New York, for 10 days, on account of serious illness in his family.

To Mr. PORTER, during the International Conference on the Limitation of Armaments.

To Mr. BELL, for 10 days, on account of important business.

To Mr. PARRISH (at the request of Mr. LANHAM), until further notice, on account of sickness in family.

#### MILITARY PARK ON PLAINS OF CHALMETTE.

Mr. O'CONNOR. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill H. R. 2232 and concur in the Senate amendment.

The SPEAKER pro tempore. The gentleman from Louisiana asks unanimous consent to take from the Speaker's table the bill H. R. 2232 and agree to the Senate amendment. The Clerk will report the bill by title.

The Clerk read as follows:

A bill (H. R. 2232) in reference to a national military park on the plains of Chalmette, below the city of New Orleans.

The SPEAKER pro tempore. Is there objection?

Mr. STAFFORD. Mr. Speaker, I ask that the amendment be reported.

The SPEAKER pro tempore. The Clerk will report the amendment.

The Clerk read as follows:

Senate amendment: Page 1, strike out lines 11 and 12, and lines 1 and 2 on page 2, and insert the following:

"SEC. 2. That the expenses of the investigation herein directed to be made shall be paid from the appropriation 'Contingencies of the Army.'"

The SPEAKER pro tempore. Is there objection? [After a pause.] The Chair hears none.

The question is on agreeing to the Senate amendment.

The Senate amendment was agreed to.

#### EXTENSION OF REMARKS.

Mr. GOODYKOONTZ. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD by printing a copy of an address that I made in Welch, McDowell County, W. Va., at a meeting of the chapter of the American Legion on Armistice Day.

The SPEAKER pro tempore. The gentleman from West Virginia asks unanimous consent to extend his remarks in the RECORD by printing an address made by himself in West Virginia on Armistice Day. Is there objection? [After a pause.] The Chair hears none.

Mr. COLE of Ohio. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD on the subject of the burial of the unknown soldier.

The SPEAKER pro tempore. The gentleman from Ohio asks unanimous consent to extend his remarks in the RECORD on the subject of the burial of the unknown soldier. Is there objection? [After a pause.] The Chair hears none.

Mr. BROWNE of Wisconsin. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD by printing a speech made by George C. Hazleton, an ex-Representative from Wisconsin, made at Chester, N. H., his native town, upon the occasion of the return of the dead body of Corpl. Forsythe, who was killed in France.

The SPEAKER pro tempore. The gentleman from Wisconsin asks unanimous consent to extend his remarks in the RECORD by printing a speech delivered by a former Member of Congress, in New Hampshire, upon the return of the body of a deceased soldier to his native town. Is there objection?

Mr. RAYBURN. Mr. Speaker, I am going to object to any more.

The SPEAKER pro tempore. The gentleman from Texas objects.

Mr. HICKS. Mr. Speaker, I ask unanimous consent that I may extend my own remarks in the RECORD on the subject of curtailment of armament.

The SPEAKER pro tempore. The gentleman from New York asks unanimous consent to extend his remarks in the RECORD on the subject of the curtailment of armament. Is there objection?

Mr. RAYBURN. Reserving the right to object, I am not going to object to any Member of the House extending his own

remarks or to inserting any speech he has made elsewhere, but I shall object to inserting the speech of somebody else made somewhere else.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York [Mr. HICKS]? [After a pause.] The Chair hears none.

Mr. BLANTON. Mr. Speaker, I make the point of no quorum.

#### ADJOURNMENT.

The SPEAKER pro tempore. The gentleman from Massachusetts [Mr. UNDERHILL] moves that the House do now adjourn.

The motion was agreed to; accordingly (at 4 o'clock and 55 minutes p. m.) the House adjourned until Tuesday, November 15, 1921, at 12 o'clock noon.

#### EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of Rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

262. A letter from the Assistant Secretary of Commerce, transmitting a detailed statement concerning the publications issued by the Department of Commerce during the fiscal year 1921; to the Committee on Printing.

263. A letter from the Secretary of the Treasury, transmitting a tentative draft of a bill in connection with the appropriation "Pay of personnel and maintenance of hospitals, Public Health Service," under the Treasury Department; to the Committee on Interstate and Foreign Commerce.

264. A letter from the Acting Secretary of the Navy, transmitting statement of claims adjusted and paid under authority of the appropriation "Pay, miscellaneous" of the appropriation act for the fiscal year 1921; to the Committee on Expenditures in the Navy Department.

#### REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII,

Mr. WINSLOW, from the Committee on Interstate and Foreign Commerce, to which was referred the bill (S. 1039) for the public protection of maternity and infancy and providing a method of cooperation between the Government of the United States and the several States, reported the same with an amendment, accompanied by a report (No. 467), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

#### CHANGE OF REFERENCE.

Under clause 2 of Rule XXII, committees were discharged from the consideration of the following bills, which were referred as follows:

A bill (H. R. 8618) granting a pension to Rebecca T. Alexander; Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

A bill (H. R. 8776) granting a pension to Kittie M. Hagan; Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

A bill (H. R. 8855) granting an increase of pension to Charles A. McComb; Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

#### PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. FROTHINGHAM: A bill (H. R. 9099) amending an act making appropriations for the support of the Army for the fiscal year ending June 30, 1919, as approved July 9, 1918 (40 Stats., p. 871), relating to the award of medals of honor; to the Committee on Military Affairs.

By Mr. FULLER: A bill (H. R. 9100) to amend an act entitled "An act to revise and equalize rates of pension to certain soldiers, sailors, and marines of the Civil War and the War with Mexico, to certain widows, including widows of the War of 1812, former widows, dependent parents and children of such soldiers, sailors, and marines, and to certain Army nurses, and granting pensions and increase of pensions in certain cases," approved May 1, 1920; to the Committee on Invalid Pensions.

By Mr. DENISON: A bill (H. R. 9101) to amend sections 288, 342, 368, 343, and 461 of the Penal Code of the Canal Zone, and section 2 of the Executive order of July 9, 1914, establish-

ing rules and regulations for the operation and navigation of the Panama Canal and approaches thereto, including all water under its jurisdiction; to the Committee on Interstate and Foreign Commerce.

By Mr. HADLEY: A bill (H. R. 9102) authorizing the delivery of an American flag to the surviving next of kin of deceased American soldiers of the World War whose bodies are not brought back to the United States, and for other purposes; to the Committee on Military Affairs.

By Mr. WALSH: A bill (H. R. 9103) for the appointment of additional district judges for certain courts of the United States, to provide for annual conferences of certain judges of United States courts, to authorize designation, assignment, and appointment of judges outside their districts, and for other purposes; to the Committee on the Judiciary.

By Mr. ACKERMAN: A bill (H. R. 9104) amending an act to codify, revise, and amend the penal laws of the United States; to the Committee on the Judiciary.

By Mr. JOHNSON of Washington: Resolution (H. Res. 223) providing for the printing of addresses of President and Secretary of State before Conference on Limitation of Armaments as a House document; to the Committee on Printing.

#### PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BARBOUR: A bill (H. R. 9105) granting a pension to Annie Baldwin Marty; to the Committee on Invalid Pensions.

By Mr. BENHAM: A bill (H. R. 9106) granting an increase of pension to Elizabeth Waldon; to the Committee on Pensions.

Also, a bill (H. R. 9107) granting a pension to John A. Beach; to the Committee on Invalid Pensions.

Also, a bill (H. R. 9108) granting an increase of pension to Edward Henderson; to the Committee on Invalid Pensions.

Also, a bill (H. R. 9109) granting a pension to Emma E. Kenney; to the Committee on Invalid Pensions.

Also, a bill (H. R. 9110) granting a pension to William N. Hupp; to the Committee on Pensions.

Also, a bill (H. R. 9111) granting a pension to Sarah J. Davis; to the Committee on Invalid Pensions.

By Mr. BURTON: A bill (H. R. 9112) for the relief of Anna B. Mariner; to the Committee on Claims.

By Mr. CHRISTOPHERSON: A bill (H. R. 9113) granting a pension to Eleanor A. Peasley; to the Committee on Invalid Pensions.

By Mr. COLE of Ohio: A bill (H. R. 9114) granting a pension to Lana Margaret Stansbery; to the Committee on Invalid Pensions.

By Mr. FOCHT: A bill (H. R. 9115) for the relief of John W. Yocum; to the Committee on Military Affairs.

Also, a bill (H. R. 9116) granting a pension to Mary Roland; to the Committee on Invalid Pensions.

By Mr. GOLDSBOROUGH: A bill (H. R. 9117) granting a pension to Inez G. Barber; to the Committee on Pensions.

By Mr. HAWLEY: A bill (H. R. 9118) granting an increase of pension to John M. Jeans; to the Committee on Pensions.

By Mr. HUDSPETH: A bill (H. R. 9119) for the relief of Jessie Taylor; to the Committee on Claims.

By Mr. IRELAND: A bill (H. R. 9120) granting a pension to Josephine Beebe; to the Committee on Invalid Pensions.

By Mr. LAMPERT: A bill (H. R. 9121) granting a pension to Caroline Rich; to the Committee on Invalid Pensions.

Also, a bill (H. R. 9122) granting a pension to Julia Waddell; to the Committee on Invalid Pensions.

Also, a bill (H. R. 9123) granting a pension to Eva R. Murray; to the Committee on Invalid Pensions.

By Mr. MOORE of Illinois: A bill (H. R. 9124) granting an increase of pension to Robert Bevans; to the Committee on Invalid Pensions.

Also, a bill (H. R. 9125) granting a pension to Catherine Gardner; to the Committee on Invalid Pensions.

By Mr. MORGAN: A bill (H. R. 9126) granting a pension to Ida M. Neville; to the Committee on Invalid Pensions.

Also, a bill (H. R. 9127) granting a pension to Melvilla McConnell; to the Committee on Invalid Pensions.

By Mr. REECE: A bill (H. R. 9128) granting a pension to Mary Ann Pack; to the Committee on Invalid Pensions.

Also, a bill (H. R. 9129) to correct the military record of Thomas Y. Patton; to the Committee on Military Affairs.

By Mr. RICKETTS: A bill (H. R. 9130) granting an increase of pension to Rutherford H. Bowsher; to the Committee on Pensions.

By Mr. VOLSTEAD: A bill (H. R. 9131) granting an increase of pension to Sarah E. Fortier; to the Committee on Pensions.

By Mr. WATSON: A bill (H. R. 9132) authorizing the Secretary of War to donate to the William Boulton Dixon Post, No. 10, American Legion, Whitmarsh, Pa., one German cannon or fieldpiece; to the Committee on Military Affairs.

By Mr. WOODRUFF: A bill (H. R. 9133) authorizing the President of the United States to retire Sergt. Samuel Woodfill with the rank of captain; to the Committee on Military Affairs.

Also, a bill (H. R. 9134) granting a pension to Belle E. Vincent; to the Committee on Invalid Pensions.

#### PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

3018. By Mr. APPLEBY: Resolutions adopted by Crystal Wave Council No. 54, Sons and Daughters of Liberty, of North Long Branch, N. J., urging Congress to reduce appropriations for military work and pledge its active support to the disarmament movement; to the Committee on Foreign Affairs.

3019. Also, resolutions adopted by America Council No. 17, Sons and Daughters of Liberty, of Belmar, N. J., urging Congress to reduce appropriations for military work and pledge its active support to the disarmament movement; to the Committee on Foreign Affairs.

3020. Also, resolutions adopted by Freedom Council, No. 36, Sons and Daughters of Liberty, of Keyport, N. J., urging Congress to reduce appropriations for military work and to pledge its active support to the disarmament movement; to the Committee on Foreign Affairs.

3021. By Mr. ARENTZ (by request): Resolution of the teachers' institute, Reno, Nev., fourth district, and Washoe County, indorsing the Towner-Sterling bill, as well as the Fess bill for increased subsidy in support by the Federal Government of home economics education in secondary schools of the States; to the Committee on Education.

3022. By Mr. BARBOUR: Petition of citizens of Fresno, Calif., and vicinity urging the termination of existing political conditions in Asia Minor; to the Committee on Foreign Affairs.

3023. By Mr. DYER: Resolutions from the members of the Banneker Club, of Washington, D. C., relative to the Dyer anti-lynching bill; to the Committee on the Judiciary.

3024. By Mr. FENN: Petition of Windsor Chamber of Commerce, Windsor, Conn., looking toward disarmament; to the Committee on Foreign Affairs.

3025. By Mr. FESS: Resolution passed November 6 at Yellow Springs, Ohio, by representatives of the Christian people of that community assembled in union service in approval of the action of President Harding and the Government of the United States in summoning the Washington Conference for the Limitation of Arms; to the Committee on Foreign Affairs.

3026. Also, memorial of Logan County (Ohio) Medical Society in opposition to the Sheppard-Towner bill; to the Committee on Interstate and Foreign Commerce.

3027. By Mr. KING: Petition signed by R. B. O'Neill and 725 other citizens of Quincy, Ill., protesting against passage of the Penrose funding bill; to the Committee on Ways and Means.

3028. By Mr. KISSEL: Petition of B. Altman & Co., New York City; to the Committee on Ways and Means.

3029. Also, petition of Forbes-Perkins Corporation, New York City; to the Committee on Ways and Means.

3030. Also, petition of Rogers-Brown Iron Co., Buffalo, N. Y.; to the Committee on Ways and Means.

3031. Also, petition of Corrugated Bar Co., Buffalo, N. Y.; to the Committee on Ways and Means.

3032. By Mr. KNIGHT: Petition of citizens of Akron, Ohio, opposing Senate bill 1948, the compulsory Sunday observance bill; to the Committee on the District of Columbia.

3033. By Mr. MORIN: Petition of Major McKinley Council, No. 90, of Pittsburgh, Pa., urging reduction in armament; to the Committee on Foreign Affairs.

3034. By Mr. PATTERSON of New Jersey: Resolutions of Westville Council, No. 180, Sons and Daughters of Liberty, Westville, and of Elsie D. Council, No. 122, Sons and Daughters of Liberty, Clayton, N. J., favoring the limitation of armaments; to the Committee on Foreign Affairs.

3035. Also, resolutions of Pride of Diamond Council, No. 114, Sons and Daughters of Liberty, Swedesboro, N. J., favoring limitation of armament; to the Committee on Foreign Affairs.

3036. By Mr. SANDERS of New York: Petition of Livonia Grange, No. 1180 (New York), urging the enactment of the French-Capper truth in fabric bill; to the Committee on Interstate and Foreign Commerce.



3037. Also, petition of Byron Grange (New York), urging the adoption of a bill making it unlawful to offer for sale filled milk; to the Committee on Agriculture.

3038. By Mr. SNYDER: Resolutions of the members of the First Baptist Church of Ilion, N. Y., favoring the disarmament of nations; to the Committee on Foreign Affairs.

3039. By Mr. STRONG of Kansas: Petition of Charles Wuester and 25 others of the fifth congressional district of the State of Kansas relative to the freedom of the Irish republic; to the Committee on Foreign Affairs.

3040. By Mr. WEBSTER: Petition of G. W. Detamore and numerous other signers protesting against the passage of House bill 4388, providing for compulsory Sunday observance in the District of Columbia; to the Committee on the District of Columbia.

## SENATE.

TUESDAY, November 15, 1921.

The Chaplain, Rev. J. J. Muir, D. D., offered the following prayer:

Our Father, we thank Thee for every ray of sunlight that brightens our earthly pathway. We thank Thee for every encouragement with which Thou dost grant unto us direction and help and cheer when the duties of life press upon us. We humbly beseech of Thee for Thy guidance to-day, so that in the administration of the high responsibilities of this Chamber the light from Thy presence may be had and wisdom all sufficient for guidance may be realized. Through Jesus Christ, our Lord. Amen.

The reading clerk proceeded to read the Journal of yesterday's proceedings, when, on request of Mr. CURTIS and by unanimous consent, the further reading was dispensed with and the Journal was approved.

### CALL OF THE ROLL.

Mr. CURTIS. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The Secretary will call the roll.

The reading clerk called the roll, and the following Senators answered to their names:

Ashurst	Hale	Myers	Simmons
Borah	Harris	Nelson	Smith
Bursum	Harrison	New	Smoot
Calder	Heflin	Nicholson	Spencer
Cameron	Johnson	Norbeck	Sutherland
Capper	Jones, N. Mex.	Norris	Swanson
Caraway	Jones, Wash.	Oddie	Townsend
Culberson	Kendrick	Overman	Trammell
Cummins	Kenyon	Page	Walsh, Mont.
Curtis	King	Penrose	Warren
Dial	Ladd	Phipps	Watson, Ga.
Ernst	La Follette	Polindexter	Watson, Ind.
Fernald	McCormick	Pomerene	Weller
Fletcher	McCumber	Ransdell	Wilbs
Frelinghuysen	McKellar	Robinson	
Glass	McNary	Sheppard	

The PRESIDENT pro tempore. Sixty-two Senators having answered to their names, there is a quorum present.

### PETITIONS AND MEMORIALS.

Mr. WILLIS presented resolutions adopted by Cleveland (Ohio) Lodge, No. 47, Brotherhood of Railway and Steamship Clerks, Freight Handlers, and Station Employees urging that any payments to the railroads under the provisions of the railroad relief bill be made in strict conformity with existing laws covering the control of interstate commerce and rail transportation, etc., which were referred to the Committee on Interstate Commerce.

Mr. HARRIS presented resolutions adopted by a mass meeting of citizens of Monroe; the Council of Jewish Women, of Augusta; the members of Congregation of Beth Israel, of Macon; the Atlanta League of Women Voters; and the Women's Missionary Society of the Methodist Episcopal Church, of Decatur; all in the State of Georgia, favoring the promotion of world peace by the limitation of armament, and open sessions of the Conference on Limitation of Armaments, which were referred to the Committee on Foreign Relations.

Mr. CAPPER presented a resolution adopted by the members of the Woman's Home Missionary Society of Grace Methodist Episcopal Church, of Winfield, Kans., favoring the enactment of the so-called Willis-Campbell antibeer bill, which was ordered to lie on the table.

He also presented a resolution adopted by Judson Kilpatrick Post, No. 36, Department of Kansas, Grand Army of the Republic, favoring the enactment of House bill 7213, granting a

pension of \$72 per month to Civil War veterans and \$50 per month to Civil War widows, etc., which was referred to the Committee on Pensions.

Mr. LADD presented a petition of sundry citizens of Carrington, N. Dak., praying that Treasury Department regulations permitting the sale of beer and light wines be abolished, which was referred to the Committee on Finance.

He also presented a telegram from the Knights of Columbus, of Grand Forks, N. Dak., indorsing the program on limitation of armament proposed by Secretary Hughes at the international conference in session in the city of Washington, which was referred to the Committee on Foreign Relations.

He also presented a petition of sundry citizens of Brady, Minot, and Douglas, all in the State of North Dakota, praying for the limitation of armament and reduction of military and naval expenditures so as to decrease taxation, which was referred to the Committee on Foreign Relations.

Mr. TOWNSEND presented a memorial of sundry citizens of Carney, Mich., and Shawano, Wis., remonstrating against the enactment of Senate bill 1948, providing for compulsory Sunday observance in the District of Columbia, which was referred to the Committee on the District of Columbia.

He also presented letters and communications in the nature of petitions of The Saturday Club, of Stanton; Webster Grange, No. 1111; the A B C Club, of Grand Ledge; the Federation of Women's Clubs, of Benton Harbor; the Women's Club House Association, and the Pilgrim Congregational Church, of Lansing, all in the State of Michigan, favoring definite limitation of armament and the cultivation of friendly relations with all nations, which were referred to the Committee on Foreign Relations.

He also presented 66 petitions of sundry citizens and church organizations of the State of Michigan, praying for the prompt enactment of the so-called Willis-Campbell antibeer bill, which were ordered to lie on the table.

Mr. McLEAN presented a resolution adopted by the Young People's Society of Christian Endeavor of the Second Congregational Church, of Coventry, Conn., in favor of the enactment of the so-called Willis-Campbell antibeer bill, which was ordered to lie on the table.

He also presented resolutions of Lady Fowler Council, No. 58, Sons and Daughters of Liberty, of Milford; the Young People's Society of Christian Endeavor of the Second Congregational Church, of Coventry; the Chamber of Commerce of Glastonbury; Goddess of Liberty Council, No. 3, of New Haven; women of the College Club, of Bridgeport; Perseverance Council, No. 33, Sons and Daughters of Liberty, of Fair Haven; Lady Sherman Council, No. 15, Sons and Daughters of Liberty, of Shelton; and Quinnipiack Council, No. 61, Sons and Daughters of Liberty, of New Haven, all in the State of Connecticut, indorsing the Conference on Limitation of Armaments and favoring the promotion of peace among the nations, which were referred to the Committee on Foreign Relations.

He also presented memorials of members of the Star of Light Lodge, No. 3, Shepherds of Bethlehem, of New Haven, and sundry citizens of New Haven, Bridgeport, Meriden, Waterbury, New Britain, Norwich, Redding, Stratford, and Woodbridge, all in the State of Connecticut, remonstrating against the enactment of the so-called Fordney and Penrose bill for refunding foreign loans and favoring the granting of a bonus to all ex-service men, which were referred to the Committee on Finance.

He also presented a resolution adopted by members of the New London County Farm and Home Bureau, of Norwich, Conn., remonstrating against the imposition of a tariff duty on fertilizers, which was referred to the Committee on Finance.

Mr. RANSDELL presented a concurrent resolution of the Legislature of Louisiana, which was referred to the Committee on Irrigation and Reclamation, as follows:

House concurrent resolution 21, by Mr. Dymond.

Whereas there is now pending before Congress H. R. 6048, referring to the agricultural resources of the United States and the establishment of rural homes through Federal and State cooperation, giving preference to those who have served with the military and naval forces of the United States; and

Whereas this bill provides for governmental aid in the reclamation of arid and swamp or overflow lands throughout the United States; and

Whereas the State of Louisiana has over one-third of its entire area, approximately 10,000,000 acres subject to drainage or reclamation; and

Whereas the extension of this national policy of governmental aid and cooperation in the reclamation and settlement of lands that are now waste and unproductive will bring to Louisiana the same great stimulus to prosperity that was conferred on the West by the passage of the Newlands Reclamation Act in 1902; and

Whereas this bill, known as the Borah-Bankhead bill, has the active support of the same great forces which caused the passage of the Newlands reclamation bill, and Louisiana being one of the States most to be benefited should actively lend support to this bill: Now, therefore, be it

*Resolved by the House of Representatives of the State of Louisiana (the senate concurring), That the Legislature of the State of Louisiana does hereby approve of the principles and purposes of the Borah-Bankhead bill and indorse the same; and be it further*

*Resolved, That copies of this resolution be sent to the Speaker of the House of Representatives of the United States and the President of the Senate and Senators and Members of the House of Representatives of the State of Louisiana in the Congress of the United States, with the request that they support the passage of H. R. 6048 or such legislation as shall attempt to accomplish the purposes therein set forth.*

I hereby certify that the above is a correct copy of the original resolution adopted by the Legislature of Louisiana.

E. J. TALLIEN,  
Clerk of the House of Representatives.

#### APPOINTMENT OF POSTMASTERS.

Mr. FLETCHER. Mr. President, I have received a telegram from the mayor of Schenectady, N. Y., to which I have replied. I ask that the telegram and my reply may be read by the Secretary and referred to the Committee on Post Offices and Post Roads.

The PRESIDENT pro tempore. Without objection, the Secretary will read as requested.

The reading clerk read as follows:

[Telegram.]

SCHENECTADY, N. Y., November 14, 1921.

Senator DUNCAN U. FLETCHER,  
Senate Office Building, Washington, D. C.:

Report here that Edwin G. Conde has been recommended for appointment by Postmaster General Hays as postmaster at Schenectady, N. Y. Of the three eligibles for appointment two were ex-service men. Mr. McDonald, postmaster since March, 1920, was a Spanish War veteran. Maj. Jacob Clinton was a Spanish War veteran, also a World War veteran, with distinguished foreign service. People in Schenectady, regardless of party affiliations, are disappointed that Edwin Conde should be appointed over Maj. Clinton and Mr. McDonald. Is the law giving preference in appointment to ex-service men still binding? When I voted for war as a Member of Sixty-fifth Congress I sincerely believed that this country would never deliberately turn down capable and efficient ex-service men when they were eminently qualified for appointment. I believe that if confirmation is withheld until all the facts can be placed before the Senate that your distinguished body would not consent to such a glaring disregard of the rights of ex-service men, protected as we have always thought by a definite law. The ex-service men with whom I have talked appreciate your efforts in their behalf. If you can do anything in this particular case it will be appreciated.

GEORGE R. LUNN, Mayor.

The PRESIDENT pro tempore. The telegram will be referred to the Committee on Post Offices and Post Roads.

Mr. FLETCHER. I now ask that my reply to the mayor may be read and likewise referred to the Committee on Post Offices and Post Roads.

The reading clerk read as follows:

[Telegram.]

WASHINGTON, D. C., November 15, 1921.

Mayor GEORGE R. LUNN,  
Schenectady, N. Y.:

Replying to your telegram, President submitted nomination Conde to Senate yesterday. Democratic administration gave preference to honorably discharged service men if qualified to fill positions, but present Postmaster General holds act of Congress does not apply to postmasters. In Florida an honorably discharged disabled service man, a Democrat and acting postmaster, was only qualified eligible result of recent competitive examination, but Postmaster General has requested commission to hold another examination, obviously so that a Republican, not a service man, may qualify and be appointed. Such unjust treatment of former service men by this administration will be resented by all Americans, irrespective of party affiliation.

DUNCAN U. FLETCHER.

The PRESIDENT pro tempore. The telegram will be referred to the Committee on Post Offices and Post Roads.

Mr. KING. Mr. President, may I inquire of the Senator from Florida if he has taken any steps to ascertain whether Mr. Hays purposes pursuing this course? If so, I think a congressional investigation should be had of the Postmaster General to see whether partisanship of the character indicated by his telegram is going to rule. It is a shameful exhibition.

Mr. FLETCHER. Replying to the inquiry of the Senator from Utah, I will say that the Postmaster General holds that the law giving preference to ex-service men does not apply to postmasters, and therefore the only rule made with reference to such preference is that ex-service men shall be entitled to five points added to the grade they make in the examination held to ascertain eligibility and qualifications. No preference other than that is allowed.

I want the matter referred to the Committee on Post Offices and Post Roads, so that if they find existing law requires amendment to accomplish the preference heretofore supposed to be provided for, they may report such amendment.

Mr. KING. I had particularly in mind the statement in the Senator's telegram that notwithstanding an ex-service man had taken the examination in Florida and was entitled to appointment the Postmaster General had ordered another examination, evidently for the purpose of having a partisan Republican named.

Mr. FLETCHER. Undoubtedly that is the case. I can see no other object or purpose in the course pursued in this and other cases.

Mr. HARRISON. Mr. President—

Mr. McNARY. I call for the regular order.

The PRESIDENT pro tempore. The regular order is called for. Reports of committees are in order.

Mr. HARRISON. Reverting to the colloquy between the Senator—

The PRESIDENT pro tempore. The Senator from Oregon has asked for the regular order.

Mr. HARRISON. I suggest the absence of a quorum.

The PRESIDENT pro tempore. The Secretary will call the roll.

The reading clerk called the roll and the following Senators answered to their names:

Ashurst	Frelinghuysen	McLean	Sheppard
Ball	Glass	McNary	Simmons
Borah	Hale	Myers	Smith
Broussard	Harris	Nelson	Smoot
Bursum	Harrison	New	Spencer
Calder	Heflin	Norbeck	Stanley
Cameron	Hitchcock	Norris	Sutherland
Capper	Johnson	Oddie	Swanson
Caraway	Jones, N. Mex.	Overman	Townsend
Culberson	Jones, Wash.	Page	Trammell
Cummins	Kenyon	Penrose	Walsh, Mont.
Curtis	King	Phelps	Watson, Ga.
Dial	Ladd	Poinexter	Watson, Ind.
Ernst	La Follette	Pomerene	Weller
Fernald	McKellar	Ransdell	Willis
Fletcher	McKinley	Robinson	

The PRESIDENT pro tempore. Sixty-three Senators have answered to their names. There is a quorum present. If there are no reports of committees, the introduction of bills and joint resolutions is next in order.

#### BILLS INTRODUCED.

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. PAGE:

A bill (S. 2718) to provide for leasing of the floating dry dock at the naval station, New Orleans, La.; and

A bill (S. 2719) to reimburse certain persons for loss of private funds while they were patients at the United States Naval Hospital, Naval Operating Base, Hampton Roads, Va.; to the Committee on Naval Affairs.

A bill (S. 2720) to repeal section 315 of Article III of the War Risk Insurance act, as amended (with an accompanying paper).

Mr. PAGE. The bill last introduced was drafted by the Navy Department. It seems to me that it should be referred to the Committee on Finance rather than to the Committee on Naval Affairs, and I ask its reference to the Finance Committee.

The PRESIDENT pro tempore. The bill will be referred to the Committee on Finance.

By Mr. SHEPPARD:

A bill (S. 2721) for an investigation by the Secretary of Agriculture of the feasibility of certain methods of irrigation; to the Committee on Agriculture and Forestry.

By Mr. CARAWAY:

A bill (S. 2722) to extend the time for constructing a bridge across the White River at or near the town of Des Arc, Ark.; to the Committee on Commerce.

By Mr. TRAMMELL:

A bill (S. 2723) making an appropriation for the relief of the Seminole Indians in Florida; to the Committee on Indian Affairs.

By Mr. ROBINSON:

A bill (S. 2724) to authorize the construction of a bridge across the White River, in Prairie County, Ark.; to the Committee on Commerce.

By Mr. JONES of New Mexico:

A bill (S. 2725) to provide for the payment by the United States of the proportionate cost of the paving of streets upon which property of the United States abuts; to the Committee on Public Buildings and Grounds.

By Mr. McNARY:

A bill (S. 2726) to defer the time for payment of grazing fees for the use of national forests during the calendar year 1921; to the Committee on Agriculture and Forestry.

By Mr. SPENCER:

A bill (S. 2727) to amend section 19 of the act entitled "An act to amend and consolidate the acts respecting copyright," approved March 4, 1909.

Mr. SPENCER. Mr. President, I am in doubt whether or not the bill, which has to do with copyrights, should be referred to



the Committee on Patents or to the Committee on the Library. It should either go to the Committee on Patents or to the Committee on the Library.

The PRESIDENT pro tempore. The Chair is of the opinion that the bill should be referred to the Committee on Patents, and it will be so referred.

Mr. SPENCER. Very well.

By Mr. CALDER:

A bill (S. 2728) to provide for an additional judge of the district court for the eastern district of New York; to the Committee on the Judiciary.

#### PRESIDENTIAL APPROVALS.

A message from the President of the United States, by Mr. Latta, one of his secretaries, announced that the President had approved and signed the following bills:

On November 9, 1921:

S. 1072. An act to amend the act entitled "An act to provide that the United States shall aid the States in the construction of rural post roads, and for other purposes," approved July 11, 1916, as amended and supplemented, and for other purposes.

On November 14, 1921:

S. 2447. An act to authorize the construction of a bridge across Pearl River, between Meeks Ferry and Grigsby Ferry and between Madison County, Miss., and Rankin County, Miss.

#### MICHIGAN SENATORIAL ELECTION.

Mr. SPENCER. Mr. President, I request the Chair to lay before the Senate the Ford-Newberry contest matter and the report of the committee and the views of the minority which have been filed and which are now upon the table with relation thereto. Then, if that is done, I desire to be heard upon the subject.

The PRESIDENT pro tempore. The Senator from Missouri asks that the report of the Committee on Privileges and Elections relating to the so-called Ford-Newberry contest be laid before the Senate. It is so ordered. Does the Senator from Missouri desire to have the report read?

Mr. SPENCER. I think not. The report is somewhat long.

Mr. HARRISON. Let us have the report read. As I understand, it requires unanimous consent to dispense with the reading of the report.

Mr. SPENCER. Such is not my understanding. The report is not before the Senate except as an incident to the contest. We do not have now before us the resolution upon which we are to vote. If there is any desire—

The PRESIDENT pro tempore. The Chair is in some doubt with regard to the parliamentary situation. Does the Senator from Missouri submit a resolution that the Senate proceed to the consideration of the report to which he has just referred?

Mr. SPENCER. Such was the desire of the Senator from Missouri.

Mr. HARRISON. I ask for the reading of the report.

Mr. SPENCER. If any Senator desires that the report be read, certainly I have no objection, but the report and the views of the minority have been printed and have been upon the desks of Senators for a number of weeks.

Mr. STANLEY. Mr. President, how can we consider something about which we do not know anything? Until the report of the committee shall have been read we can not consider it. It is like a pig in a poke.

The PRESIDENT pro tempore. The first question which the Chair thinks ought to be determined is whether or not the report is before the Senate. If the report is before the Senate, then, upon the request of any Senator, the report must be read.

Mr. WATSON of Georgia. Mr. President, is this a matter the consideration of which requires unanimous consent?

The PRESIDENT pro tempore. The Chair is in great doubt about the status of the report, but is inclined to hold that it involves a matter of privilege of such high character that it may be taken up without a motion. If the Senate is of the contrary opinion, it can so express itself. The report being before the Senate, the Secretary, on request of the Senator from Mississippi [Mr. HARRISON], will read it.

The reading clerk read as follows:

Mr. SPENCER, from the Committee on Privileges and Elections, submitted the following report—

Mr. WALSH of Montana. Mr. President, before proceeding further, the matter upon which we are about to act is one of very grave importance. I refer particularly to the parliamentary question involved. It seems to me rather extraordinary that a question of this character may displace any business before the Senate upon the mere suggestion of some Member of the Senate, although a majority of the Senate may be opposed to the consideration of the subject at this time. I know of no rule of parliamentary procedure that sanctions such an idea;

in fact, if one reflects upon the matter, it can not possibly be the case, because when the protest against the seating of the Senator from Michigan was first filed, if it has this high character and if it may be called up for consideration and disposition at any time, it was the privilege of the Senator from Michigan or any other Senator to demand the immediate disposition of the matter by the Senate, even before any testimony was taken in the case at all. I mean that if this is the correct view to take of the parliamentary procedure in this matter, any Senator had the right to demand an immediate consideration of the subject and an immediate disposition of it before hearing any testimony at all or before reference to a committee.

Mr. WATSON of Indiana. Mr. President, will the Senator yield?

Mr. WALSH of Montana. I yield.

Mr. WATSON of Indiana. Is it not a fact that this matter is now before the Senate by unanimous consent, no objection having been made, and that the reading of the report had been begun?

Mr. WALSH of Montana. I did not so understand.

Mr. WATSON of Indiana. That is my understanding.

Mr. WALSH of Montana. The Chair, as I understood, held that it was a question of such high privilege that he proceeded to direct the reading of the report, and thereupon I engaged the attention of the Chair. Mr. President, I submit that we ought to hear from some one who is more of an authority upon questions of parliamentary procedure than am I, for I confess I am not prepared to controvert the intimation given by the Chair, but it certainly seems to me that it can not possibly be correct.

Mr. BORAH. Mr. President, as I understand the point of the Senator from Montana is that the mere request of a Senator to bring this matter before the body of itself is not sufficient to displace the unfinished business.

The PRESIDENT pro tempore. The Chair has not ruled that it displaces the unfinished business.

Mr. BORAH. I do not understand that the Chair has so ruled, but I was stating what I understood the point of the Senator from Montana to be.

Mr. WALSH of Montana. That is not quite the point which I make. My understanding is that the unfinished business is not now before the Senate, the morning hour not having expired; but the only way that I know of to bring any matter before the Senate for consideration is either upon an application for unanimous consent, as is ordinarily given, or upon motion. I insist that this matter is not properly before the Senate, and I make the point of order at this time that, no motion having been made and no application for unanimous consent for the consideration of the matter having been presented, it is not now properly before the Senate.

Mr. CURTIS. Mr. President—

The PRESIDENT pro tempore. Does the Senator from Montana yield to the Senator from Kansas?

Mr. WALSH of Montana. I yield.

Mr. CURTIS. I understood the Senator from Missouri to move that the resolution be laid before the Senate.

Mr. WALSH of Montana. I do not understand that the Senator from Missouri made such a motion; but, if so, I presume the motion itself is before the Senate at this time. If it is, I shall ask for a yeas and nays vote upon the motion.

Mr. SPENCER. Mr. President, will the Senator yield?

Mr. WALSH of Montana. I yield.

Mr. SPENCER. I think exactly what happened was not that the Senator from Missouri made a motion, but the Senator from Missouri made a request that the Newberry contest be laid before the Senate. I am free to say to the Senator from Montana that, so far as my investigation has gone, I have not been able to find a precedent in point; and yet I submit that the rule is that when a question involves the right of a Senator to a seat in this body, it is a question of such high privilege that it can be brought up at any time, without a motion, and when it is before the Senate it continues before the Senate until the Senate displaces it.

Mr. WALSH of Montana. If, then, the Senator is correct, the Senator from Michigan [Mr. NEWBERRY], immediately upon the filing of his credentials and immediately upon his being sworn in, could have called the attention of the Senate to the fact that a protest had been filed against his taking his seat, and demand the immediate consideration of that subject.

Mr. SPENCER. Undoubtedly, so far as that goes, that could have been done. That demand could have been made when the Senator from Michigan took his seat. It would have been of the highest privilege; but the right of the Senate still remains to continue it, to act upon it immediately, or to investigate it and then act upon it.

Mr. WALSH of Montana. Then, Mr. President, the position of the Senator is that the Senate has to take action to displace it?

Mr. SPENCER. Undoubtedly that is my position. Otherwise, may I say to the Senator from Montana, what we all agree upon as to the high privilege of a matter relating to the seat of a Senator in this body has no foundation. If it takes a motion to bring it before the Senate, it is nothing more than any matter of routine business which can be brought before the Senate by a motion.

Mr. WALSH of Montana. Mr. President, these matters of privilege are pretty thoroughly understood. A large number of matters have privilege to the extent that they may be brought up at any time. They may be presented. A report of a committee of conference is privileged, so that it may be presented at any time. A communication from the President of the United States is privileged, so that it may be presented at any time. A communication from the House of Representatives is privileged, so that it may be presented at any time; but that is all. The Senate does not take action on it then by reason of the fact that it is privileged. The presentation is privileged, and that is all.

So, Mr. President, we are confronted with this situation: The contention of the Senator from Missouri, as I understand, is that the Senate is obliged to take action, unless by some sort of action the Senate refuses to take action. I know of no such rule as that. I never heard of such a rule—that a thing is before the Senate automatically, and the Senate must take some steps in order to get rid of it.

Lest I may be misunderstood, I feel that no objection could be taken if I say in this connection that I am opposed to taking up this matter at this time for one reason, and for one reason only; and that is, I am desirous of discussing this matter before the Senate, and discussing it in a lawyerlike way, upon the record which has been made. I have had no opportunity whatever to prepare to give the Senate the benefit of any investigation that I may have made thus far. My work is not in any shape, and this is not a personal matter at all. I apprehend that every Senator is in exactly the same situation, except possibly the Senator from Missouri, who evidently contemplated bringing up this matter at this time. I dare say he is prepared to go on.

Possibly the Senator from Ohio [Mr. POMERENE] may be prepared to go on; but as for the rest of the Senators who have concerned themselves about this matter, I know of none who is able to go on this morning. I can not do so, and I am desirous of following the discussion so that I shall find myself capable of giving to it the preparation which I desire. I hope to be of some aid to the Senators here in the consideration that they desire to give to this very important matter; but unless we are accorded a few days, at least, after notice that it is going to be brought up, it is going to be presented in a way that will be of no credit to us and no credit to the Senate, or at least to those of us who have not been afforded an opportunity to prepare.

I submit that it seems only just and right that the Senator should give some notice to those who are interested in the matter and those who expect to discuss it, so that they may prepare themselves for the discussion. I do not care how long it is. If you will give me three days, it will be satisfactory to me. I am not to be considered as in anywise attempting to delay the consideration of this very important matter; but after the long delay that has attended this proceeding I can see no reason why it should now be crowded on, before Senators have an opportunity to prepare themselves for the discussion.

The Senator from Missouri remarked a few moments ago that the majority and minority reports have been on the tables of Senators for some time. No doubt that is true; but the Senator knows that Senators have all been engaged in exceedingly important matters, with no kind of intimation that this matter was going to come up at this particular time; and it would be idle for anyone to inform himself about the matter with a view to its discussion upon the floor of the Senate unless the preparation was made immediately before that presentation was to take place. The Senator is a lawyer, and knows that preparation made two or three months in advance is practically useless.

Mr. SPENCER. Mr. President, will the Senator yield?

Mr. WALSH of Montana. I yield.

Mr. SPENCER. The discussion of the Senator is always of the greatest help to me, as it is to the rest of the Senate, and I assure the Senator that I am anxious personally to have it; and yet here are the exact facts:

I am sure the Senator agrees with me that as far as it can be conveniently done, this matter ought to be settled one way or the other. The truth of the matter is that after months of in-

vestigation the report of the committee was finally filed in the latter part of September. It has been running along since then until now, on the 15th day of November. The Senator says three days' notice would have been sufficient. Last week I was in conference with the Senator from Ohio [Mr. POMERENE] to bring up this matter.

The Senator from Ohio joined with me in the desire to dispose of it speedily, as speedily as might be done in justice to those who wanted to be heard, and we both agreed—tentatively, he says, on his part; I understood it was more positively—that the matter would be brought up on Monday or Tuesday of this week, and the Senator from Ohio was to confer with those on his side of the Chamber, in order that he might meet their convenience. I assumed, of course, that the Senator from Ohio conferred with the Senator from Montana last week about this matter, and that therefore there was the notice, which I quite agree with the Senator from Montana, ought to have been given, and which I intended to give.

Mr. WALSH of Montana. Mr. President, I understand likewise that there was an agreement on yesterday afternoon—tentative, at least—that the matter was to go over until the return of the Senator from Ohio, or at least until the regular session.

Mr. WATSON of Indiana. Oh, no.

Mr. SPENCER. May I interrupt the Senator? The tentative agreement yesterday afternoon was that unanimous consent might be obtained to vote upon this question on December 9 or December 10, and that if that agreement had been made it was to prevail; but, for some reason or other, that has rather fallen through.

Here is the situation: The Senator from Ohio, who wrote the minority report, of course, must be present when this matter is considered. He has long since made his arrangements to take a trip to Haiti on Government business. My understanding is that it will take 30 days to make that trip. My information is that they expect to leave possibly not later than Friday, possibly on Sunday, possibly not later than Wednesday; but in any event they are not to return until the middle or after the middle of December. That means, with the condition of the business of the Senate, that unless we proceed with this matter now with as full discussion as anybody wants, it can not be brought up this year; and I submit to the Senator from Montana that that is not a fair thing to do in a case of this kind.

Mr. WALSH of Montana. Why is it not a fair thing to do? What is unfair about it? Suppose it did go over until the first Monday in January, for instance, or immediately after the Christmas recess, whatever that recess may be?

Mr. SPENCER. The Senator knows better than I that immediately after the Christmas recess, when the first of the year commences, the Senate will be in the very midst of the consideration of the tariff bill, a measure which affects the whole country, and to take out of that time a week or more, or whatever the Senator thinks is needed, would be unwise.

Mr. WALSH of Montana. Let me remind the Senator that we are right now in the very midst of the consideration of the railroad bill, which is displaced for the purpose of taking up this matter.

Mr. POMERENE. Mr. President, I do not want any misunderstanding about this matter so far as I am concerned. The Senator from Missouri [Mr. SPENCER] has correctly stated the disposition of both of us to get the matter disposed of as expeditiously as possible. It was thought at one time that we might get into it earlier; but the revenue measure dragged its weary length along, and since that time we have been trying to make some agreement on this subject. Without going into all of the details, on yesterday I was presented with a unanimous-consent agreement which provided for a final vote at 2 o'clock on the 9th of December. I suggested—

Mr. SPENCER. Mr. President, will the Senator yield? It was the Senator's suggestion that the final vote be taken on December 10; was it not?

Mr. POMERENE. That is what I was going to state. I suggested the 10th, and later I suggested a day some time the week following, because I understood that certain Senators would not be here. I was told that I was misinformed as to that, and the Senators from Missouri and Indiana were, as I understood, ready to approve a modification making the hour of voting 4 o'clock; and I then stated that I would not want to consent to that arrangement until I could have a further opportunity to confer with my colleagues, and we would take it up this morning. Later on, the Senator from Illinois [Mr. McCORMACK] came into the Chamber, and very much to my surprise he suggested that our work in Haiti would take a longer time than I had anticipated. I may say that my views were based upon former rather indefinite conferences; and then, after leaving the Chamber, it was suggested that we take up



the matter and dispose of it at once; that the time of sailing of our ship might be postponed for two or three days, or such a matter.

Mr. WATSON of Georgia. Mr. President—

The VICE PRESIDENT. Does the Senator from Ohio yield to the Senator from Georgia?

Mr. POMERENE. I yield to the Senator.

Mr. WATSON of Georgia. May I ask the Senator if it is not a fact that on the 18th we are to vote on the beer bill?

Mr. POMERENE. The Senator is right.

Mr. WATSON of Georgia. Yesterday a large part of the time was taken up by a legal argument by the Senator from Minnesota [Mr. NELSON]. There are some of us on this side who want to reply to that argument, and intend to do so if we get a chance; but if this matter comes up now—it has been pending here for two years, as I am informed—there will be no opportunity to reply to the Senator from Minnesota, and there will be no opportunity to put before the country what this beer bill really means to do. I think the country ought to know what it means to do, and therefore there is an additional ground why we should not rush into this matter.

Mr. POMERENE. Mr. President, after conferring with some of my colleagues in regard to this matter, it was my thought that perhaps it would be better to have it go over until some time in December for the final disposition of it. Again, I would like to have the attention of Senators. I was very much disappointed to hear it said that those who were managing the legislative matters on the other side of the Chamber were determined to take this up to-day and "jam" it through. Have I been rightly informed?

Mr. SPENCER. What was the inquiry of the Senator?

Mr. POMERENE. My statement was that I was told, after we had failed to agree last night upon the date, that it was said some of those who manage the procedure on the other side of the Chamber were determined to take it up this morning and, to use the phrase as it was reported to me, "jam" it through. Have I been rightly informed?

Mr. WATSON of Indiana. Mr. President—

The VICE PRESIDENT. Does the Senator from Ohio yield to the Senator from Indiana?

Mr. POMERENE. I yield.

Mr. WATSON of Indiana. I think perhaps the word "jam" was not used. The statement I made was that if we could not agree on a date, we intended to take the matter up this morning, if the Senate agreed, and continue it until we put it through. The word "jam" might mean one thing, and it might mean another. What I meant was that if the Senate agreed, we intended to take it up this morning and to hold a night session and finish the consideration of the proposition.

I will say that I had in mind the thought that my distinguished friend from Ohio, a member of the committee, who has one part of the case in charge, has to go away on Saturday, and of course I always want to accommodate him. I thought we might finish the contest before he departed from the city. Therefore, I was entirely willing to make any sacrifice necessary on my part to stay here to see that he was accommodated, and that the case could be put through by that time.

Mr. POMERENE. Mr. President, my distinguished friend from Indiana is always very generous and very gracious so long as he can have his own way about some of these matters. There certainly can not be anything personal between us; but there have been some little footprints during the past few months which have indicated, to my mind at least, that it was determined to force this to a vote without an opportunity to have it fully considered. I regret to say that there has been some such disposition manifested on the part of the majority in the committee in the last few weeks, and I may have some observations to make on that subject before we get through.

Mr. ROBINSON and Mr. BORAH addressed the Chair.

The VICE PRESIDENT. Does the Senator from Ohio yield, and if so to whom?

Mr. POMERENE. The Senator from Arkansas rose first, and I yield to him.

Mr. ROBINSON. With the permission of the Senator from Ohio, I desire to ask the Senator from Indiana whether, in his opinion, it is in order, without motion or resolution, to proceed to the consideration of the Newberry case?

Mr. WATSON of Indiana. No—

Mr. ROBINSON. The Senator agrees with me—

Mr. WATSON of Indiana. In my opinion—

Mr. ROBINSON. Just a moment. The Senator agrees with me that before the Senate can be held to a consideration of the case the case must be brought before it by some proper motion, and the mere fact that a question of privilege is involved or underlies the committee recommendation does not entitle any

Senator, at any time, to bring it before the Senate for action by merely asking that it be laid before the Senate.

Mr. WATSON of Indiana. Now, will the Senator permit me fully to answer his question?

Mr. ROBINSON. Certainly.

Mr. WATSON of Indiana. I think it can be brought up by resolution offered the previous day, and lying over one day under the rule; or by a motion made at the time it is to be taken up; or by unanimous consent. It was my understanding, my attention having been diverted a portion of the time during the proceeding, that unanimous consent had been granted, that the matter is now before the Senate by unanimous consent, and that, pursuant to the unanimous consent, the Clerk had begun to read the report at the request of the Senator from Missouri.

Mr. WATSON of Georgia. The Senator is mistaken.

Mr. ROBINSON. Just a moment, with the permission of the Senator from Ohio.

Mr. POMERENE. I yield to the Senator from Arkansas.

Mr. ROBINSON. Of course, if the Senator from Indiana were correct in his assumption of the parliamentary status there could be no difference between him and me as to the effect of the suggestion made by the Senator from Missouri.

Mr. WATSON of Indiana. Certainly not.

Mr. ROBINSON. But the difficulty in his position is that he is entirely wrong in his assumption that unanimous consent was either asked or given. The Senator from Missouri has himself expressly stated that he made no request for unanimous consent, and the Chair had no opportunity of submitting a request for unanimous consent to the Senate, and the Senate has had no opportunity of granting unanimous consent. It is perfectly apparent, from the statement made by the Senator from Montana, and from the statement, in part, by the Senator from Ohio, that unanimous consent would not be granted.

It is apparent that the Senate is proceeding out of order to the consideration of this report. The Senator from Indiana agrees with me that it is necessary, under the parliamentary rules, that a motion be made or a resolution be presented in order that the Senate may have the opportunity of determining whether a question of privilege is now presented and whether it will determine the issue raised, or at some future time. It is perfectly competent for the Senate to postpone it a week longer, as it has postponed it for a year or two. I thank the Senator from Ohio for yielding.

Mr. NEW. Mr. President—

The VICE PRESIDENT. Does the Senator from Ohio yield to the Senator from Indiana?

Mr. POMERENE. I yield.

Mr. NEW. I think the RECORD will disclose that, whether unanimous consent was asked or not, the proposition to lay the Newberry-Ford case before the Senate was made, that no objection was offered, at least, and that the report was handed down by the Presiding Officer, and was and is before the Senate without objection having been offered. It was taken up, was under consideration, and the reading of the report was ordered and entered upon before anyone interposed the slightest objection to the consideration of the case, and the situation therefore is that it must be displaced by some other motion, if displaced at all.

Mr. ROBINSON. Mr. President—

Mr. POMERENE. I yield to the Senator from Arkansas.

Mr. ROBINSON. Mr. President, a point of order.

The VICE PRESIDENT. The Senator will state his point of order.

Mr. ROBINSON. A demand for the regular order made by any Senator would, according to the rules under which this body is supposed to proceed, terminate the discussion at this time. I could not think of making such a demand just now because of the fact that the Senator from Ohio has secured the floor, and has had the courtesy to yield to me; but I am perfectly certain that a Senator is not estopped from demanding the regular order, or from making an objection to the consideration of the report, merely because the Senator from Missouri made a suggestion that something be laid before the Senate. It was not a request for unanimous consent to proceed to the consideration of any motion or resolution or question of privilege, and it is perfectly apparent that many Senators are not willing to proceed to the consideration of the report, and that if the question had been stated and the Senate given an opportunity to pass upon the matter an objection would have been made to considering it at this time.

Mr. WATSON of Georgia and Mr. McKELLAR addressed the Chair.

The VICE PRESIDENT. Does the Senator from Ohio yield; and if so, to whom?

Mr. POMERENE. I yield to the Senator from Georgia, as he rose first.

Mr. WATSON of Georgia. I was here when the Senator from Missouri [Mr. SPENCER] brought this matter up, and while my memory is not infallible, I am quite sure that the facts are substantially as follows: He rose and stated that the question of the right of a Senator to a seat in this body is one of high privilege, and that therefore he would bring it before the Senate; and before anyone had a right to say or do anything he had it before the Senate. There was no consent asked at all. The Senator from Indiana is mistaken. I was here at the roll call and remained, except for the few minutes when I went out to luncheon. I was here when the Senator from Missouri [Mr. SPENCER] rose and made the statement that he had a right to bring the matter here and give it the right of way as a matter of high privilege, and he went ahead and did it without any consent.

Mr. McKELLAR. Mr. President—

Mr. POMERENE. I yield to the Senator from Tennessee.

Mr. McKELLAR. If the Senator from Ohio will not think it offensive, I would like to make the point of order that there is no business before the Senate. I will not do it if the Senator objects to it. I think the regular order ought to be proceeded with. There is nothing before the Senate.

Mr. WALSH of Montana. I beg to say to the Senator from Tennessee that I have made the point of order, and when this discussion is concluded I desire to supplement the point of order I have already suggested with another point.

Mr. McKELLAR. Very well. There is nothing now before the Senate.

Mr. CUMMINS. Mr. President—

The VICE PRESIDENT. Does the Senator from Ohio yield to the Senator from Iowa?

Mr. POMERENE. I yield.

Mr. CUMMINS. I was in the chair when the question came up. The Senator from Missouri did not ask unanimous consent for the consideration of the report. He asked that the report be laid before the Senate as a matter of right. The Chair then said it was in very grave doubt with regard to the matter, but that, for the purpose of getting it before the Senate, it would rule that it presented a subject of privilege so high that the Senator from Missouri had a right to bring it before the Senate for its consideration. That was the ruling of the Chair. I make this explanation because I do not want anyone to misunderstand what has actually been done.

Mr. WATSON of Indiana. Will the Senator from Ohio yield to me to ask the Senator from Iowa a question?

Mr. POMERENE. I yield.

Mr. WATSON of Indiana. Does the Senator from Iowa consider that the statement made by the Senator from Missouri was equivalent to his asking unanimous consent?

Mr. CUMMINS. The Chair did not so understand it. It will be remembered that the Chair suggested to the Senator from Missouri that he might present a motion or a resolution; but he did not do it.

Mr. ROBINSON. Will the Senator yield for a question?

Mr. CUMMINS. I yield.

Mr. ROBINSON. Of course, if the Chair had understood that the Senator from Missouri was making a request for unanimous consent, the Chair would have submitted it to the Senate.

Mr. CUMMINS. It would have been submitted to the Senate.

Mr. ROBINSON. But there was no such request.

Mr. CUMMINS. There was no such request made. If there is error in regard to the matter, it was the error of the then occupant of the chair in holding that this subject is one which the Senator from Missouri had a right to bring before the Senate for its consideration. If that ruling was incorrect, it can easily be corrected by an appeal from the ruling of the Chair.

Mr. SPENCER. Mr. President—

The VICE PRESIDENT. Does the Senator from Ohio yield to the Senator from Missouri?

Mr. POMERENE. I yield.

Mr. SPENCER. The Senator from Iowa is entirely right. I did not ask for unanimous consent. I did not intend to ask for unanimous consent. I intended to present to the Senate, as a matter of right, the bringing up of this question because of its high privilege. I still think it is a matter of right.

I believe it would be useful as a precedent for the future, if we had a ruling upon the question at this time as to whether, when the question of the right of a Senator to a seat in this body is at stake, that question can not, as a matter of privilege, be brought up before the Senate at any time, and be kept before the Senate until the Senate, in the exercise of its rights, supplants it, or replaces it by some other business.

Mr. ROBINSON. Mr. President—

Mr. POMERENE. Just one moment, Mr. President. I had intended to make some further observations with regard to the matter at this particular time, but in view of the point of order which has been raised I yield the floor, if I may, to the Senator from Arkansas at the present moment.

Mr. ROBINSON. Mr. President, there is a distinction running all the way through parliamentary law between privileged questions and questions of privilege. That distinction, however, is not important in the case at the bar of the Senate at this time. There is no doubt in my mind that the Newberry case involves a question of privilege, and that any Senator who desires to do so can bring it up before the Senate at any time he may be able to obtain recognition, but he can not do so by a mere suggestion. He must do so by a parliamentary procedure, in the nature of a motion, or by the offering of a resolution.

Senators may look back through parliamentary history to the beginning, and they will not find a precedent to the contrary. If a Senator without motion or resolution could compel the Senate to consider a question of privilege at any time by merely suggesting that such a question existed and by asking the Chair to lay it before the Senate, the Senate would be unable to control its procedure. A question of privilege does not mean that the matter may be brought before the Senate without motion or resolution. It relates to precedence of consideration when properly brought before the Senate.

If a bill, resolution, or motion is pending and a question of privilege is presented, that question of privilege must be decided before the pending question is decided. The effect of a question of privilege is to give it precedence over other questions. Questions of privilege must be raised by some parliamentary procedure. They can not automatically arise. A question of privilege never has been held to estop the Senate from determining its procedure. Such a ruling would be absolutely subversive of the right and power of the Senate to deliberate. Is there a Senator here who believes that last week I could have risen and said, "I suggest that the Newberry case be laid before the Senate," and that upon that mere suggestion the Senate would have been compelled to suspend the business then before it and proceed to discuss and vote upon the Newberry case?

Mr. CUMMINS. Mr. President, will the Senator from Arkansas yield to me?

Mr. ROBINSON. I take pleasure in yielding to the Senator from Iowa.

Mr. CUMMINS. Under the view taken by the Senator from Arkansas of course there could be no privilege of any kind in it. The Senator from Missouri had a perfect right to move to take up this case, as he would have a right to move to take up any bill or other matter, and if the Senate voted in the affirmative that question would be before the Senate. In the view taken by the Senator from Arkansas there is no difference whatever between a contest over the seat of a Senator or his right to a seat in this body and any other matter which may be pending before the Senate.

Mr. ROBINSON. Oh, yes; there is.

Mr. CUMMINS. Let me suggest further that his conclusion that the Senate loses all control over its own action under the ruling which the Chair made is not, I think, sound, because it is within the right of any Senator to rise at any time and move that the Senate proceed to the consideration of some other subject, and if that motion prevails the privilege is lost and the Senate proceeds to the consideration of whatever bill or matter may be brought before it by the motion.

Mr. ROBINSON. O Mr. President, the Senator from Iowa in this instance is in my humble opinion entirely wrong. There are many motions that may be made in the Senate, as Senators well know, when a bill, resolution, or other matter is pending, and the effect of privilege is to give a particular motion precedence over all other motions. It seems to me to be elementary, but I am going to read from Hinds' Parliamentary Precedents:

Definition and precedence of questions of privilege.

Questions of privilege have precedence of all motions except the motion to adjourn.

Then there is a discussion of the history of questions of privilege and of the rule of the House of Representatives:

A question of privilege supersedes consideration of the original question and must first be disposed of.

That is the definition of a question of privilege given by Jefferson's Manual, and it never has had any other definition or significance.

Now, let us take the position of the Senator from Iowa and assume that he is correct. The Senator from Missouri said, "I ask that the Newberry report, or the report in the Newberry



case, or the Newberry case be laid before the Senate." Supposing that the Chair had the power, without regard to the wishes of the Senate, to comply with that request and without a motion or resolution presented to the Senate, what would be the question to be voted on by the Senate? What would be the question of privilege to be disposed of by the Senate?

Will the Senator from Iowa answer that question? Suppose he had authority, as the Presiding Officer of this body, to disregard whatever may have been the wishes of the Senate to comply with the request of the Senator from Missouri, what would be the question of privilege upon which the Senate would be called upon to vote?

Mr. WALSH of Montana. Mr. President—

Mr. ROBINSON. I yield to the Senator from Montana.

Mr. WALSH of Montana. If the Senator will pardon me for the interruption, I said a moment ago that I intended to supplement my point of order with another point, and it is so pertinent to the feature of the case which the Senator is now discussing that with his permission I will submit it at this time.

I make the further point of order that there is no motion or resolution before the Senate for consideration. I call attention to a number of precedents upon questions of privilege. I read from Gilfry, first volume, page 478, as follows:

FEBRUARY 25, 1858.

The question was raised whether the presentation of credentials and papers involving the right of a State to representation in the Senate was a privileged subject, but before a decision thereon the matter involved was referred to a committee.

OCTOBER 17, 1877.

Mr. Thurman presented the credentials of Henry M. Spofford, elected a Senator by the Legislature of the State of Louisiana for the term of six years, commencing March 4, 1877. The credentials were read. Mr. Thurman then submitted the following resolution and asked for its present consideration:

"Resolved, That Henry M. Spofford, whose credentials as a Senator from the State of Louisiana have been this day read, be now sworn and admitted as such Senator."

That became the question before the Senate.

Again, if the Senator will pardon me, I read from page 482 of the same volume:

JANUARY 9, 1911.

Mr. OWEN submitted the following resolution for consideration: "Resolved, That the so-called election of William Lorimer on May 26, 1909, by the Legislature of the State of Illinois was illegal and void and that he is not entitled to a seat in the United States Senate."

Mr. Gallinger raised a question of order, viz, that under the rule the resolution should go over one day, and was therefore not in order.

The Vice President [Mr. Sherman] overruled the point of order, and decided that a resolution of this character, presenting a question of the highest privilege, does not have to stand over for a day.

From the decision of the Chair Mr. Beveridge appealed to the Senate.

The Vice President [Mr. Sherman] stated the question to be, Shall the decision of the Chair stand as the judgment of the Senate? It was determined in the negative.

So the resolution went over for one day.

So it can not even be considered that the question before us is brought under this precedent. But what is the resolution? There is none. There is none in the report. I read from the majority report as follows:

Your committee recommends that the action of the Senate be as follows:

- (1) That the contest of Henry Ford against Truman H. Newberry be, and it is hereby, dismissed.
- (2) That Truman H. Newberry is hereby declared—

And so forth.

There is no resolution at all. They simply recommend that the Senate take such action upon any resolution that may be offered. So the Senator from Arkansas is quite right in saying that there is absolutely nothing here upon which the Senate can act; no resolution or motion whatever.

Mr. ROBINSON. Mr. President, I thank the Senator from Montana for the injection into my remarks of those suggestions. During the remarks of the Senator from Ohio [Mr. POMERENE] I announced my purpose to make that point of order. I am so certain that it is right, that there is no precedent to the contrary, that I now challenge the oldest Senator in this body to rise and cite a precedent, either actual or recorded.

It is not necessary, Senators, to the determination of this case to disregard your rules. This question can be brought before the Senate by a motion or resolution, and there is no justification for any other procedure. The Senator from Indiana [Mr. WATSON], who is a great parliamentarian, agreed with me exactly on that proposition. He sought to avert the force of the suggestion by creating a fictitious unanimous-consent agreement or order on the part of the Senate. He thought he heard the Senator from Missouri request unanimous consent, but the Chair promptly informed him that no such thing was asked.

Mr. POMERENE. And the Senator from Missouri admitted it.

Mr. ROBINSON. Yes; the Senator from Missouri frankly stated that no such consent was asked, and that he deliberately and intentionally refrained from asking unanimous consent.

Do Senators know what the establishment of this sort of precedent means? It means that so long as there may be a question of privilege tied up in the files of a committee of the Senate, any Member of the Senate may rise on the floor of the Senate, no matter what is being considered, and suggest that this question of privilege be laid before the Senate, denying to the body the right to consent to its consideration and denying to the body the right to vote on the question of its consideration. Who ever heard of such a precedent anywhere, any time?

I hope that the consideration of this case, involving as it does in a sense the integrity of the United States Senate, its justice and its impartiality, will be marked from the beginning and throughout by a spirit of fairness and liberality.

Mr. CURTIS. Mr. President—

Mr. ROBINSON. In just a moment. It is not necessary, in order to consider this case, to violate all the precedents of the Senate. We can consider it in an orderly way. It is not necessary to put the Senate in the future at the mercy of any Senator who may want to defeat the consideration of important measures and who may be willing to ask that questions of privilege be laid before the Senate without formal motion accompanying it.

What is the question of privilege now? Supposing that the report is before the Senate, we have nothing but a recommendation; there is no resolution, no motion on which the Senate can vote.

Mr. CURTIS. Mr. President—

Mr. ROBINSON. I yield to the Senator from Kansas.

Mr. CURTIS. Mr. President, I do not think there is any intention on the part of any Senator to take advantage of the Senate. The Senator from Missouri [Mr. SPENCER] holds that the report of the committee embodies a resolution. I agree with the Senator from Arkansas [Mr. ROBINSON] that the matter can only be taken up in one of two ways: First, by unanimous consent or, second, upon a motion. If a resolution is presented, under the action of the Senate on two different occasions, once by a Democratic Vice President and once by a Republican Vice President, it has to go over for a day. It was decided in the case of John Martin, of Kansas, a Democrat. Upon an appeal from a decision of the Chair that it was not a question of privilege and that the resolution should go over for a day, a motion was made to lay the appeal on the table, and it was carried by a vote of 40 to 8. The second occasion was in connection with the Lorimer case where the Senate overruled Vice President Sherman on a ruling that the question "was one of the highest privilege and did not have to stand over for a day." Clearly this case can only be brought up in one of two ways—by unanimous consent or by a motion to consider a resolution, and if objection is made, such a resolution would have to go over for a day.

Mr. ROBINSON. I thank the Senator from Kansas; and in view of his statement and the statement made by the Senator from Indiana [Mr. WATSON], I renew the point of order made by the Senator from Montana [Mr. WALSH].

The VICE PRESIDENT. The Chair is ready to rule on the point of order made by the Senator from Montana, that there is no question before the Senate at this time. The Chair is of the opinion that the point of order is well taken.

The Senator from Missouri has asked the Chair to lay before the Senate the report of the Committee on Privileges and Elections. The Chair understands that it was ruled by a former occupant of the chair that he had a right to lay that report before the Senate; but that does not necessarily bring up any question for the Senate to decide, there not being any resolution or motion attached to the report.

Mr. WATSON of Indiana. Mr. President, I move that the Senate now proceed to the consideration of the Ford-Newberry election contest, being report numbered 277.

Mr. WALSH of Montana. I object to the immediate consideration of the motion, and ask that, under the rule, it may go over for one day. That was the ruling in the precedent to which I invited the attention of the Chair a few moments ago.

Mr. WATSON of Indiana. Will the Senator from Montana kindly state his point of order or request? I did not hear it.

Mr. WALSH of Montana. I object to the consideration of the motion of the Senator from Indiana at this time, and ask that, under the rule, it go over for one day.

The VICE PRESIDENT. The Senator from Indiana has made a motion; he has not submitted a resolution.

Mr. WALSH of Montana. The only difference between the two, so far as that is concerned, is that the one is a verbal and

the other is a written proposal for the consideration of a particular subject. That is different from the case of a motion to take up a bill which is on the calendar or has been pending before the Senate. The Chair has just ruled that there is nothing before the Senate. The motion of the Senator from Indiana is the first effort to bring the subject before the Senate. Of course, if a bill is introduced, is referred to a committee, and the committee reports the bill and it is on the calendar, we have something then upon which we can act, and a motion to take up the bill is appropriate. That is not a resolution which goes over for a day. The rule refers to matters brought for the first time before the Senate. The motion of the Senator from Indiana is in the nature of a resolution. That was the ruling made in the precedent to which I invited the attention of the Chair.

The VICE PRESIDENT. The Chair does not understand that the Senator from Indiana has offered a resolution, but that he has made a motion to proceed to the consideration of the matter named by him.

Mr. WALSH of Montana. I will again refer the Vice President to the ruling which I previously cited. However, Mr. President, I ask that the motion which was made by the Senator from Indiana may be stated.

The VICE PRESIDENT. The Senator from Indiana has moved that the Senate proceed to the consideration of the so-called Newberry election case.

Mr. WALSH of Montana. I make the point of order—the same point of order which was made heretofore—that there is no resolution before the Senate upon which we can now act. Let us suppose that we proceed to the consideration of this matter, and finally, after debate is closed, we proceed to a vote. On what shall we vote? What is the question on which we shall vote?

The VICE PRESIDENT. The Chair is going to rule that the motion at this time is not in order.

Mr. WATSON of Indiana. Very well. I was going to withdraw the motion anyway.

Mr. SPENCER. Mr. President, I agree with the Senator from Montana [Mr. WALSH] that if the pending matter is not of such high privilege as entitles it to be brought up without a motion—and the Chair has just ruled that it is not such a matter—a motion is necessary to bring it up, and of course the motion must be directed to some existing resolution. The majority report closes with recommendations which, however, in my judgment, can not be called a resolution. Therefore I now offer the resolution which I send to the Secretary's desk, and I move its immediate consideration. I admit that if objection is made to the resolution, under the rule, it must lie over for a day.

The VICE PRESIDENT. Is there any objection?

Mr. WALSH of Montana. I ask for the reading of the resolution.

The VICE PRESIDENT. The resolution will be read.

The Assistant Secretary read the resolution (S. Res. 172), as follows:

*Resolved*, (1) That the contest of Henry Ford against Truman H. Newberry be, and it is hereby, dismissed.

(2) That Truman H. Newberry is hereby declared to be a duly elected Senator from the State of Michigan for the term of six years commencing on the 4th day of March, 1919.

(3) That his qualification for a seat in the Senate of the United States, to which he has been elected, has been conclusively established, and the charges made against him in this proceeding, both as to his election and qualification, are not sustained.

Mr. WALSH of Montana. I ask that the resolution go over for a day under the rule.

The VICE PRESIDENT. Under the rule, the resolution will go over one day.

Mr. KENYON obtained the floor.

Mr. CUMMINS. Mr. President—

The VICE PRESIDENT. The junior Senator from Iowa has been recognized. Does he yield to the senior Senator from Iowa?

Mr. KENYON. I merely wish to ask the Senator from Missouri if any arrangement has been made with reference to a time for a vote; that is, whether there has been any tentative agreement to that effect? I understood that there was some such suggestion pending.

Mr. SPENCER. There was an effort, I will say to the Senator from Iowa, to fix a time when a vote should be taken, but it has been unavailing. I hope, if the Senate decides to take the matter up to-morrow, that it may be continued until it is finally disposed of.

Mr. KENYON. Is it the intention of the Senator from Missouri to keep the matter before the Senate until it is voted on?

Mr. SPENCER. Of course, that will be entirely a matter for the Senate to determine, but when I ask that the subject

may be brought up to-morrow, if the Senate agrees to its consideration, I hope that the Senate will continue to consider the matter until it is ready finally to dispose of it.

Mr. KENYON. In the Senator's judgment, then, will it supplant the unfinished business?

Mr. SPENCER. It can not supplant the unfinished business under the ruling of the Chair unless the Senate votes to displace the unfinished business and to continue the consideration of this case.

Mr. KENYON. I wish to say that I find myself to a large extent in the condition of the Senator from Montana [Mr. WALSH]. I have read nearly all the record in this case, and I wish to discuss it. I am not ready to discuss it in the way I should care to discuss it; and I do not believe anything is going to be gained by trying to press or jam—I believe that expression was used here this morning—the matter through. I had understood the Senator from Ohio [Mr. POMERENE] was to leave the latter part of this week on a trip to Haiti to shed the light of his countenance upon the benighted citizens of that island, and that there was general acquiescence in his desire to go, not that we might be rid of him, of course, but that the islanders might have the benefit of his presence. Is the Senator from Ohio in accord with the program of finishing this matter within the next few days?

Mr. POMERENE. Mr. President, as a general proposition I am in accord with the desire to have this matter disposed of as expeditiously as may be consistent with its importance. I may say that that was my thought when I first presented the resolution for the investigation of the unfortunate situation growing out of the Michigan election, and that has been my position ever since. I was blocked at every turn for a year and a half or for, perhaps, longer; but we went along, and finally hearings were begun. They were rushed through, and were closed when I was not present. The then Senator from Delaware, Mr. Wolcott, a member of the committee, asked that the matter be deferred until I could get back, but ruthlessly his request was turned down. I have never heard of any procedure of that kind in the United States Senate or any of its committees heretofore, but that is what was done. I propose, however, to discuss that later on, not now.

Afterwards when the report of the committee and the views of the minority were prepared, the Senator from Missouri and myself were in accord in the desire that this matter should be disposed of, and I supposed that it could be done. Yesterday, however, during the afternoon as well as to-day it has developed that there are many Senators on this side of the Chamber who have not had the opportunity to read the record or to read the report, and, if I am correctly informed, on the very day that a favorable report was ordered there was a poll of the Republican side of the Chamber, and it was announced informally that they had the votes to seat the junior Senator from Michigan, and so forth. That poll was taken before a Senator had an opportunity to read the report. My sense of the dignity of the United States Senate rebels against that method of treating a very serious problem.

Mr. KENYON. If that is so, if it is all settled now, what is the real use of discussing the case? I simply rise to say that, so far as I am concerned, I am not in the habit of delaying the business of the Senate, but the case is going to have very considerable discussion, and I do not think the gentlemen who desire to force it through hurriedly will succeed in doing so.

Mr. POMERENE. I desire to say further that I was appointed on the committee to visit Haiti. I know the situation there which is being investigated involves some very important questions. I did not solicit the appointment, but Senators came and asked me if I would serve, and I said that I would. I have gone into the question pending before the committee which has to do with affairs in Haiti and which is presided over by the Senator from Illinois [Mr. McCORMICK] to an extent to justify my saying that the situation there is a very serious one, and that justice to ourselves as well as justice to the islanders requires a thorough investigation and a fair and impartial report.

I had hoped that matters might be so arranged that we could go on and do that work as was contemplated, thinking that we would recess. On yesterday I thought there was a tentative agreement whereby a vote would be had probably on December 10. True, it was an open question; but later on I was informed that it would take more time to make the investigations at Haiti than I was led to believe that it would take. Under those circumstances, I think that Senators who permitted themselves to be polled on this subject owe it to themselves and their constituents to take the time to read this record and to read these reports.

Mr. President, that is the situation. I trust that sober judgment will assert itself and that an opportunity may be given



which will enable Senators to form a fair and impartial judgment in this matter.

Mr. NEW. Mr. President, I merely wish to make a very brief statement.

The Senator from Ohio [Mr. POMERENE], as I understood him, said that it was his understanding that a poll had been taken—at least on this side of the Senate—on this proposition. Did I understand the Senator correctly?

Mr. POMERENE. Yes. I was so informed.

Mr. NEW. I wish to say that I have been here continuously, almost without any absence at all, and I never have heard of any such poll. I never have been polled on the subject. I know that other Senators sitting about me here say that they never have been polled and never have heard that a poll was undertaken. I therefore think that that part of the statement of the Senator from Ohio was a mistake.

Mr. POMERENE. If I have been mistaken, I am very sorry about it; but I will say, for the Senator's benefit, that that was a matter of common report here in the Chamber, as well as out of it.

Mr. McCORMICK. Mr. President, since the Senator from Ohio [Mr. POMERENE] has spoken of the purpose of the committee to investigate the occupation of Haiti and Santo Domingo to leave shortly for the two Republics, let me say that it will be impossible to complete the journey in less than some four weeks. All the members of the committee attach the greatest importance to the coming of the Senator from Ohio with the rest of the committee. The problem which confronts the United States in Haiti and in Santo Domingo, arising out of an anomalous situation in which we find vested in the United States responsibility without authority, is so great that it is important that all the members of the committee should be present in Haiti and Santo Domingo during the investigation there; and it is especially important that the Senator from Ohio should be present, because of the study which he has given to the subject and because of his mastery of the subject.

I say this only in connection with the private conversations and the discussions on the floor looking to an understanding as to a vote upon the election contest before the Senate.

The VICE PRESIDENT. The calendar, under Rule VIII, is in order.

#### AMENDMENT OF TRANSPORTATION ACT OF 1920.

Mr. CUMMINS. I ask unanimous consent that the Senate proceed to the consideration of House bill 8331, the unfinished business.

The VICE PRESIDENT. Is there objection?

There being no objection, the Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 8331) to amend the transportation act, 1920, and for other purposes.

Mr. CUMMINS. I ask unanimous consent for the consideration of the committee amendments first.

The VICE PRESIDENT. The consent requested by the Senator from Iowa has already been granted. The Secretary will read the bill for action on the committee amendments.

Mr. CUMMINS. Mr. President, may I make a suggestion? I know that the Senator from Wisconsin [Mr. LA FOLLETTE] desires to address the Senate upon the bill. I ask at least that one of the pages be sent for him.

Mr. HITCHCOCK. Mr. President, I suggest the absence of a quorum.

The VICE PRESIDENT. The Secretary will call the roll.

The roll was called, and the following Senators answered to their names:

Ashurst	Frelinghuysen	McKellar	Robinson
Ball	Gooding	McKinley	Sheppard
Broussard	Hale	McNary	Shields
Bursum	Harris	Myers	Smith
Calder	Heflin	Nelson	Smoot
Cameron	Hitchcock	New	Spencer
Capper	Jones, Wash.	Nicholson	Sutherland
Caraway	Kendrick	Norris	Townsend
Cummins	Kenyon	Oddie	Trammell
Curtis	Keyes	Overman	Wadsworth
Dial	King	Page	Walsh, Mass.
Ernst	Ladd	Phelps	Warren
Fernald	La Follette	Polindexter	Watson, Ga.
Fletcher	Lodge	Pomerene	Williams
France	McCormick	Ransdell	Willis

The VICE PRESIDENT. Sixty Senators have answered to their names. A quorum is present. The Secretary will read the bill for action on the committee amendments.

The Assistant Secretary proceeded to read the bill.

The first amendment of the Committee on Interstate Commerce was, on page 1, line 4, to strike out "two" and insert "four," so as to read:

That section 207 of the transportation act, 1920, is amended by adding at the end thereof four new subdivisions to read as follows:

The amendment was agreed to.

The next amendment was, on page 2, after line 8, to insert:

(i) The President is hereby authorized to sell any bonds, notes, or other securities acquired by him either before or after this subdivision takes effect, under authority of this act, the Federal control act, or the act entitled "An act to provide for the reimbursement of the United States for motive power, cars, and other equipment ordered for railroads and systems of transportation, and for other purposes," approved November 19, 1919; and the proceeds of all bonds, notes, or other securities sold by the President, shall be a fund to be used by the President for the purposes described in section 202 hereof. Any balance not so required shall be paid into the Treasury of the United States as miscellaneous receipts. Any such sale or sales must be made at a price which will save the United States from loss in the transaction and without recourse.

Mr. CUMMINS. I explained as fully as I could on yesterday the purpose of this amendment. I have no desire to repeat what I have already said.

Mr. HITCHCOCK. I would like to ask the Senator whether this subdivision (i) authorizes the President to make these sales to the War Finance Corporation.

Mr. CUMMINS. It certainly does.

Mr. HITCHCOCK. I see no provision to that effect here, but I presume it is provided for elsewhere in the bill.

Mr. CUMMINS. As I explained yesterday, this amendment is for the purpose of separating the power of the President to sell and the power of the War Finance Corporation to buy. In the bill as it passed the House they are coupled together in the same subdivision, and the difference between the bill as it passed the House and this amendment is that by the amendment the President is given the authority to sell to anybody, to any organization, to any syndicate which may desire to buy these securities, whereas by the bill as it passed the House the President had no authority to sell to anyone except the War Finance Corporation.

Mr. HITCHCOCK. I notice the provision that "Any such sale or sales must be made at a price which will save the United States from loss in the transaction and without recourse." Of what use is a provision "to save the United States from loss" when the President is permitted to make sales to a corporation whose stock is owned wholly by the United States?

Mr. CUMMINS. There is exactly the same provision in the bill as it passed the House, and it is, of course, retained in our report with regard to the War Finance Corporation. The United States, no matter what agency acts for it, must get par for these securities; that is, it must get the price at which they were taken from the railroads, and they must be disposed of without recourse.

Mr. HITCHCOCK. Let me ask the Senator, suppose the President sells \$100,000 of these securities to the War Finance Corporation at par and accrued interest, and sells them without recourse, and then the War Finance Corporation, whose stock is owned wholly by the United States, incurs a loss of \$25,000—

Mr. CUMMINS. It can not incur a loss under this provision. That is, the bill as it passed the House provides that if the War Finance Corporation sells—

The aggregate purchases thus made shall not exceed \$500,000,000. Any such securities so purchased shall be purchased at the prices, and subject to the discounts, if any, at which acquired by the President.

(b) Whenever, in the opinion of the board of directors of the corporation, market conditions justify, any such bonds, notes, or other securities, acquired by the corporation under this section, may from time to time be sold, marketed, or disposed of by the corporation at a price to produce net not less than the original cost thereof to the corporation. And all such securities shall be sold without recourse.

Mr. HITCHCOCK. This provision would protect the United States if the sale is made to an independent purchaser, but I can not see how the United States has any protection whatever in selling to a corporation whose stock is owned by the United States Government.

Mr. CUMMINS. The United States has the securities now, or will have them as we proceed. The United States will have them, whether they are in the hands of the President or in the hands of the War Finance Corporation. They are both agencies of the United States. The Senator agrees with that?

Mr. HITCHCOCK. Certainly.

Mr. CUMMINS. Whenever they pass from the United States into the hands of any third person or independent organization, then the United States, whether they are sold by the War Finance Corporation or by the President, must receive par, and without recourse. There can not be any loss to the United States.

Mr. HITCHCOCK. There can very easily be a loss by the War Finance Corporation, and if the War Finance Corporation has a loss it is a loss of the United States Government.

Mr. CUMMINS. If the securities can never be disposed of, there will be a loss to the United States, of course.

Mr. HITCHCOCK. Then, to the extent that these securities are sold to the War Finance Corporation, this provision for the protection of the United States is in vain.

Mr. CUMMINS. I do not see it in that way. I can not understand it that way. The United States has these securities. It matters not whether they are in the hands of the War Finance Corporation or in the hands of the President, they are owned by the United States. If they are not worth anything, the United States loses. If they are worth something, and can be sold at par—and they can not be sold at all unless they are sold at par—then the United States loses nothing and can lose nothing.

Mr. HITCHCOCK. My point is that if the sales are made to independent purchasers, and the securities are sold at par and interest, without recourse, then there is no chance for the United States to lose any money; but if, instead of being sold to independent purchasers they are sold, as provided in the amendment, to the War Finance Corporation, the provision that the War Finance Corporation loses money, the United States, from loss, and without recourse, is utterly in vain, because if the War Finance Corporation loses money, the United States, which owns the War Finance Corporation, loses the money.

Mr. CUMMINS. But can not the Senator from Nebraska see that when they are sold to the War Finance Corporation they are simply moved from one department of the Government to another, so that they are not sold at all?

Mr. HITCHCOCK. So the Senator admits that that nullifies this provision.

Mr. CUMMINS. Not at all; it does not nullify anything. We have the securities. If they can be passed into the hands of the public, whether through the War Finance Corporation or through some other organization at par, we will lose nothing, and they can never leave the possession of the Government under terms that would create any loss. If they can not get par for them, they remain permanently in the hands of the Government.

Mr. HITCHCOCK. The Senator admits, then, that in case of any sale to the War Finance Corporation it is merely a transfer to another agency of the Government, and is not really a sale?

Mr. CUMMINS. Does not the Senator from Nebraska admit that?

Mr. HITCHCOCK. Yes; I contend that that is not a sale.

Mr. CUMMINS. It is not, in the proper sense of the word, but it is precisely what we have empowered the War Finance Corporation to do in many other financial transactions. It is simply an agency of the Government, as the Secretary of the Treasury is, as the President is, or any other officer of the Government.

Mr. HITCHCOCK. The provision for a sale to the War Finance Corporation is nothing but a device, I will not say subterfuge, but a device, to avoid making an appropriation.

Mr. CUMMINS. That has been so from the beginning. The Senator helped to create the War Finance Corporation, and therefore I assume that he believes it could perform and has performed some valuable functions during the war and since the war. I think he is entirely right about it. These are all functions of the Government. I am hoping very much that the President will not be compelled to employ the War Finance Corporation. He sold \$100,000,000 of equipment trust certificates recently without using the War Finance Corporation in the transaction.

Mr. HITCHCOCK. I sincerely hope he will not have to use it, because I think that is merely using a device to avoid what really ought to be done. Those securities ought to be sold to independent purchasers.

Mr. CUMMINS. If there is any loss at all, it will be because the securities are not of such a character that either the War Finance Corporation or the President can put them on the market without loss, and in that event they will not be sold at all under the bill.

Mr. HITCHCOCK. I have very serious doubt as to whether the War Finance Corporation should be used for this purpose. I think it would be much better to make an effort to sell these securities to independent purchasers and not compel the United States to be still holding the bag, to use a vulgar expression.

Mr. CUMMINS. I hope so, too; but it will no more hold the bag in that event than it is holding it now.

Mr. HITCHCOCK. I am not so sure about that. It might be easier to make the sale now, if an effort were made in that direction, than two years from now.

Mr. CUMMINS. You may be sure the President will make every effort that he can to dispose of these securities. It is highly necessary that he shall. He has not the money with which to pay the railroads what is due them, and we will either have to make an appropriation to pay the sums due the railroads or we must dispose of these securities.

Mr. HITCHCOCK. The doubt I have in my mind is whether it is wise for Congress to resort to this device of high finance to

avoid doing what the law originally intended that we should do—make appropriations to buy these securities. That was what the law contemplated.

Mr. CUMMINS. What has the Senator from Nebraska in mind as to the ultimate disposition of the securities? The United States will not want to hold them indefinitely.

Mr. HITCHCOCK. I believe the United States should sell them at the earliest possible moment, wherever they can find an independent buyer; but I think in turning them over to the War Finance Corporation, which is another agency of the Government, and delaying the sale of them, we are resorting to high finance.

Mr. CUMMINS. May I suggest to the Senator from Nebraska that that question does not arise upon the amendment now pending? That question will arise upon a later part of the bill, where we give the War Finance Corporation the authority to buy.

Mr. HITCHCOCK. I realize that the Senator is correct, but I wanted the explanation as to whether this provision did authorize a sale on the part of the Government to the War Finance Corporation.

Mr. CUMMINS. I answered the Senator affirmatively, because I think it would give the President the power to sell to anybody, but the War Finance Corporation, under the law as it is now, has no power to buy, and therefore the question suggested by the Senator from Nebraska will arise upon the consideration of the House text, not upon the amendment which the committee has offered.

The PRESIDING OFFICER (Mr. KENYON in the chair). The question is upon agreeing to the committee amendment.

The amendment was agreed to.

The next amendment was, on page 2, line 24, to strike out "(i)" and insert in lieu thereof "(j)."

The amendment was agreed to.

The next amendment was, on page 3, after line 6, to strike out the quotation marks.

The amendment was agreed to.

The next amendment was, on page 3, line 7, to strike out the quotation marks and to insert:

(k) In making settlements with the carriers under this act, no payment or allowance shall be made to any carrier on account of the so-called "inefficiency of labor during the period of Federal control"; and no final settlement between the United States and any carrier shall be made which does not forever bar such carrier from setting up any further claim, right, or demand of any kind or character against the United States growing out of or connected with the possession, use, or operation of such carrier's property by the United States during Federal control, except a claim specified in clauses (1), (2), or (3) of subdivision (b) of section 202 hereof.

The amendment was agreed to.

The next amendment was, on page 3, line 23, to strike out the quotation marks.

The amendment was agreed to.

The next amendment was, on page 4, line 2, to strike out the quotation marks and to insert:

This subdivision shall not apply to any claim in respect of any obligation of the Director General of Railroads: (1) Assumed in paragraph (i) or (j) of section 4 of the standard contract between the United States and the carriers, to save the carriers harmless as to claims, if any, of third persons, arising out of or incident to Federal control, or (2) in respect of the payment of taxes under section 6 of such contract, or (3) arising out of the accounts created pursuant to general order No. 68 of the Director General of Railroads.

Mr. CUMMINS. I explained this amendment quite fully yesterday. I should be glad to further explain it if any Senator desires.

Mr. HITCHCOCK. I was not here when the Senator explained it yesterday. I would like to have a brief explanation.

Mr. CUMMINS. The provision to which this is an addition recites:

(b) Every claim of a carrier against the United States arising out of or incident to Federal control shall, if not filed within one year after this subdivision takes effect, be thereafter barred, and the carrier shall be considered as having waived the claim.

Then the proposed amendment proceeds:

This subdivision shall not apply to any claim in respect of any obligation of the Director General of Railroads: (1) Assumed in paragraph (i) or (j) of section 4 of the standard contract between the United States and the carriers, to save the carriers harmless as to claims, if any, of third persons, arising out of or incident to Federal control, or (2) in respect of the payment of taxes under section 6 of such contract, or (3) arising out of the accounts created pursuant to general order No. 68 of the Director General of Railroads.

That, as I remarked yesterday, is in conformity with the form of final settlement which has been used by the director general from the beginning. The reason why it is excepted from the final settlement is that claims which arise in favor of third persons can not be ascertained or some of them may not be ascertained within a year, and it is not to be expected that the carriers will release a claim which they could not possibly prefer within the time fixed by the statute.



Mr. ROBINSON. Mr. President, will the Senator explain the nature of the claims that are referred to in paragraphs (i) and (j)?

Mr. CUMMINS. I will read it. It is quite long, but I will read it.

Mr. ROBINSON. Perhaps the Senator can state the general nature of the provisions.

Mr. CUMMINS. It ought to be understood.

Mr. HITCHCOCK. May I ask a question just there, if the Senator please. Do these claims mean adjudicated claims?

Mr. CUMMINS. No; these are claims which arose in favor of third persons against the director general and which ultimately may become liens upon the railroads after they are turned back.

Mr. HITCHCOCK. How are they ascertained? Are they ascertained in court? Are they such claims as the railroads might concede without any trial in court?

Mr. CUMMINS. I think, of course, they are susceptible of settlement between the director general and the persons in whose favor they arise. The director general can settle a claim precisely as anyone else can settle it. But I shall read the paragraphs. They are quoted in full in the report made on the bill. Paragraphs (i) and (j) of the standard contract, to which reference is made in the amendment, read in this way:

The director general shall pay, or save the companies—

That is, the railroad companies—

harmless from, all expenses incident to or growing out of the possession, operation, and use of the property taken over during Federal control, except the expenses which under this agreement are to be borne by the companies. He shall also pay or save the companies harmless from all rents called in the monthly reports to the commission—

That is, the Interstate Commerce Commission—

equipment rents or joint-facility rents, and all judgments or decrees that may be recovered or issued against, and all fines and penalties that may be imposed upon, the companies by reason of any cause of action arising out of Federal control, or of anything done or omitted in the possession, operation, use, or control of the companies' property during Federal control, except judgments or decrees founded on obligations of the companies to the director general or the United States.

I have read paragraph (i). It is a claim which may arise under that paragraph which can not be included in a final settlement made within one year or because many of them may not arise and be made known to the carriers within that year. I think when the fact is recalled that it has been shown that this is the form of final settlement which has been used from the beginning by the director general, it ought to give assurance that the rights of the United States are fully guarded in the arrangement.

Paragraph (j) reads as follows:

(j) Except as otherwise provided in this agreement the director general shall save the companies harmless from any and all liability, loss, or expense resulting from or incident to any claim made against the companies growing out of anything done or omitted during Federal control in connection with, or incident to, operation or existing contracts relating to operation; and shall do and perform, so far as is requisite under Federal control for the protection of the companies, all and singular the things, of which he may have notice, necessary and appropriate to prevent, because of Federal control or of anything done or omitted thereunder, the forfeiture or loss by the companies of any of their property rights, ordinance rights, or franchises, or of their trackage, lease, terminal, or other contracts involving a facility of operation; but nothing herein contained shall be construed to require the director general to make any capital expenditure necessary to preserve a franchise or ordinance right not heretofore availed of by the companies. The director general shall also save the companies harmless from any and all claims for breach of covenant heretofore entered into by the companies or by any predecessor in title or interest in any mortgage or other instrument in respect to insurance against losses by fire.

Mr. NORRIS. Mr. President—

Mr. CUMMINS. I yield to the Senator from Nebraska.

Mr. NORRIS. The Senator has just been reading as I understand paragraph (j).

Mr. CUMMINS. It is a part of paragraph (j) of the standard contract.

Mr. NORRIS. That is one of the exceptions, as I understand it. I mean it is an enumeration of some classes of claims that are not made final, but they stand out as an exception against final settlement. Is that right?

Mr. CUMMINS. That is right. In this particular amendment they are excepted from the one-year limitation.

Mr. NORRIS. I suppose that would include all litigation or anything which arose during the operation of the railroads by the Government—

Mr. CUMMINS. In favor of third persons.

Mr. NORRIS. Yes; in favor of third persons; that was not terminated at the time the railroads were turned back.

Mr. CUMMINS. I think so.

Mr. NORRIS. As I understand it, there might be a very large number of claims, and of very great importance and volume, which would be included under the amendment.

Mr. CUMMINS. There might be.

Mr. NORRIS. And they never could be terminated until the statute of limitations had run as to all cases that were then pending.

Mr. CUMMINS. For instance, as an illustration, there occurred in Minnesota a very disastrous fire a year or two ago while the railroads were still in the hands of the Government. Immense claims have been made on behalf of third persons for losses incurred in that fire, and the question whether the railroad companies are liable to third persons is a question which is as yet undetermined, at least in part, if it is not wholly undetermined. It goes without saying that a statute of limitations of one year, requiring the railroad companies to present all their claims, would be impossible.

Mr. NORRIS. I can see that it would be, because the claims made by third persons against the railroad companies might not be even commenced within that time.

Mr. CUMMINS. Precisely.

Mr. NORRIS. I am not finding fault with the exception. It seems to me these things would necessarily have to be excepted, because, of course, the Government must be responsible for the property while they were operating the railroads, but I thought it would be interesting, although it may not be directly relevant, if the Senator were able to give an idea of about the number and volume of those claims extending over the entire United States. The probabilities are that the Government, no matter what else may happen, will be litigating those claims for half a century yet.

Mr. CUMMINS. I think not so long as that. It is litigating them now vigorously and there are claims in litigation all over the United States. However, I am not able, simply because I have not inquired, to answer the Senator from Nebraska with respect to the aggregate amount involved in those claims. I know that in the Minnesota fire alone there are claims of \$40,000 or \$50,000 at least involved.

Mr. NELSON. There is over \$1,000,000 involved.

Mr. CUMMINS. I mean \$40,000 or \$50,000 against the railroads. Of course, the entire losses in the fire were much greater.

Mr. NELSON. There are many claims against the Federal administration for losses that occurred while they were operating the railroads.

Mr. CUMMINS. Does the Senator remember the aggregate of those claims arising out of the Minnesota fire?

Mr. NELSON. No; I do not; but it runs up into millions of dollars, because there were nearly a thousand lives lost and a great territory burned over. Last year, by agreement, they submitted the question to five judges of the districts in St. Louis County to hold a hearing and pass upon the question as to whether the Railroad Administration was liable. The judges decided, one dissenting, that the Railroad Administration was liable, that the fire had spread from the locomotives, but they did not pass upon the amount of the claims. I understand that the Railroad Administration is now engaged in the work of liquidating and settling the particular group of claims in which the judges held that, as a matter of fact, the railroads were liable. However, that includes only a small portion of the aggregate of claims, which, I imagine, will run up into millions of dollars before they get through. Those are claims against the Railroad Administration of the Government while they were running the railroads.

Mr. CUMMINS. Precisely. I had in mind that particular group of claims; but I had not been informed that the losses brought about by fire in other localities had been attributed to the railroads.

Mr. NELSON. No; in the other localities there are suits pending, but they have not as yet been tried.

Mr. CUMMINS. At any rate, it is quite likely to involve a large sum of money.

Mr. NELSON. It will be several million dollars.

Mr. NORRIS. One of the points I should like to bring out and have the Senator from Iowa explain, for, as he said the other day, he has lived with this question for a long time, is this: People generally, I think, believe, and I think some Members of Congress have an idea, that the Railroad Administration can soon wind up its business and be closed. If I understand aright the paragraph of the bill which the Senator has just read, it will make it necessary for the Railroad Administration to be kept alive and to maintain an immense amount of machinery by way of attorneys, agents, investigators, inspectors, and so forth, in order to take care of the thousands of cases that must necessarily arise. So they will have to retain much machinery and run on about the same scale as when the Government was operating the railroads.

Mr. CUMMINS. It will not be necessary for the Railroad Administration to continue to retain so formidable and so large a force, I think. The director general believes that he will be able to reach final settlement with all the railroads within about

a year. There will then be these exceptions, and it will require some force—I do not know how large a force—in my judgment, for many years to settle and litigate and pay the various claims that have arisen against the railroads during Federal control. I hope, however, that a large part of the expenditures which we are now incurring may be avoided after about a year's time.

Mr. NORRIS. The claims under the exceptions contained in paragraph (j), which the Senator has read, will not at all depend for their determination, as I understand, upon the settlement between the Railroad Administration and the railroads proper, but there will be claims made by third persons under the various laws of the several States against the Railroad Administration while they were operating the railroads. A great many of those cases can be carried to the Supreme Court of the United States.

Mr. CUMMINS. They are not involved in the settlement with the railroads except that in the end the railroads might have to pay some of those claims that had not been paid by the director general. In that event the railroads will have their recourse against the Government, of course.

Mr. NORRIS. As I understand, the machinery that is now maintained by the director general for the purpose of taking care of the claims made against the director general will be retained regardless of settlement with the railroads proper, because the Government by its contract has agreed to save the railroads harmless against this kind of damages.

Mr. CUMMINS. I think that is true.

Mr. NORRIS. So that we shall be maintaining a large part of the present machinery even if we should settle with all the railroads to-morrow.

Mr. CUMMINS. I do not know just how much of the machinery we shall have to retain for a long time, but I have predicted all the while that for 25 years we should hear the echoes of Federal control. Mr. President, what I have stated, I think, answers the question suggested by the Senator from Nebraska.

The PRESIDING OFFICER. The question is on the amendment reported by the committee.

The amendment was agreed to.

#### PRODUCTION AND SALE OF COTTON.

Mr. SMITH. Mr. President, I had hoped that I might be ready to say what I have to say on the pending bill at this time, but certain important statistics which I had hoped to be able to obtain the department informs me will be sent down not later than to-morrow.

I do not care to delay the measure before the Senate, but there is a subject of such vital importance affecting not only my section but directly and vitally affecting the whole commercial and industrial organization of the country that I wish to put some facts into the Record relative thereto.

We have heard a great deal about the necessity for opening markets. The wheat growers of the West have been confronted with the argument that on account of conditions abroad foreign countries could not take their surplus wheat; that the demoralized condition of the markets of the world made it impossible for them to absorb the cattle of the West through the packing houses; in other words, that the raw products from the field were suffering this terrific break in price because of the demoralized condition of the trading world; and hence whatever price was being paid for such products as did find a market was more or less the result of speculation and of men taking a chance without any apparent outlet.

I now wish to call the attention of the Senate to these conditions as they pertain to the cotton production and sale in this country and abroad.

The clothing of 900,000,000 of people is more or less directly dependent upon nine cotton-growing States in America. In 1914, when the World War broke out and demoralization ran rampant, it looked as if Providence or fate or chance had placed upon the South a burden that could not possibly be borne. In that year when 16,000,000 bales of cotton were produced the world was thrown into chaos by the World War; all the channels of trade were disrupted; and confusion and bankruptcy stared the people of the South in the face. Senators will remember that there was then inaugurated throughout the country the "Buy a bale of cotton" movement; the people of America were begged to come to the aid of the distressed cotton growers of the South in order to absorb the surplus by buying a bale of cotton.

It was humiliating to me. I did not enthuse over that movement. What was the result? In spite of the World War and the destruction of the channels of trade, we consumed in the year from August 1, 1914, to August 1, 1915, 14,800,000 bales of American cotton.

As I said in the introduction to my remarks, the cry has gone abroad that the mills are demoralized; that trade is demoralized, and therefore the price of the raw material has been disastrously reduced. The Agricultural Department in estimating the probable yield of the present year put it at 6,500,000 bales, in round numbers. Last year we produced about 13,500,000 bales, so that we have sustained a loss in production this year as compared with last year of 7,000,000 bales. The average production of the Southern States for the last 10 or 12 years has been around 12,500,000 or 13,000,000 bales of cotton. The world has practically consumed that, carrying over a stock from time to time of something like 1,000,000 bales. As to the character of the cotton which has been carried over no man definitely can say. It is shrewdly suspected by those who are in the position to know something of the character of the cotton carried over, that the 1,500,000 or 2,000,000 bales of so-called stock cotton are of an undesirable grade, falling under technical classifications with which the ordinary layman may not be familiar, such as gin cut, water packed, perished fiber, and linters. What the accumulation of that kind of cotton is, no man, as I have said, definitely can tell. I introduced a resolution in the Senate, which was passed, giving the Agricultural Committee the right and power to make an investigation and to determine the amount and character of all the cotton in this country. That investigation was begun through one of the departments of the Government, but we found ourselves face to face with this curious condition.

Mr. WATSON of Georgia. Mr. President—

The PRESIDING OFFICER (Mr. SHEPPARD in the chair). Does the Senator from South Carolina yield to the Senator from Georgia?

Mr. SMITH. I yield.

Mr. WATSON of Georgia. I suggest the absence of a quorum.

The PRESIDING OFFICER. The Secretary will call the roll.

The roll was called, and the following Senators answered to their names:

Ball	Harris	McKinley	Shields
Borah	Harrison	McNary	Smith
Bursum	Heflin	Nelson	Spencer
Calder	Johnson	New	Sterling
Cameron	Jones, N. Mex.	Nicholson	Sutherland
Capper	Jones, Wash.	Norbeck	Swanson
Caraway	Kendrick	Norris	Townsend
Ciberson	Kenyon	Oddie	Trammell
Cummins	Keyes	Overman	Walsh, Mont.
Curtis	King	Pago	Watson, Ga.
Dial	Ladd	Poincxter	Williams
France	La Follette	Pomerene	Willis
Fredlinhuysen	Lodge	Ransdell	
Glass	McCormick	Robinson	
Hale	McKellar	Sheppard	

The PRESIDING OFFICER. Fifty-seven Senators having answered to their names, a quorum is present.

Mr. SMITH. Mr. President, as I was saying in pursuance of that resolution, in investigating the actual quantity of cotton on hand in America and the quality of it, we found one very practical difficulty. In some of the warehouses cotton had been stored and money had been borrowed on it regardless of the grade, so that the counting of it was all right, but when it came to the grading a regrading might reveal that the amount loaned on it was beyond the proper per cent of its value. But, be that as it may, everyone knows that there has been for years an accumulation of this unspinnable stuff, and just what per cent of that enters into the counting of the carry-over stock no one at this time is in a position to say; but, counting that in with the present prospective supply, this startling fact was revealed this morning at 10 o'clock by the Bureau of the Census:

There had been corroboration of the contention of the traders that the markets did not justify the purchase of cotton; that the law of supply and demand did not warrant any better price than was then being paid. The conditions have changed, however; and this morning, as supplementary to the statistics that were given me on yesterday, coming up to the 1st day of October, as to the amount of cotton consumed in this country and the amount exported, I asked for additional information as to the month of October. The reply was that it would be given at 10 o'clock; that under the law they were not allowed to promulgate these statistics until they had given them by wire to the entire trade; and this morning the report was given. I got it simultaneously with the trade, and it revealed the fact that the export and domestic consumption of American cotton for the month of October amounted to 1,336,000 bales—about as great consumption as the world has ever made of American cotton for one month. At that rate of 1,336,000 bales, from now until August 1 there would be consumed 16,000,000 bales of American cotton, when, according to the present outturn of the crop that has just been gathered and ginned, and the carry-over from 1920, there will not be in excess of 12,500,000 or 13,000,000 bales of cotton. In other words, the so-called dead



markets of the Old World seem to be in a position to absorb a great deal more cotton than we are likely to be able to furnish.

There has been consumed and exported of American cotton from August 1, 1921—August, September, and October—3,189,372 bales of cotton. The rate of consumption has progressed since about June or July.

It is interesting just to enumerate the amount of cotton exported. I give it for the benefit of the Senators from the cotton-growing States, to show how rapidly the consumption of cotton has increased as the months have gone by.

In August of 1920 there were exported, in round numbers, 145,000 bales; in September, 1920, 228,000 bales; in August, 1921, 423,000 bales; and in September, 1921, 522,000 bales—more than double—while the American mills are taking just about their prewar amount and in excess of their prewar amount. Yet we have heard, and much has been made of it through the press, of the short time and threatened strikes; and the consequence was that the price of the raw materials dropped, when, according to the present rate of consumption, on August 1, 1922, there will not be a bale of cotton of American production in existence.

Now, Mr. President, I want to call attention to certain facts.

All of us are perfectly familiar with the disastrous results that followed the deflation and contraction of our currency. Cotton dropped, wheat dropped, meat dropped, to a point where to-day the farmers of America are standing face to face with a condition the like of which never before confronted them; but I want to say that so far as Congress could it has come to the rescue of the situation, so that to-day whatever conditions exist exist in spite of what we have done here, rather than because of what we did not do.

Mr. WATSON of Georgia. Mr. President—

The PRESIDING OFFICER. Does the Senator from South Carolina yield to the Senator from Georgia?

Mr. SMITH. I yield.

Mr. WATSON of Georgia. I should like to have the Senator call attention to the fact that the per capita amount of indebtedness to-day is greater than the per capita amount of circulation; and wherever that happens there is financial ruin ahead of the people unless that situation is remedied.

Mr. SMITH. Mr. President, is seemed to me—a layman, a man inexperienced in high finance—that of all pieces of unmitigated shortsightedness and folly the greatest was the policy pursued by certain ones of our administration, when it was a definite fact that we had increased our bonded indebtedness from less than a billion dollars to something like \$20,000,000,000 and had assumed this tremendous debt when the purchasing power of the dollar was at its very lowest ebb, and then, when pay day came, we deflated and contracted to a point where the purchasing power of the dollar was quadrupled, making our indebtedness in effect not \$20,000,000,000 but \$80,000,000,000, measured by the ability of the people to pay.

I say that just in passing; but the thing that I desire to analyze and get down to where the responsibility is placed where it belongs is this:

The rate of rediscount where paper based on agricultural products was desired to be renewed was at such a point that it was not profitable; in fact, in some instances it could not be obtained. Those of us representing the agricultural districts protested against the action taken by the financial interests of this country through our Federal reserve act. We protested against a rate of discount that was producing from 100 to 180 per cent when the law only allowed those who had it in charge to keep 6 per cent for themselves, putting a burden upon the American people of something like 94 per cent, which tended to restrict business when every indication pointed to the necessity of our doing all the business possible and making all the money possible in order to meet the burden to which the Senator from Georgia has called attention. So rapid has been the shrinkage of the value of the wealth of this country, so rapid have our debts accumulated, that the per capita of wealth in the form of circulation is less than the per capita of debt entailed upon each individual. If the debt were divided and the money were divided, there would not be money enough in America, if each one got his pro rata share, to meet the obligations.

Mr. WATSON of Georgia. There is not money enough in the whole world to do it.

Mr. SMITH. Mr. President, in order to place the responsibility where it belongs, let us inquire what we have done? I want this to go in the Record. In the first place, it was claimed, and we all knew, that it was practically impossible for the rank and file of the people to get a loan on agricultural paper. To sell agricultural products then meant ruin. As I said, they claimed the markets were dead. They claimed that business was stagnant. Therefore the question was whether the throwing of the products of the farm and field upon an already glutted market would not spell ruin and bankruptcy.

We passed what was known as the farmers' relief act, an act amendatory of the War Finance Corporation act, which gave the War Finance Corporation the privilege for three years of issuing bonds to the amount of \$2,000,000,000 on agricultural products, regardless of whether they were for export or for domestic consumption. That is the law now.

We raised our protest here against the high rate of rediscount. That has been lowered to an average, perhaps, of 5 per cent, from 6 and 7.

Mr. WATSON of Georgia. If my friend the Senator will allow me, the Federal Reserve Board has not commanded or instructed the regional banks to put that lower rate into force, and until it shall have done so, that lowering of the rate gives no relief to the States.

Mr. SMITH. Mr. President, under the law the several regional banks can, by and with the consent of the Federal Reserve Board, lower the rate of rediscount. I am officially informed that the average now is around 5 per cent.

First was the necessity for formulating some plan by which the man who produced the raw material, agricultural products, out of which the wealth of this country is transformed into our money could get relief. We passed the farmers' relief bill, with the \$2,000,000,000 revolving fund, with a three-year privilege on their paper; that is, regardless of whether the products were for export or for domestic consumption, the local banker could underwrite the farmer's paper, and he could get the value of that paper from the War Finance Corporation for a period of three years.

Next came the lowering of the rate of rediscount. Then we were told that the uncertain condition in the official relations of this country with central Europe was a deterring influence; that we were technically at war; that any trade we might carry on with Germany was subject to uncertainties which rendered it hazy and doubtful. We have now ratified the treaty of peace with Germany.

We were then told that the threatened railroad strike was one of the things which was making it impracticable for men to enter the market. The railroad strike has been settled.

We passed the farmers' relief bill, the rate of rediscount was lowered, we ratified the treaty of peace with Germany, the railroad strike is settled, and still the market goes down.

To recapitulate the thing in its entirety, it was claimed that we had no market before. According to the tables furnished me by the Bureau of the Census, we consumed and exported, in the month of October, 1,336,000 bales of cotton, which rate of consumption, if kept up until August, 1922, the consuming year being from August to August, would mean 16,000,000 bales of American cotton consumed, when the visible supply, including this year's production, is less than thirteen and a quarter million bales. We consumed in this country in the month of October 470,000 bales and exported 860,000 bales.

The countries which took the bulk of that cotton were the so-called paralyzed and poverty-stricken countries. The cotton was not sold through the War Finance Corporation abroad, or any export corporation, but was sent through the regular channels of trade to the amount of 3,176,000 bales in the months of August, September, and October. Yet with peace with Germany declared, with the railroad strike settled, with the farmers' relief bill passed, with the rate of rediscount lowered, and the supply notoriously inadequate to meet the demand, the price goes down.

It was not the fault of Congress. We have passed the necessary legislation. It is not now, apparently, the fault of the banks, because the rate of rediscount is lowered, and we make provision under the farmers' relief bill for a revolving fund of \$2,000,000,000, and I understand the relief is being afforded wherever the need of it is indicated.

What are the sources of the trouble? To be perfectly fair, one source of this trouble comes from the lack of confidence inspired by the disaster which followed the terrific deflation and contraction which took place in this country from January, 1920, up to September, 1920, without rhyme or reason. There is an old saying that nobody but a fool would be bitten by the same dog twice, provided he knew the dog, and the American trading public believe that the same power that destroyed them in 1920 can do so again, and I maintain that one of the prime reasons why the markets of this country and the trading public are demoralized is because they can not figure out why prices should break as they did and reach the disastrous depths to which they fell in less than six months.

I shall indicate to the Senate some of the countries which have been taking American cotton for the last 12 months, and in that connection I call attention to a rather remarkable thing. Let us take Germany, for instance. I shall read the statistics from August 1, 1920, up to July 31, 1921. Germany took of American cotton in August, 1920, 45,000 bales; in September,

42,000 bales; in October, 79,000 bales; in November, 120,000 bales; in December, 160,000 bales; in January, 132,000 bales; in February, 117,000 bales; in March, 105,000 bales; in April, 85,000 bales; in May, 95,000 bales; in June, 108,000 bales; in July, 212,000 bales; in August, 106,000 bales; in September, 159,000 bales.

In other words, in the 12 months of the consumption year, from August 1 to August 1, Germany took more than a million and a quarter bales of cotton.

Let us take the United Kingdom, the country which used to be the greatest consumer of American cotton in the world. In August they took 43,000 bales; in September, 104,000; in October, 211,000; in November, 240,000; in December, 317,000; in January, 159,000; in February, 116,000; in March, 64,000; in April, 96,000; in May, 159,000; in June, 142,000; in July, 90,000; in August, 56,000; in September, 52,000.

That is, Germany in September took 159,000, against the United Kingdom taking 52,000, and in August Germany took 106,000, against the United Kingdom's 56,000.

In other words, the United Kingdom, during the period I have covered, has taken very little more than Germany has taken. The list of the countries prominent in cotton taking are Austria, Belgium, Czechoslovakia, Denmark, France, Germany, Greece, Italy, Netherlands, Norway, Poland, Portugal, Spain, Sweden, Switzerland, the Ukraine, the United Kingdom, Canada, Newfoundland, Cuba, Guatemala, Mexico, Panama, Ecuador, French West Indies, China, Argentina, British India, Japan, Peru, and British South Africa.

The main thing to which I have desired to call attention this afternoon was the fact that with a probable production not to exceed seven and a quarter million bales of cotton, with a carry over of not to exceed 6,000,000 bales of cotton, making a total visible supply of all kinds of American cotton, excluding linters, of 13,000,000 bales, the present rate of consumption would take 16,000,000 bales, and yet, in spite of that, cotton has declined in price.

I wish to emphasize one other fact. The year 1921 has witnessed the infestation of the entire cotton acreage of America by the boll weevil. It is a matter of national concern that this great source of the world's clothing material should probably pass from the hands of the United States on account of the inroad of an insect on which the fight of the Agricultural Department seems to have no effect. This year probably 6,000,000 to 7,000,000 bales of cotton have been destroyed by this insect.

Having covered the entire cotton belt in 1921, I venture the prediction that we have seen for the last time in American history the production of a 14,000,000-bale cotton crop. In my State this year the weed was as fine as ever, and the prospects, from the standpoint of stand and season, were perhaps as good as ever. Last year we made 1,600,000 bales, in round numbers. This year we will make 650,000 bales. One million bales wiped out in the State of South Carolina, which at 20 cents a pound is \$100 a bale, means that from my State alone \$100,000,000 in primary value is gone. Multiply that by the 11 cotton-growing States, and Senators can understand what the loss of 7,000,000 bales of cotton means to America. It means \$700,000,000 in primary loss. With its added values as it moves on up through the different stages of manufacture, there is a total loss to this country of something like \$2,250,000,000, I believe.

The present outlook is for something like 2,500,000 to 3,000,000 bales less than the world's demands this year, with the possibility of next year being more disastrous than this, because the second or third year after the infestation of the weevil is worse. So that the outlook in the South for anything like an adequate supply of American cotton for world consumption is very grave indeed. Yet, in spite of it all, the price of cotton to-day, in view of the crop that is made, has left the section of the country which I represent absolutely stripped of anything like available resources.

I venture the assertion that if we were to take the carry over of last year's crop that they held on to, hoping against hope that the price would rise to where they could pay the debts incurred in its production, and add to it the production of this year and sell it all at 30 cents a pound, it would not pay the debts incurred in 1920.

Senators representing the cotton-growing States sitting about me now are confirming my statements. I repeat, if we took the entire crop of 1921 and added to it the carry over from 1920 and put it all upon the market at 30 cents a pound, it would not pay the debts incurred in the production of 1920.

Mr. DIAL. Mr. President—

The PRESIDING OFFICER. Does the Senator from South Carolina yield to his colleague?

Mr. SMITH. Certainly.

Mr. DIAL. I should like to ask my colleague if it is not also true that the crop in Egypt was about the smallest that it has been in 25 or 30 years?

Mr. SMITH. My information in reference to the world supply of cotton from all sources is that it is something like 16,000,000 bales, as against about 24,000,000 bales average production of all sorts of cotton in the world.

Mr. ROBINSON. Does the Senator mean in the year 1920?

Mr. SMITH. Yes.

Mr. ROBINSON. As against a normal year?

Mr. SMITH. Yes.

Now, Mr. President, I have called attention to these facts for the reason that I think it is the duty of those of us who have in charge the welfare of this country to let the public know just what the situation is. I frankly state that the statistics given to me this morning that 1,336,000 bales of cotton were consumed in the month of October, with the price of cotton dropping, were surprising. It was estimated that there were 145,000 more bales of cotton ginned up to November 1 than had been estimated by the Government. The threatened strike and complications that have arisen about certain foreign exchange brought about a drop in price from October 1 up to and including November 4 of \$25 a bale, in spite of the conditions which I have just recited.

Mr. President, I do not know, but I am persuaded to believe that the only hope of relief for the agricultural interests of the country in the long run is to fight the devil with fire, to organize their own cooperative selling companies, organize their own banks, and tend to their own business. It looks as though every law we have passed and every effort we have made to help the cotton grower becomes a breastwork and a bulwark from behind which those who have fattened upon him from time immemorial turn his blessing into a curse and make a Frankenstein out of his own creation.

Mr. President, I ask that the tables to which I have referred in the course of my remarks may be printed in the Record.

There being no objection, the tables were ordered to be printed in the Record, as follows:

Consumption of American cotton in American mills by months, August, 1920, to September, 1921.

	Bales.
August (1920)-----	450,743
September-----	432,402
October-----	382,961
November-----	318,845
December-----	284,762
January (1921)-----	354,615
February-----	383,433
March-----	423,632
April-----	392,632
May-----	421,462
June-----	441,215
July-----	390,189
August-----	442,502
September-----	463,787
October-----	470,362

Exports of cotton and linters by months and by countries: August, 1920, to September, 1921.

Country	1920					1921										
	August.	September.	October.	November.	December.	January.	February.	March.	April.	May.	June.	July.	August.	September.	October.	November.
Total.....	146,668	228,068	583,725	683,323	788,578	605,381	493,426	375,179	319,933	477,389	495,474	598,962	423,491	522,839		
Austria.....	400		734	1,400	950	125	395	210		203	133	98	200	200		
Belgium.....	8,913	9,805	16,102	10,639	27,680	18,401	15,271	11,284	7,756	10,639	11,424	12,987	9,194	25,933		
Czechoslovakia.....	575					50										
Denmark.....	600	600	400	1,300	450	200		350	300	500	400	700	588	989		
Finland.....				1,400		200				500	1,250	150		2,150		
France.....	8,897	35,441	121,160	119,893	65,945	55,787	25,570	18,496	23,814	39,554	31,902	59,071	40,219	105,651		
Germany.....	45,643	42,329	79,782	120,605	160,587	132,867	117,133	105,788	85,591	95,633	108,128	212,138	106,885	159,241		



Exports of cotton and linters by months and by countries; August, 1920, to September, 1921—Continued.

Country.	1920					1921								
	August.	Sep-tember.	Octo-ber.	Novem-ber.	Decem-ber.	Jan-uary.	Feb-ruary.	March.	April.	May.	June.	July.	August.	Sep-tember.
Greece.....			300	200	1,150	2,400	1,450	825	1,125	2,350	1,300	998	1,992	1,455
Italy.....	9,159	11,967	45,897	57,173	59,418	77,330	93,587	51,112	19,873	22,875	42,635	17,248	20,861	22,695
Netherlands.....	304	1,566	17,562	17,765	10,557	8,075	7,488	4,267	6,445	8,253	8,421	14,332	6,022	10,185
Norway.....	300		400	950	650	1,100	100	100		800		100	100	50
Poland and Danzig.....	3,766	550	1,098	584	2,426	80	100	400		1,550		2,820	1,300	1,189
Portugal.....	600		470	1,172	1,789	5,401	1,125	572	2,734	1,750	3,674	450	450	3,999
Spain.....	3,289	6,298	52,661	42,248	35,084	30,832	15,367	7,430	12,546	12,257	11,561	24,515	19,259	31,353
Sweden.....	5,334	2,401	9,886	11,739	4,075	6,480	1,370	1,575	700	4,577	1,200	2,420	250	5,325
Switzerland.....	190	1,145	8,028	5,183	13,571	1,800	1,100	1,100	600	325	250	400	830	600
Ukraine.....													30	
United Kingdom.....	43,715	104,795	211,186	240,336	317,531	156,107	116,285	64,490	98,498	159,101	142,729	90,976	56,368	52,618
Canada.....	14,378	10,516	10,560	16,892	19,083	17,171	18,129	13,452	9,295	7,867	11,003	8,714	11,921	14,051
Newfoundland and Labrador.....			6											
Cuba.....	15					62				5	8	46		
Guatemala.....				300										
Mexico.....	86	76	3,214	20,908	20,609	7,318	4,062	1,009	967	5,826	3,234	3,281	600	56
Panama.....							5							
Ecuador.....		3										20		
French West Indies.....			1											
China.....		50		1,101	1,000	9	3,150	4,177	4,150	13,218	18,865	33,852	33,785	20,788
Argentina.....				44	66		67							
Hongkong.....											500		600	400
British India.....						100	2,100	1,412		800	2,069			
Japan.....	501	503	3,628	11,491	45,714	80,271	66,349	87,030	45,438	88,503	94,381	113,643	111,814	63,890
Peru.....			200											
British South Africa.....			350		243	215	221							
Linters included <sup>1</sup> .....	1,689	1,145	1,709	2,501	3,199	5,245	9,713	6,845	4,748	4,340	6,274	3,700	7,888	9,057

<sup>1</sup>8,119 linters excluded for October, 1921.

NOTE.—Total exports of cotton and linters for October, 1921, were 866,391. 24,383 foreign cotton consumed in American mills during October, 1921.

Supply and distribution of American cotton, exclusive of linters, in the United States: 1910 to 1921.

[The statistics for 1915 to 1921 relate to the 12 months ending July 31, and those for prior years to the 12 months ending Aug. 31. Quantities are given in running bales except that round bales are counted as half bales.]

	1921	1920	1919	1918	1917	1916	1915	1914	1913	1912	1911	1910
<b>SUPPLY.</b>												
Aggregate.....	16,842,236	15,832,198	15,435,799	14,035,406	14,384,274	14,998,787	17,524,328	15,446,387	15,519,147	17,312,928	13,366,586	11,772,477
On hand at beginning of year.....	3,278,279	4,203,593	3,339,291	2,576,182	2,927,497	3,791,335	1,293,101	1,427,789	1,639,487	1,250,185	1,957,481	1,379,834
Ginnings.....	13,270,970	11,325,532	11,906,480	11,248,242	11,363,915	11,068,173	15,905,840	13,664,029	13,556,754	15,512,660	11,985,620	10,087,500
To balance distribution.....	292,987	323,073	190,028	210,982	92,862	139,279	325,387	354,569	322,906	550,083	422,485	334,743
<b>DISTRIBUTION.</b>												
Aggregate.....	16,842,236	15,832,198	15,435,799	14,035,406	14,384,274	14,998,787	17,524,328	15,446,387	15,519,147	17,312,928	13,366,586	11,772,477
Exported.....	5,744,698	6,545,326	5,592,386	4,288,420	5,302,848	5,895,672	8,322,688	8,654,958	8,800,966	10,681,758	7,781,414	6,339,028
Consumed.....	4,676,891	6,002,993	5,589,820	6,382,695	6,470,244	6,080,618	5,375,305	5,383,099	5,250,392	4,921,683	4,322,987	4,465,968
Destroyed.....	60,000	25,000	50,000	25,000	35,000	95,000	35,000	40,000	40,000	70,000	12,000	10,000
On hand at end of year.....	3,360,647	3,278,879	4,203,593	3,339,291	2,576,182	2,927,497	3,791,335	1,368,330	1,427,789	1,639,487	1,250,185	1,957,481

<sup>1</sup>Includes foreign cotton and linters in public storage.<sup>2</sup>Includes linters.Probable world's stocks of American cotton, July 31, 1920 and 1921.  
[In running bales.]

Stocks.	July 31, 1920.	July 31, 1921.
Total.....	5,482,000	8,979,000
In American mills.....	1,208,000	1,026,000
In public storage in America.....	1,922,000	3,633,000
Elsewhere in America.....	150,000	1,750,000
In European mills.....	490,000	460,000
In British ports.....	822,000	755,000
In Continental ports.....	354,000	498,000
At sea to Britain.....	56,000	90,000
At sea to Continent.....	120,000	307,000
In and to Japan, Canada, and other countries.....	360,000	460,000

## AMENDMENT OF NATIONAL PROHIBITION LAW.

Mr. JONES of Washington. Mr. President, while the railroad bill is the unfinished business I dislike to take the time of the Senate in considering another subject, but the prohibition enforcement bill is to be voted on at 12 o'clock on the 18th of this month, and any discussion of that measure must be had before that time. Therefore I feel justified in taking a little of the time of the Senate now in a discussion of the matter.

The Senator from Minnesota [Mr. NELSON] yesterday discussed the conference report in a very exhaustive way from the legal standpoint. I desire to present some suggestions and some facts with reference to the merits of the proposition which I think it would be well to have in the Record before the close of the discussion. I hope that when the measure is passed it will be all the legislation that we will need upon the subject for

a great many years. I believe it will be. What I think we shall need will be a more efficient administration and enforcement of the law rather than new legislation.

Mr. President, while generally I welcome interruption I would rather proceed with what I have to say to-day without interruption. I am satisfied that interruption would only consume time without affecting the result one way or the other or changing anyone's vote.

The pending conference report on H. R. 7294 has raised once more the question, Can prohibition be enforced? Do the results of prohibition justify the continuation of this policy of Government?

The chief attack on prohibition has always been that it can not be enforced. Some even say that as much liquor is sold under the prohibitory laws as under the license system.

A series of articles are now being printed in the press and in magazines stating, in general terms, that the prohibition law has broken down and the country is flooded with liquor.

Too often these articles are written by some well-known and prolific writer, who sallies forth, makes a few inquiries of enforcement officers, listens to a great deal of conversation among the habitués of his social club, travelers in smoking compartments of railway trains, frequenters of cabarets, and other types of our American life. Most of those who comprise these and similar classes have long been accustomed to social drinking. In so far as they had given any thought to the matter they were opposed to the principle of prohibition largely upon personal grounds. They have not yet awakened to a realization that prohibition is now in the fundamental law of our land by the eighteenth amendment to the Constitution. They regard prohibition as a fad and delight to relate stories of

schemes for the evasion of the law. These are many times magnified in the telling.

These classes, however, represent the froth of our civilization. They do not represent the great mass of the American people, those who comprise the bone and sinew of our body politic. It was this great body of our people who represent the homes and firesides that made prohibition possible. These people, through long years of observation of the evils of the liquor traffic and experience of the benefits obtained through applying the principle of prohibition to small communities by local option and State-wide laws, came to believe its application to the Nation as a unit would be to the best interests of our national welfare. These people, believing in the principle and having seen the law enacted, have gone about their daily tasks, and are not constantly agitating and discussing the question or violating the law, as some of these stories would have us believe.

Everyone admits that the prohibition law is violated. I know of no law that is not violated. If every citizen would do his whole duty to his fellow men, we would need but few, if any, laws to carry on the work of government. Criminal laws are not made for the law-abiding but for the lawless, and this class of citizens will always break the law as long as they see an opportunity to do so.

No one on sober thought, however, will insist that a law is a failure simply because it is violated. The charge of wholesale violations is unfounded. If the authors of these various articles would state definitely when and where the violations occur and then nothing is done by the officers of the law, their charges would have more weight.

It would serve a good purpose if every United States and State district attorney and the foreman of every Federal and State grand jury would subpoena the authors of these articles to appear and tell what they know. Thus far, so far as I can learn, when called on to state definite facts they admit they know nothing that is definite. A glittering generality about law being violated without the facts to back it up serves no good purpose. It misleads those who are in no position to know the facts and it encourages those who are inclined to break the law.

Another objection that is made to the prohibition law is that it infringes the personal liberties and rights of the individual. This is a very common plea that is made. I have been surprised to hear it made upon the floor of the United States Senate. Mr. President, there is no such thing as personal liberty in a Republic. Our right to do as we please is restricted in many, many different ways, and it is enough to say that no man in a Republic has any right to do what the duly constituted majority has declared shall not be done. Prohibition is the law of the land, established and brought about in the regularly constituted way, and no citizen of the Republic, whether high or low, has a personal right or a personal liberty, if you please, to do contrary to that law. When duly passed as it has been it does not infringe upon any personal liberty of any citizen of the country.

Those who scoff at this law or encourage others who are violating it fail to realize the harm they are doing their fellow men and their country. Law must be enforced or orderly government will fail. This Nation can not afford to waver on this issue where we must choose between law and lawlessness. The recent utterance of the judicial section of the American Bar Association should be heeded by every patriotic citizen:

The judicial section of the American Bar Association, venturing to speak for all the judges, wishes to express this warning to the American people: Reverence for law and enforcement of law depend mainly upon the ideals and customs of those who occupy the vantage ground of life in business and society. The people of the United States, by solemn constitutional and statutory enactment, have undertaken to suppress the age-long evil of the liquor traffic.

When for the gratification of their appetites or the promotion of their interests lawyers, bankers, great merchants, and manufacturers, and social leaders, both men and women, disobey and scoff at this law, or any other law, they are aiding the cause of anarchy and promoting mob violence, robbery, and homicide; they are sowing dragon's teeth, and they need not be surprised when they find that no judicial or police authority can save our country or humanity from reaping the harvest.

In spite of the organized effort to defy this law and the indifference of many citizens to its enforcement the Federal prohibition department is making headway in checking law violations. It deserves the commendation of the friends of law and order. The cost and results of this department briefly summarized are as follows:

The amount expended in prohibition enforcement during the past fiscal year, covering salaries, rent, travel, and so forth, was \$6,250,095.43. The amount of assessments, involving civil penalties, special taxes, and so forth, was \$53,296,998.87, of which \$2,152,387.45 has been collected. This does not include court fines, which are being compiled, nor over \$1,000,000 penalties

from brewers. In addition the appraised value of property seized was \$10,906,687.53.

The number of cases involving violations of the prohibition act pending at the end of the year was 10,365. During the year 29,114 criminal cases involving violations of the act were commenced, 16,610 offenders plead guilty, 17,962 were convicted, and 765 were acquitted.

Mr. President, I desire to say that the facts which I am setting out and that I propose to set out have been very carefully verified, and I have very little if any doubt as to their correctness.

William Jennings Bryan, who has been a keen observer of the enforcement of prohibition, said in Washington this week concerning the progress of its enforcement:

They say as much liquor is sold as ever, but the statistics show a tremendous decrease, and this decrease is apparent to any who want to see it. They used to bring liquor in by the carload, deliver it in drays at the principal corners, and bottles were arranged on shelves to lure men to drink. No carload lots are now shipped, they do not deliver it by the dray load at the street-corner saloon, nor is it sold on the principal streets nor exhibited on the shelves. It is brought largely in valises and carried at night through the alleys. This is progress toward the extermination of the evil.

Complaint is made because there are still violations of the law. The law against murder has been on the statute books for over a hundred years, and still some murders are committed and not all murderers are caught. The same is true as to the law against stealing. Last year about 2,500 automobiles were stolen in Philadelphia, and 20 per cent of them were never found. Yet no one suggests the repealing of the law against stealing automobiles.

This is the greatest moral reform ever attempted by law. Its success is wonderful. The change already wrought is not only very great, but it enables us to understand the benefits that will come to the country when enforcement is perfected. The chief cause of nonenforcement is the appointment of wet officials to enforce a dry law and the smuggling of liquors into our country from the outside. This will be corrected, first, by the appointment of officials to enforce the law who are in sympathy with the law and its enforcement; and, second, by serving notice on our neighboring countries that their flags are being used to protect smugglers.

In calling attention to the vital importance of the subject under discussion and the respect we owe the eighteenth amendment and its enforcement, may I speak of the attitude of three eminent visitors to our capital? Gen. Armondo Vittorio Diaz, organizer of Italy's "elastic defense," is reported in the Washington Post on Monday morning, October 24, to have said, "I have brought no liquor with me, and I intend to drink none while I am here. I believe that while a guest in another country I should show the same respect for their laws as I would show for those of my own nation." While diplomatic precedent would permit him to bring wine and liquor into the country for his personal use, Dr. Paul Andre, his personal physician, states that Marshal Foch intends to follow the American custom of taking only water with his meals. No wine or other liquor is being carried in the marshal's luggage, the physician said. Sunday, October 30, was the birthday of the Emperor of Japan. Baron Admiral Kato, delegate from Japan to the disarmament conference, and his party would ordinarily have drunk a toast to the Emperor, as is their national custom, but with the fine courtesy for which the famous admiral is noted, he said, "This is a prohibition country and we will not drink a toast but celebrate banzais," the equivalent of three cheers in the American language. What an example to genuine Americans!

There is a reason back of this patriotic attitude that does not appear on the surface. These great generals know that disrespect for international law is just as dangerous to world peace and prosperity as defiance of law is to a nation. The World War was fought to teach one nation that her treaties were not scraps of paper and the laws of the sea should be respected. This Nation was willing to sacrifice billions of money and thousands of lives to help sustain the majesty of international law.

That same spirit of respect for law will cause loyal Americans to do what is necessary to enforce a law adopted by themselves. If we can not enforce a law which we ourselves enact, respect for our form of government will be weakened throughout the world.

State prohibition enforcement departments are meeting with similar success in their efforts to enforce the prohibition law. In Ohio, Judge Don Parker, State prohibition commissioner, reported at the end of the first six months' work this year that the department had collected in fines, forfeited bonds, and prohibitive taxes on the illegal sale of liquor an amount which represented four times the cost of the department, or, in other words, enough to carry on the enforcement work for the next two years. It is manifest, therefore, that enforcement departments properly organized are not a burden upon the taxpayers.

The enforcement departments of the Government are becoming much better organized than they have ever been before.

I simply wish to add that in my State the United States district attorney, the United States collector of customs, the



United States internal revenue collector, the United States marshal, and all the various Government officers who may be brought in touch with the operations of this law are acting in the utmost harmony. Not only is that true, but the State prohibition director has brought about almost complete harmony between his force and the State officials; and, furthermore, he has also brought about cooperation between his force and the various county officials; so that from the Federal officials of the highest rank in our State to the lowest enforcement officials there is hearty cooperation looking to the enforcement of the prohibition law not only of the National Government, but of the State government. If we can secure that sort of cooperation all over the country, there will be very little complaint with reference to violations of the prohibition law.

Mr. President, in discussing the effect of prohibition legislation it is well at the beginning to consider its results, shown by the first 22 months' experience.

As briefly as it can be covered I shall discuss the effects of prohibition on crime, alcoholism, labor, bank and savings deposits, economics, agriculture, family life and children, health, insanity, and drug addiction, illustrating my points by reference to the country in general and to specific localities. Let the facts speak for themselves.

#### GENERAL REDUCTION IN ARRESTS FOR DRUNKENNESS AND CRIMES RELATED THEREOF.

Reports from chiefs of police in 51 largest cities of the United States, including New York, Philadelphia, St. Louis, and cities of that size and former degree of wetness, and with a total population of over 20,000,000, show a slump in arrests for all causes from 960,603 in 1917 to 851,108 in 1920. Greater stringency in traffic, juvenile, and other laws prevented an even better showing. The total arrests for drunkenness in these cities in 1917 were 307,108. This was cut to 108,835 in 1920, or almost 65 per cent of a decrease.

Police Commissioner R. E. Enright, of New York City, gives the official crime statistics for the principal felonies, murder, felonious assault, assault and robbery, and burglary as follows: 1915, 15,885; 1916, 14,431; 1917, 13,141; 1918, 10,838; 1919, 11,292; 1920, 10,614.

Murders decreased 51 per cent, burglaries 10 per cent, and robberies 6 per cent in Chicago during 1920 as compared with 1919, according to the report of Henry Barrett Chamberlain, operating director of the Chicago crime commission. The number of disorderly conduct cases disposed of in the Chicago municipal court in 1920 was 32,305, as compared with 38,633 in 1919.

The reports of the Massachusetts prison commission give the arrests for drunkenness for the year ending September 30 as follows:

	Boston, Mass.	Massachusetts.
1914.....	59,455	108,185
1915.....	58,385	106,146
1916.....	64,550	116,655
1917.....	72,897	129,455
1918.....	56,001	92,838
1919.....	42,856	79,212
1920.....	19,897	37,160
1921.....	30,409	56,932

The increase shown for 1921 is not an argument against prohibition. It either shows more vigilance in the arrest of offenders and therefore a reduction of actual illegal traffic, or if the contrary be true, it is a plea for better enforcement. The sharp reduction in arrests for 1920 shows the great success of prohibition.

Mr. Sanford Bates, Massachusetts commissioner of correction, says that in spite of unemployment, increase of population, and after-war conditions, the entire penal population of Massachusetts shows a decrease of 3,625; September, 1914, 6,877; in September, 1921, 3,253. This is an increase over the figures of 1919 and 1920 and yet it is still over 50 per cent less than under the license system.

A survey by the Ohio Institute for Public Efficiency shows that four workhouses have been closed by prohibition and about 10,000 fewer persons were in the workhouse the first full dry year than in the wet years immediately preceding.

Warden Edwin Lewis, of Pittsburgh, reports that during 1918, when the city was wet, there were 14,684 prisoners committed to the jail; during 1919, half of which was under war prohibition, the number decreased to 10,588; during 1920, under national prohibition, there were only 4,721 committed to jail.

These are but samples of results in nearly every city and town in the country showing the universal effect of prohibition

upon drunkenness and its related crimes. The absence of the customary drunks from the streets of nearly every former wet city, as our own observance testifies, is a tribute to the value of national prohibition which can not be refuted. Prohibition is proving to be its own best advocate in its exhibit of results, despite the clamor about its nonenforcement.

Without making any invidious comparisons that would even tend to reflect on any other country, it is an interesting fact that the recent report filed in Parliament by the commission appointed by the King shows a marked increase in convictions for drunkenness in England and Wales. The summary set forth in this report reads as follows:

The total number of convictions for drunkenness in England and Wales in 1920 as compared with 1919 shows an increase of 37,815, or 65.26 per cent.

The figures for every month in 1920 were higher than the figures of any month during the four preceding years, except in January, 1916, and December, 1919.

The total for 1920 is more than three times as great as the lowest total reached during the war, viz, in 1918, and for the first time since 1915 the year's figures exceed one-half of the highest total recorded since 1907, viz, 188,877 in 1913.

In Washington, D. C., the saloons were limited to 300 in 1914. District prohibition went into effect in 1917 and national prohibition in 1920. Commitments to the workhouse are as follows: 1914, 6,590; 1915, 6,472; 1916, 6,458; 1917, 5,582; 1918, 3,232; 1919, 2,511; 1920, 833. The slight increase in 1921 still shows a marvelous decrease compared with former wet years.

Mayor G. W. Smith, of Louisville, Ky., reports that arrests for drunkenness and disorderly conduct during the first year of war and national prohibition decreased 84.5 per cent.

In Milwaukee, the following figures show the results of prohibition in that city which beer made famous:

	1915	1920	Per cent decrease.
Cases of abandonment.....	302	190	38
Drunk and disorderly.....	3,073	1,247	60
Assault and battery.....	682	426	38
Disorderly conduct.....	2,445	1,139	59

	First 9 months—		Per cent decrease.
	1915	1921	
Cases of abandonment.....	261	179	32
Drunk and disorderly.....	2,193	1,386	38
Assault and battery.....	528	400	25

Gov. Albert O. Brown, of New Hampshire, reported in July, 1921, that there had been but 43 jail inmates in that State since December, 1920.

The population of Richmond, Va., has increased 27 per cent in the four years that the State has been dry, but the arrests for drunkenness and disorderly conduct have decreased 75 per cent.

#### ALCOHOLISM REDUCED.

B. E. Neal, president of the 45 Neal Institutes for the treatment of the drink habit, said recently:

During the 12 years before the Volstead Act became effective we treated more than 125,000 drinking men and women. Chicago and Cleveland institutes treated more than 100 patients a month; Los Angeles and San Francisco averaged 25 to 30 a month. To-day Neal Institutes still operating do not average 2 patients a month. \* \* \* Drinkers are not turning to the use of drugs.

The health department of the Scientific Temperance Federation of Boston shows the proportion of deaths from alcoholism in New York City before and after prohibition—1916, 687; 1917, 560; 1918, 252; 1919, 176; 1920, 98.

The annual report of the Washingtonian Home for Drunkards published in the Chicago papers February 1, 1921, is as follows:

Average number cases treated, 1910-1919 (56 per cent delirium tremens), 921.

Cases treated, 1920 (107 alcoholic, 16 drug addicts, 2 mild mental cases; of the alcoholics only 3 were delirium tremens), 125.

Mr. John Dawson, of Wellington, secretary of the New Zealand Alliance, writes from Chicago under date of October 30 while on a tour of this country:

The chief Keeley Institute at Dwight is closed and has been taken over by the health department for injured soldiers with accommodations for 230. The Keeley Institute now has an office only in Dwight and is treating 18 out patients at present.

Dr. Horatio M. Pollock, statistician of the State Hospital Commission of New York, said in a recently published article that within less than two years after the eighteenth amendment became operative there are no State hospitals for

inebriates left in the United States. The State Asylum for Inebriates in Minnesota is now a hospital for mental diseases. The Connecticut State Hospital for Inebriates is now a part of the Norwich State Hospital for the Insane. The State Hospital for Inebriates at Knoxville, Iowa, has become a United States Public Health Service hospital for the treatment of mental defectives. These are the last of the State institutions for inebriates to be converted to other uses. The New York City Industrial Colony discontinued receiving inebriates in October, 1918, and was permanently closed in December of that year.

#### LABOR CONDITIONS.

Two-thirds—345—of 526 labor leaders interrogated by the Literary Digest, March, 1920, as to whether prohibition had been a benefit to the workmen and their families, replied "Yes," many emphatically. The replies indicated that they had been made with great care, and nearly a third of the cases after a poll was taken on the question at the regular meeting.

Mr. Fred R. Johnson, associate secretary of the Detroit Community Union, speaking on conditions in that city, where alone 100,000 to 125,000 were laid off, states:

National prohibition has assisted in substantially reducing the hopelessly "down-and-out" group which has always swelled the number of destitute homeless in previous periods of unemployment.

#### BANK AND SAVINGS DEPOSITS.

The commissioner of banks of Massachusetts has submitted his report for 1920 and gives the following figures:

The increase in deposits for the year has been \$92,233,305.29, which is approximately \$11,820,000 more than the gains shown in 1919.

Savings banks: The 196 savings banks report assets amounting to \$1,317,107,394.47 and deposits of \$1,206,546,997.69, represented by 2,593,287 deposit accounts, or an average of \$465.26 for each account.

Trust companies: The aggregate number of depositors in all trust companies, including both commercial and savings departments is 895,334, an increase during the year of 145,068 depositors.

This increase during the past year nearly equals the total number of depositors in all trust companies in 1909 and is chiefly due to the rapid growth of the savings departments.

Cooperative banks: The 202 cooperative banks had total assets of \$173,979,204.70. This was an increase of 12 in number and \$19,099,566 in assets, which is the largest amount ever gained in one year.

E. H. Scott, superintendent of banks in Ohio, submitted his report to the Government for the fiscal year ending June 30, 1921. At that time the total resources in the 636 incorporated and 121 unincorporated banks under State supervision amounted to \$1,507,972,285, a gain of \$163,995,699 over the report of the previous year. Of this gain, \$29,097,119 is in savings deposits. This report does not include the national banks.

Iron Age of February 3, 1921, published an article on "The effects of prohibition among steel workers." The article states:

In Youngstown district the personal deposits of every man, woman, and child approximate \$550, exceeding, so far as known, similar figures from any other community of equal size in the country. Prohibition has been responsible to a large extent for the change in the habits and spending propensities of the average steel worker.

The New Orleans Times-Picayune of January 30, 1921, says:

Increase of bank savings of 30 per cent, the conversion of 1,800 saloons into productive business sites, the impetus given the realty business, the general tendency toward thrift and contentment, are some of the noteworthy strides taken by the city since prohibition went into effect a little more than a year ago.

Mr. C. T. Harsch, secretary of the Peoria (Ill.) Clearing House Association, submits statistics on bank clearings as follows:

Clearings for the year 1918.....	\$249,507,480.74
Clearings for the year 1919.....	260,439,834.78
Clearings for the year 1920.....	281,528,228.93

The Washington Post presented the following facts in an editorial on November 8, 1921:

The report from the Comptroller of the Currency shows that savings bank deposits materially increased during the last fiscal year. Stagnated industry, business depression, and growing unemployment under ordinary circumstances would be expected to reduce the savings deposits, but they did not. Returns from 623 mutual savings banks, located principally in New England and the Eastern States, show that on June 30, 1921, these institutions held deposits amounting to \$5,575,181,000, credited to 9,619,260 depositors. One year previously the same banks had deposits of \$5,186,485,000 and 9,445,327 depositors. This June the average deposit was \$579.59, and a year ago it was \$549.14. According to these figures there was a gain of \$338,336,000 in the deposits of these banks and a gain of 173,933 in the number of depositors during the fiscal year. In the same period there was a gain of \$30.45 in the average deposit. That unemployment increased during the last fiscal year is generally known and that the trend of wages was downward is undeniable. Under these circumstances men and women ordinarily would be compelled to draw upon their reserves in savings institutions, and as a result the deposits of savings banks would be expected to shrink. Instead they expanded in the volume of deposits, the number of depositors, and the size of the average deposit.

The Post article does not say so, but the year covered by the above report was under national prohibition, and the economic benefits of this policy more than offset the depression resulting from a readjustment from war conditions.

#### ECONOMICS.

William Childs, president of the company owning the chain of Childs restaurants, in an interview appearing in the November

number of the American Magazine, made the following statement about the results of prohibition as they affect his business:

It has raised sales. Lots of men who used to drop into a café for a glass of beer and a light luncheon now visit restaurants. Also when the day's work is over they are more likely to take their families to dinner. They have more money to spend and fewer outside influences to distract them. Even before national prohibition came in we noticed these effects as the various States went dry.

#### CHILDREN.

The Massachusetts Society for the Prevention of Cruelty to Children showed in a memorandum of 1,893 cases treated and closed in the six months ending April 30, 1921, that intemperance was a factor in only 14.2 per cent of the cases. In 1907 an analysis of 338 cases showed intemperance a factor in 39 per cent. The 1921 figures therefore represent a decrease of 63 per cent. An official of the society stated that the actual decrease was probably considerably greater. There has been improvement in recent years in methods of keeping records. Actually for years the percentage of cases in which alcohol figured causatively was never below 55 per cent and long varied between 50 and 60 per cent.

In one county district, Hampshire, the number of families in which drunkenness was a factor in the cases fell from an average of 88 for the three years 1916-1918 to 17 cases in 1919 and 6 in 1920. Physical neglect fell from an average of 113 in 1916-1918 to 54 in 1919 and 27 in 1920. In Franklin district the drunkenness element fell from 52 per cent in 1917 to 2.7 per cent in 1920. In the great industrial section of Fall River drunkenness as a factor dropped from 50 per cent in 1918 to 10 per cent in 1920.

The State report of the society for 1920 said:

The reduction in the amount of drunkenness during the past year as by one stroke gave many a child in this broad land more to eat, more to wear, better parental care, and better home life. This is an example of what may be done by wise community action in reducing the volume of cruelty and neglect.

Dr. Charles W. Eliot, president emeritus of Harvard University, when speaking before the Twentieth Century Club in Boston on Saturday, October 29, 1921, said, in part:

There are three classes whose testimony I find most valuable—district nurses, school nurses, and social workers of all kinds. All these can give testimony to the good effects of prohibition legislation on families, chiefly families of the working men. A district nurse recently called on a woman who was expecting her confinement. The woman said to her visitor: "I have got four children already. This one that is coming will be the first born above ground." The nurse did not quite comprehend, but the woman went on: "The only way I used to be able to get money was to take it out of my husband's pocket when he was helplessly drunk in my room. I took what was necessary, but I never could get enough to hire any room that was not in a cellar. All my four children were born underground. This one is going to be born above ground."

The district nurse followed that case through confinement and had the pleasure of seeing the husband positively attentive to his work and bring all his earnings to his wife. Then on the last visit the nurse made she had the pleasure of seeing him holding his little girl in his lap. She was very neatly dressed already. It was Sunday morning, and this father, who had never given a cent to his wife until the prohibition amendment came, was curling the little girl's hair in order that she might look pretty when he took her to Sunday school.

The infant mortality rate in 519 cities of the United States, comprising a population of over 42,500,000, was as follows for five years, according to tables compiled by the American Child Hygiene Association:

1916.....	101
1917.....	98
1918.....	107
1919.....	89
1920.....	90

Without attempting to ascribe the marked falling off wholly to prohibition since higher wages and the continued child welfare campaigns have been factors, the marked decrease of the period began in the first year of prohibition. Philip van Ingen, M. D., in Mother and Child, July, 1921, said:

The last two years have been most encouraging. If this rate may be regarded as fairly close to that of the entire United States, it means that 25,000 less babies died this past year (1920) than would have had the same conditions existed as did even five years ago.

The noticeable decline in the number of heat prostrations during 1921 as compared with former years is credited by health commissioners to prohibition. Dr. W. L. Dick, health commissioner, and Jennie L. Tuttle, superintendent of the District Nursing Association, of Columbus, Ohio; Dr. Collins H. Johnson, Dr. Wells, Dr. George A. Parker, and Dr. Stephen O'Brien, of Grand Rapids, Mich., the three last named superintendents of the large city hospitals; and Supt. Daniel Test, of the Pennsylvania Hospital, in Philadelphia, all agree that the lack of alcoholic beverages is responsible for the small number of heat prostrations in a summer of more than ordinary heat.

Dr. Thomas A. Hyde, of Christ Hospital, Jersey City, N. J., writes under date of September 7, 1921:

As a hospital executive, I would have you know that I regard the prohibition movement as a tremendous humanitarian blessing. The passage of the eighteenth amendment brought an instantaneous change



In the character of our work. Our men's ward since the enactment of it has not been comfortably filled, which prior to that time was filled to overflowing. The ambulance was accustomed to answer ten or a dozen calls on a Saturday night; one or two calls soon became the rule. Neither did we experience a "dope" epidemic.

Deaths from tuberculosis in Chicago during 1920 numbered 2,652, a decrease of 572 as compared with 1919 and a decrease of 1,175 as compared with 1918. Health Commissioner Robertson says:

There is a decrease all over the United States, but not so marked as here. This is due in part to prohibition. People are getting more sleep and are not carousing and drinking so much.

The annual number of deaths from alcoholism in 14 of the largest cities of the United States—New York, Chicago, Philadelphia, Boston, Detroit, Pittsburgh, Cleveland, St. Louis, San Francisco, Cincinnati, Baltimore, Washington, D. C., Milwaukee, and New Orleans—averaged 124.2 in the years 1916 and 1917, the last normal health year before prohibition. In 1920 they averaged 19.7, a decrease of 84 per cent. Liver cirrhosis in the same cities declined in the same time from 180.9 to 94, which was the average number of deaths per year per city from this cause, a decrease of 48 per cent. That prohibition was responsible for the change is shown by the fact that similar declines in alcoholism and liver cirrhosis occurred previously in certain cities when they came under State prohibition, and little change therefore occurred in such cities when national prohibition went into effect.

#### INSANITY.

In the Boston, Mass., Psychopathic Hospital admissions for insanity due to alcohol fell off 74 per cent after the advent of prohibition, according to a statement of chief officer Harlan L. Paine, May 20, 1921.

Fillmore Condit, expert in figures on insanity, gives official statistics showing that prohibition has checked the increase and turned the scale downward in the number of cases of insanity. Illinois hospitals had 279 insane patients for each 100,000 of the population July 1, 1918, and 261 per 100,000 on January 1, 1921. From 1904 to 1919 insanity increased in Illinois 3.5 per cent annually, or much more rapidly than the general population, and only 1.3 per cent annually since prohibition went into effect, a much slower rate than the increase in population. In 1917 New York had 391.9 insane for each 100,000 of the population; in 1918, 395.7; October 1, 1919, 393.7; January 1, 1920, 374.6. For many years insanity increased in California at the rate of 5.6 per cent annually. The increase from January 1, 1919, to January 1, 1921, was only 59 cases, or 1,094 less than the number there would have been if the normal increase from 1904 to January 1, 1919, had continued. The California Lunacy Commission recently stated that the maintenance cost of the insane in 1920 was \$1,832 per capita, so the taxpayers are saving about \$2,000,000 in the care of the insane.

#### DRUGS.

The Journal of the American Medical Association on December 11, 1920, says:

Clinics conducted by the Narcotic Division of the Bureau of Internal Revenue, through which agency several thousand drug addicts were examined, revealed no evidence of an increase in the narcotic habit since prohibition went into effect.

The claim that prohibition increased drug addicts is without statistical foundation, and where there seems to be an increase it is due to the active enforcement of the antinarcotic law. In New York a regulation requiring registration of addicts who wished to buy drugs went into effect about three weeks after war prohibition became effective. The United States Treasury Department commission quoted estimates ranging from 80,000 to 4,000,000 addicts for the entire country; legislative investigations in New York brought out the opinion that, roughly speaking, there were from 1,000,000 to 2,000,000 drug addicts in the city, then a wet city in a wet State. Since July 9, 1919, drug addicts have been required to register, and the records show about 13,000 users in the State, besides probably 26,000 unregistered cases who obtain drugs illicitly. This makes about one-third of the minimum number—100,000—estimated three years before by health officers. This shows that estimates are too large, and there is no evidence that prohibition has increased the number of addicts. Minnesota had committed 26 addicts to State institutions in 1918, 17 in 1919, and 4 in 1920. Chicago had an average of 12.50 cases per month at the house of correction in 1919, and 11.25 cases per month to May 1, 1920. A number of institutions for treatment of these cases have been closed.

#### TESTIMONY OF GOVERNORS.

Under date of November 6, 1921, the Daily Mail, of Charleston, W. Va., published replies from 25 governors of States in answer to the question, "Is prohibition enforcement successful

in your State?" Twenty-two report conditions vastly improved under prohibition, and several state that the prohibition laws are as well enforced as any other laws. One governor reports an unsatisfactory condition because the leading city of his State is an open seaport and violations are hard to overcome. Two others decline to answer. The statement of the governor of Colorado is wholesome and deserves careful consideration. He says:

Prohibition is eminently preferable to the old saloon system, but requires education and enforcement to make it effective. People must first learn its advantages, and enforcement will follow naturally.

#### PROHIBITION AND ITS EARLY RESULTS.

(By Commander Evangeline Booth, of the Salvation Army.)

Who better than the Salvation Army can speak of the quick and blessed results of the banishment from the streets and the hovels of the poor of this liquid fire and distilled damnation?

Our social secretaries tell us that drunkenness among the men frequenting our hotels and industrial homes has almost entirely disappeared; that men who previously had not enough money to pay their way from one day to another now have money in the bank. In one of our hotels there are 120 men with banking accounts of considerable amounts who previously could not keep a dollar for 24 hours.

In another hotel 25 men, who before prohibition could not muster a dime among them, have deposits ranging from \$100 to \$500. Paul Stoker, a man who drank every cent of his earning, has saved \$700 since prohibition came into effect. An increase in prosperity and thrift is universally acknowledged. The State of Minnesota reports a saving increase of \$17,000,000 for the year. \* \* \*

The nurses of the Baby Hygiene Association, visiting throughout the city, already find a marked improvement in young children. The sword of sorrow and shame which overhung their homes has been snatched away, which has meant development, beauty, and vitality to tens of thousands.

Needless to say, the experience of our own slum officers emphasizes these benefits. "Father buys us clothes since prohibition; he used to drink all the money up," said a little girl of 6 in Hell's Kitchen last week. They find the home better cared for and less divided, and where they used to get mother and children only to the meeting the whole family now attends.

The entire army world seems to have heard of our boozers' day—how year by year we have celebrated Thanksgiving holiday from 6 in the morning, collecting the drunks from the park benches, feeding them and sobering them up, and saving them with huge and lasting results. But last year they were not there, and so we gave the day to the poorest children of the great city.

In large numbers we gathered the underprivileged boy—the little lads who sell the newspapers, the waifs and strays, and even the crippled who eke out their unhappy existence in the unchanged miseries of the slums. Never shall I forget the upturned faces of the 5,000 of New York's poorest under 14, as they lifted their childish voices in the song which must still echo somewhere in heaven, "Yes, Jesus loves me; the Bible tells me so!" And never shall I forget the upsurging emotions of admiration and gratitude of my own heart to that flag that has made it a criminal offense to trade their home, their bread, their clothing, and their life's blood for the most complete damnation of body and soul gloated over in hell.

And this seems to me to be one of the most significant of the early results of prohibition. It means that in the future we shall have less to do with the grave and more to do with the cradle; less binding up of life's broken plants, and more training of life's untrammelled vines; that more of our energy, our ingenious methods, will be thrown into work of prevention, which in the final analysis must be so much more valuable to the home, the Nation, and the kingdom of God than even the most worthy work of cure.

By the constitutional amendment of prohibition a measure has been enacted that will do more to bring the kingdom of God upon earth than any other single piece of legislation.

A few of the general beneficent results of national prohibition were summarized in an article in Leslie's Weekly, February 12, this year, which I ask to insert in the RECORD as a part of my remarks without reading.

The PRESIDING OFFICER. Without objection, the article will be printed in the RECORD.

The article referred to is as follows:

It has demonstrated to the world that a self-governing people are willing to vote upon themselves, through their regularly constituted representatives, self-discipline and self-restraint for the public good. Never has any other great nation subjected itself to so severe a moral test.

Prohibition has convinced the world that it is not necessary for a nation to raise its revenues for public expenses out of a recognized evil like the liquor traffic. This Nation without liquor revenues is better equipped to meet the big reconstruction problems following the Great War than any of the countries sodden with liquor.

It has removed the saloon as a public nuisance and menace. There is not a single wet advocate who champions the return of the old-time saloon. In 10 years those who are now championing a beer and wine or other weakening amendment to prohibition will be against any change of that kind. Some people are always one lap behind in the race for human progress.

Prohibition has revealed the criminal character of the liquor traffic and its deep-seated, vicious influence. The official report authorized by United States Senate resolution 307 gives the conclusion of 7,000 sworn pages of testimony. It brands the liquor traffic as an unpatriotic, boycotting, press-subsidizing, tax-evading, corrupt influence in American life. The traffic is keeping up its established reputation. Prohibition is the searchlight to discover who some of the real enemies of orderly government are.

A policy of government that reduces crime, drunkenness, and poverty, and increases the health, wealth, and happiness of the people is a success and should have the support of patriotic people. Without stopping to recount the economic advantages of prohibition, apparent in practically every bank of the United States and in every

industrial enterprise, large and small, or in countless thousands of American homes where comfort and happiness prevail, and not penury and misery as heretofore; without using any valuable space to accumulate the overwhelming testimony of boards of health and physicians and the irrefutable comparison of vital statistics, all showing the improved health conditions prevalent throughout the land; without mentioning any testimony of church officials, Sunday-school superintendents, ministers, college presidents, and others interested in moral welfare, who with practical unanimity proclaim the success of this movement and its uplifting effect upon the morals of the Nation; as against the unsupported desultory evidence and statements here and there that this law is not enforced in this place or in that place—which at most means that it is not perfectly enforced and is not enforced all of the time in one place—let us look at other places where the law is enforced. These places more nearly represent the average conditions in the United States than the few places which may be picked out as a horrible example of prohibition.

(The article then sets forth the statistics showing the marked reduction in arrests for drunkenness and crime under prohibition.)

Mr. JONES of Washington. Mr. President, the enactment of a prohibition law is the beginning of the end of the fight against liquor, but it is not the end. The organized forces that secured prohibition have the most difficult part of their task yet to perform.

This Nation will be the greatest laboratory experiment for prohibition in the world. We confidently predict the following extremely beneficial results:

The United States will develop a race free from the taint of alcoholic poison. It has been demonstrated scientifically that alcohol is one of the greatest sources of race degeneracy, reflected in lunacy, epilepsy, idiocy, and feeble-mindedness. The improvements in these respects will not be fully realized for a generation. The present decrease in the applicants to the institutions, particularly insane asylums, proves that, if no other good results came from prohibition, it is worth more than the entire cost to secure it. Every defective, criminal, and delinquent eliminated puts new strength into the Republic.

We will be the greatest financial power of all the nations, because we will conserve what other nations waste for liquor. Over \$2,000,000,000 a year saved in money formerly spent for intoxicating liquor will be a big asset. Add to this at least an equal amount which will come as a result of increased efficiency and decreased accidents, and we will begin to realize what a financial asset prohibition will be. The average increased attendance in the schools under prohibition has been about 10 per cent. An intelligent citizenship is an essential to a successful democracy.

Prohibition will be an unmistakable health and life extension influence. The National Medical Association has repeatedly proclaimed that intoxicating liquor is a menace to life and good health.

The home life of the people will be better and happier. Hundreds of thousands of children will be better clad and better fed. The politics of the Nation will be cleaner. Measures designed for the public good will no longer be censored by a liquor lobby.

Business men will no longer be subjected to the un-American liquor boycott, which the sworn testimony before the Senate Judiciary Committee proved was one of the effective liquor weapons in the past.

Prohibition will demonstrate that a righteous policy of government exalts a nation. A self-governing people courageous enough and moral enough to ignore the misrepresentation and abuse which follow every advancement for moral progress will develop a moral fiber that will not only be a source of strength at home but will inspire the world to follow our example. The prohibition of the liquor traffic will make the United States the greatest financial, political, and moral power in the world.

Mr. President, I ask to have printed as a part of my remarks a statement from Eugene C. Brokmeyer, general attorney for the Association of Retail Druggists, which is headed, "Retail druggists opposed to handling medical beer," and also a brief editorial from one of the leading drug journals.

The PRESIDING OFFICER. Without objection, the request will be granted.

The matter referred to is as follows:

#### RETAIL DRUGGISTS OPPOSED TO HANDLING MEDICAL BEER.

The National Association of Retail Druggists went on record at its national convention against retail druggists selling beer as a medicine, even on prescriptions. The issuance of the beer regulations will not induce many druggists to accept the hazard which this business carries.

The present druggists' permit does not authorize the sale of medical beer. It will require a new permit to do this. The druggists who take out these permits would have to get a new bond and carry the additional expense for this. If the anti-beer bill passes, they would have the beer on hand and it would be a total loss to them.

In addition, if any druggist should violate the law with reference to the sale of beer, his permit to handle other liquors for legitimate purposes would be canceled along with the permit to dispose of medical beer. If any of his clerks should sell it to a person who used it for

beverage purposes, the druggist might be held responsible for this under certain conditions. The hazard of the beer trade is too great to make it alluring to druggists.

EUGENE C. BROKMEYER,  
General Attorney for the Association of Retail Druggists,  
856 and 857 Munsey Building, Washington, D. C.

#### LEADING DRUG JOURNAL CONDEMNES MEDICAL BEER.

[Editorial, Oct. 31, 1921, from Oil, Paint, and Drug Reporter, established 1871.]

#### MORE TROUBLE FOR THE DRUG TRADE.

The drug trade has not wanted medicinal beer. The medical profession has expressed no desire to be allowed to prescribe beer. In fact, even those who once brewed malt intoxicants acquiesced in the department's view that the authorization of medicinal beer was of no practical advantage. Who wanted the stuff? One scarcely can attribute its authorization to a desire for such on the part of those who alone prevented its legal elimination, even though it is difficult to believe that they could not foresee the outcome of their obstinate demand that an anti-beer law be anti-industrial and medicinal alcohol as well.

No honorable druggist will want to fill the prescriptions for 2½ gallons of malt liquor which may now legally be issued by physicians. He can hardly handle such orders in anything even resembling a professional manner. His store would have to be a beer warehouse.

What of the wholesaling of the new medicines? The addenda to the regulations contain no statement which indicates that malt liquors are to be handled at wholesale in any way different from spirituous liquors or alcohol. How under the sun is the wholesale druggist going to find storage space for this latest addition to this varied stock?

It looks as if the authorization of medicinal beer would be an especially strong incentive for the establishing of bogus drug houses, wholesale and retail, because of the reluctance of the legitimate trade to handle it. Doubtless the Treasury Department has acted in strict accordance with the law, and the drug trade is further to be burdened and subjected to the defaming action of imposters. It is a pity that there has not been moral strength enough in Congress to pass the sort of anti-beer bill that the shortcomings of the law made necessary.

Mr. JONES of Washington. I also have here a statement headed "Citizens, Help These Leaders to End Prohibition." It sets out an organization which is known as the Association against the Prohibition Amendment (Inc.), which is located here in the District of Columbia. It gives the name of some gentlemen who are said to belong to the organization. There are some gentlemen named here who I can hardly believe belong to the association, but their names are set out in this publication. I ask that it may be printed. This was sent to an editor of one of the labor papers. I also desire to have his reply printed.

The PRESIDING OFFICER. Without objection, the request is granted.

The matter referred to is as follows:

#### CITIZENS, HELP THESE LEADERS TO END PROHIBITION.

(A few of the leading members of the Association Against the Prohibition Amendment (Inc.): R. L. Agassiz, Gen. Felix Agnus, Vincent Astor, Thomas F. Bayard, Rex Beach, Rev. James H. Black, Maj. Gen. W. M. Black, Hon. Richard Bartholdt, Irvin S. Cobb, Hon. L. A. Coolidge, Rev. S. Norris Craven, T. DeWitt Cuyler, Tracy Dows, William P. Eno, Rev. Frowin Epper, Stuyvesant Fish, Dr. Julius Friedenwald, Harrison Grey Fiske, Mrs. Minnie Maddern Fiske, Hon. John Philip Hill, Seth Low, Rt. Rev. Monsignor Edward J. McGolrick, Hon. James M. Munroe, Rear Admiral Hugo Osterhaus, Spencer Penrose, Rev. Dr. Max Raisin, John A. Roebing, Archibald B. Roosevelt, Kermit Roosevelt, Gen. Geo. F. Randolph, Charles H. Sabin, James Speyer, Admiral Yates Stirling, Rt. Rev. Monsignor C. F. Thomas, Charles Hanson Towne, and Henry Kitchell Webster.)

These men—prominent, fearless, far-seeing Americans all—are protesting against the tyranny of organized fanaticism.

They know that the Volstead law is wholly pernicious; that by reason of its unpopularity and impracticability it is bringing all law into contempt and disrepute, and is making law-breaking a pastime—something for the average citizen to "brag about." They deplore the illicit liquor traffic, with its crimes and lawlessness—all born of the Volstead law. They know that prohibition has choked our courts with liquor cases; that it has created added friction between capital and labor; that it has afforded an opportunity for graft (in connection with "enforcement") of a magnitude to stagger the imagination; that it is an unwarranted violation of liberty and American principles of government.

Prohibitionists promised us empty jails—we have an unprecedented crime wave.

Under prohibition we were promised a richer Nation—we now pay increased taxes, and the Government reports increased costs and decreased revenue.

These men know that a campaign of organized protest against prohibition is the only remedy for present conditions. Will you back them up?

The Association Against the Prohibition Amendment (Inc.) is the leading national society which is working to repeal the Volstead law, to curb fanaticism and rule by the minority, and to restore liberty, prosperity, and self-respect to America. It is the only society which has branches formed or forming in every State to combat the Volstead law, and with a plan of campaign to cover every congressional district and to reach every candidate for office. It does not advocate the return of the saloon, but does stand for fairness, moderation, and respect for the Constitution of our fathers.

If you believe that the Volstead Act is wrong, then your duty under our Constitution and laws is to work for its repeal.

#### EVERY VOTE COUNTS—WE NEED YOURS.

Fill out the blank below, attach membership fee, and mail it to us to-day. Get your friends to join and send their memberships with yours. The fact of your membership will not be made public without your consent. Remit by money order, cash, or check. The accounts of the association are strictly audited. Your money will not be misspent or



wasted, but will be used to obtain more members. Use the blank below, or send payment in a letter. Make checks payable to the Mount Vernon Savings Bank, Washington, D. C., our depository. Literature upon request. Address:

ASSOCIATION AGAINST THE PROHIBITION AMENDMENT (INC.),  
511 Eleventh Street NW., Washington, D. C.

#### MEMBERSHIP APPLICATION BLANK.

To THE ASSOCIATION AGAINST THE PROHIBITION AMENDMENT (INC.),  
511 Eleventh Street NW., Washington, D. C.

I inclose \$1, being my fee for membership for one year from date in the Association Against the Prohibition Amendment (Inc.), and request that my name be placed on the rolls of the association.

I am in favor of the repeal of the Volstead Act.

It is my firm intention, under normal conditions, to favor those legislative and congressional candidates who openly stand for the repeal of the Volstead law and who favor States' rights as to prohibition.

I reserve the right to resign at any time or to suspend this pledge upon filing a letter to that effect with the association, for any given election, when, in my opinion, the public interest justifies this course.

(Applicant for membership.)

(Street address, city, and State.)

(— voting district. If you do not wish to give this information, and if you desire your membership not made known, you need merely to mention this when returning this blank.)

UNION LABOR BULLETIN,  
Newark, N. J., July 8, 1921.

ROBERTSON S. WARD,  
President A. A. P. A. (Inc.), 36 Park Place, Newark, N. J.

DEAR SIR: Replying to your questionnaire:

1. We favor prohibition.
2. We do not favor interference with the eighteenth (or prohibition) amendment nor its repeal.
3. We favor absolute annulment of the saloon where it may serve to prostitute the morals of the region to which it caters.
4. We condemn the sale of light wines or beers with meals in restaurants or hotels.
5. We disapprove of the sale of light wines or beers for consumption anywhere.
6. Our employees have increased their efficiency 100 per cent because of prohibition.
7. We can not encourage anyone to join your association.
8. You may use this information in whatever manner will aid the return of this country to a sane enjoyment of prosperity, which is impossible where stimulants destroy brains and develop physical weakness, accentuate moral laxitude and lassitude, and undermine the real strength of government.

Yours, very truly,

UNION LABOR BULLETIN.  
T. CHAS. PRICE, Editor.

Mr. STERLING. Mr. President—

The PRESIDING OFFICER. Does the Senator from Washington yield to the Senator from South Dakota?

Mr. JONES of Washington. I yield.

Mr. STERLING. Mr. President, would it interrupt the Senator if I should ask him to state again the name of the organization to which he has just referred? I did not catch it.

Mr. JONES of Washington. It is the Association Against the Prohibition Amendment (Inc.).

As illustrating the methods that have been pursued heretofore by some of those who are opposed to prohibition, I wish to put into the RECORD a clipping from the Washington Sunday Star of January 2, 1921, headed, "Abandons plan to start movement as result of visit to United States." Then it purports to quote from a very strong prohibitionist, Mr. Larsen-Ledet, a leader of the Anti-Alcohol League of Denmark. The statement quoted was so different from what anyone who knew this man would expect from him that a cablegram was sent to him quoting the remarks attributed to him and asking him for the facts. I ask to have printed in the RECORD the newspaper article and the cablegram which was sent to Mr. Larsen-Ledet.

The PRESIDING OFFICER. Without objection, the matter will be printed in the RECORD.

The matter referred to is as follows:

[Copy of clipping from the Sunday Star, Washington, D. C., Jan. 2, 1921.]

ABANDONS PLAN TO START MOVEMENT AS RESULT OF VISIT TO UNITED STATES.

(Cross-Atlantic cable service to the Star.)

COPENHAGEN, January 1.

"It would be a great calamity if Denmark were to become prohibition as America is now," declared Larsen-Ledet, leader of the Anti-Alcohol League of Denmark, who has just returned from a three-month trip to the United States, where he has been studying the prohibition situation.

The plan to start a movement for dry legislation in Denmark has been abandoned as a result of his trip. And he is strongly of the opinion that present conditions in America are ruining the character of its people.

"What is happening in America is exactly the opposite of what was expected," he said. "My own opinion is that prohibition is an absolute failure in the United States. It simply shows how impossible it is to make a nation moral by legislation. The battle against alcohol must be conducted along new lines, until the people give it up voluntarily. Compulsion evidently will bring results opposite to those desired."

WASHINGTON, D. C., January 5, 1920.

Mr. LARSEN-LEDET,  
International Electoral Superintendent, Aarhus, Denmark.

MY DEAR FRIEND LEDET: We were considerably surprised a few days ago by the appearance in one of our Washington papers of the inclosed statement credited to you. Personally I feel that there must be some mistake about it, because I am sure that if you had any such feeling with regard to the net operation and results of Federal prohibition in the United States you would have told us while you were still in the country. But while we know that prohibition is not uniformly well enforced, at the same time it has produced such splendid results on the whole that I do not believe that you indulge the feeling that is attributed to you in this article. I can say this, while at the same time I recognize the fact that you might still entertain some question in your mind as to the desirability of making general prohibition applicable to your own country under present conditions, although before you would be able to secure prohibition throughout Denmark under those conditions public sentiment, etc., would materially change. I have therefore taken the liberty of inclosing the article in question to you, and if it is an unwarranted statement and is at variance with what you have said, either in its language or in its general purport, I should be glad to have you say so, so that I can properly correct same through the press here, which gave special publicity to the statement.

In addition to the article referred to, I am inclosing an article speaking about the results of prohibition in two of our largest cities—New York and Chicago.

Very sincerely, yours,

(Signed)

EDWIN C. DINWIDDIE,  
National Electoral Superintendent,  
International Order of Good Templars.

Mr. JONES of Washington. This is the reply of Mr. Larsen-Ledet:

[Copy of cablegram.]

AARHUS, January 29, 1921.

DINWIDDIE, Washington:

Shameless lie; not one word true. Every day I challenge European nations follow America's footsteps. Ask Star who sent false report.

LEDET.

Mr. President, I have here an article published in the Scientific Temperance Journal of May, 1921, headed "Alcoholic liquors in and out of the new United States Pharmacopœia," which I ask may be printed in the RECORD as part of my remarks.

The PRESIDING OFFICER. Without objection, the article referred to will be inserted in the RECORD as a part of the Senator's remarks.

The article referred to is as follows:

[Reprinted from the Scientific Temperance Journal, May, 1921.]

ALCOHOLIC LIQUORS IN AND OUT OF THE UNITED STATES PHARMACOPŒIA.

(Francis Hathaway.)

(The following article contains a brief account of the purpose, origin, and development of the United States Pharmacopœia, the official standard of drugs used for medicinal purposes, first issued in 1820. Whisky and brandy were not included until the third revision (1850 decade) and were dropped in the ninth which went into effect in 1916. Various medicinal wines were omitted from time to time and all wine and medicinal wines were dropped at the same time as whisky and brandy. Beer and other malt beverages have never been included in the Pharmacopœia.)

Six years ago, in 1915, whisky and brandy were dropped from the list of standard drugs in the ninth decennial revision of the Pharmacopœia of the United States. This indicated, according to the president of the pharmacopœial convention, Dr. Harvey W. Wiley, that they were "no longer of sufficient importance as medicinal agents to retain a place among standard drugs," although they might continue to be nonofficial remedies. It is not so generally known that the wine was also dropped, as were certain medicated wines, drugs made up with wine.

An examination of the 10 editions of the Pharmacopœia of the United States which have appeared during the past century reveals somewhat interesting facts as to the place which alcoholic beverages have occupied in the physician's official drug armamentarium.

#### ORIGIN AND DEVELOPMENT OF THE PHARMACOPŒIA.

The Pharmacopœia, as is generally known, is the official book of formulae or directions for the preparation of medicines, a standard for the chief drugs used for medicinal purposes. It is the property of the Pharmacopœial Convention, now an incorporated association which meets once a decade (the first year in each decade ending in zero—that is, 1910, 1920), but the work of revision usually occupies several years. Thus, though the first meeting for the ninth convention was held in 1910, the completed revised Pharmacopœia did not become effective until September 1, 1916. The convention is made up of delegates from incorporated professional institutions such as medical colleges and schools, pharmaceutical schools and colleges, State medical and pharmaceutical associations, the American Medical Association, American Pharmaceutical Association, American Chemical Society and bureaus of the Government engaged in medical or sanitary work.

The father of the project for a United States Pharmacopœia was Dr. Lyman Spalding of New York City, a native of New Hampshire, who submitted a plan for it to the medical society of the county of New York in January, 1817. Preceding American pharmacopœial compilations had been mainly of a local character, the European pharmacopœias being the principal reliance of the medical profession.

The product of the first convention, appearing in Boston December 15, 1820, is a stubby little leather-bound volume, hardly more than a list of names of drugs printed both in Latin and in English. Decade by decade the convention developed and perfected its organization, and enlarged its work. The Latin version was first omitted in the second revision, published in 1842. The successive revisions became more and more elaborate and technically exact; standards for the manipulation of drugs were established. Many remedies disappeared, but new medical and pharmaceutical knowledge is recorded in the changing and

enlarging list of remedies. The latest revision, the ninth, is a volume of over 700 pages.

#### WINE IN THE PHARMACOPOEIA.

In the little brown volume of the first pharmacopoeia compiled for the United States only one alcoholic beverage appears, Vinum on the Latin page, wine on the English page, and this was elucidated by the descriptive word "Teneriffe." In the first revision decade of 1830, in addition to this wine, there were also 10 medicated wines, drugs like aloes, antimony, ipecac, rhubarb, gentian, opium, rhubarb, tobacco, and white hellebore made up with wine for medicinal purposes. With a few exceptions these medicated wines persisted in the pharmacopoeia for almost a century. Wine of meadow saffron disappeared in the third revision, but wine of colchicum root and seed and of ergot appeared in that same volume. Aromatic wine and coca wine ran short careers in one decennium only, the former appearing in the sixth revision (1880), the latter in the eighth (1900).

Wine itself appeared under various names, sometimes in the simple Latin terms for red wine and white wine, sometimes in terms meaning port and sherry wine. But port and sherry disappeared in the sixth revision (1880); the former Latin terms for red and white wines reappeared, and there was added "strong white wine," a fortified wine composed of seven parts of white wine with one part of alcohol, the total alcoholic strength to be no less than 20 per cent by weight, nor more than 25 per cent. This strong wine lasted but 10 years and disappeared in the seventh revision (1890). By this time also there had gone the wines of tobacco, white hellebore, rhubarb, and aloes. In the next revision (1900) the wine of colchicum root went.

#### SPIRITS IN THE PHARMACOPOEIA.

Whisky and brandy, it is interesting to observe, did not appear in the pharmacopoeia until the third revision (1850).

While the eighth revision was being made, an international conference was held in Brussels for formulating standards for potent remedies which would be adopted by the various pharmacopoeias of the world.

Of the state of opinion concerning the medicinal use of wine at this period, Martin I. Wilbert, of the Hygienic Laboratory at Washington, said in some notes presented by Dr. Reid Hunt at the Twelfth International Congress against Alcoholism, London, 1909:

"Probably the oldest of the now used alcohol-containing liquids is wine, the fermented juice of the grape, *vitis vinifera*. As a beverage, and to some extent as a medicine, wine has been in use from a very early period, and a study of its history, the uses to which it has been put, and the influence that it has had on the development of the human race would go far toward elucidating many of the problems that are involved in the present-day discussion of the use and abuse of alcohol. More than half a century ago Jonathan Pereira, one of the pioneers of modern medicine, asserted that: 'The uses of wine are threefold—dietetical, medicinal, and pharmaceutical. To persons in health, the dietetical employment of wine is either useless or pernicious. As a medicinal agent, wine is employed principally as a cordial, stimulant, and tonic, but it is much less frequently and copiously employed than formerly. As a pharmaceutical agent, wine is employed for the preparation of the medicated wines. Its efficacy resides essentially in the alcohol which it contains, but as the quantity of alcohol which it contains is variable, and as it is more liable to undergo decomposition than a tincture containing the same proportion of spirit, the medicated wines are objectionable preparations.' The several points that are involved in this assertion, made by Pereira more than 50 years ago, are as true to-day as they were then, and are as well worth taking into consideration."

Having confirmed Pereira's observations of 60 years ago that wine was much less used as a medicinal agent than formerly, Mr. Wilbert pointed out that wine was slowly passing as a solvent for drugs, because unsatisfactory and undependable and better to be replaced by mixtures of alcohol and water.

"Without further discussing the use of wine as a dietetical or as a medicinal agent, let us consider the gradual, though admittedly slow, passing of wine as a pharmaceutical agent. As a solvent for the active ingredients in vegetable drugs, wine has long been recognized as being inferior to definite, easily-controlled mixtures of alcohol and water, and the 'Brussels conference' adopted as one of the principles of the final protocol the provision (a) of article 2, that 'No potent drug shall be directed to be prepared in the form of a medicinal wine (vinum).' The accompanying table shows that in a general way at least, the revisers of the pharmacopoeias that have appeared since the convening of the Brussels conference have complied with the requirements of this international agreement, and that, with a more widespread appreciation of the desirability of international uniformity, future editions of the several pharmacopoeias will, no doubt, eliminate all of the now included formulas for wines of potent medicaments."

Whisky and brandy were also discussed by Mr. Wilbert as undependable preparations of alcohol for medicinal purposes.

"The same general objections that have been made to the use of wines as solvents also hold good for distilled liquors, such as brandy, rum, and whisky, which have aptly been described as being 'Alcoholic liquids of variable strength which owe their distinctive flavors to contained impurities.' One of the most objectionable features of both wines and liquors, as ordinarily found, is the very widespread practice of adulteration. The nature of this adulteration is well evidenced in the recent investigations on the identity and the composition of distilled liquors, and in some of the more recent reports of the State boards of health. The report of the State Board of Health of Massachusetts for 1906 asserts that all of the samples of brandy examined were found to be below the United States Pharmacopoeia standard, being artificially colored in all cases, and having residues consisting largely of sugar; and in the report of the North Dakota experiment station for the same year, E. C. Ladd says that upward of 95 per cent of the whiskies sold do not comply with the United States Pharmacopoeia requirements. The report of the State Board of Health of Indiana asserts that more than 50 per cent of the wines examined, all obtained from drug stores in that State, never saw a grape, and that many additional samples were wines of very inferior quality."

"It will hardly be necessary to dilate further on the general unreliability of wines and distilled liquors as medicinal or pharmaceutical agents. The variability and their widespread adulteration are features that are not conducive to reliability as medicinal agents or as solvents, and will no doubt lead to their final deletion from the official list of standard medicaments."

#### "ADVANTAGES OF ALCOHOL OVER ALCOHOLIC BEVERAGES."

"Being a chemical, alcohol should be considered and used as such and should be given preference, for pharmaceutical purposes at least, over the natural or artificial mixtures containing it. The restriction of the

pharmacopoeial use of alcohol to the pure substance would be of advantage in that the identity and purity of this substance is, comparatively, easily controlled; its solvent action, either alone or diluted with water, is not influenced by accompanying contaminations; universal adoption of it as a solvent would make for international uniformity; and last, but by no means least, it is of itself not inviting as a beverage."

This growing distrust of the medicinal value of alcoholic beverages doubtless found expression in the ninth revision (in effect 1916). This present pharmacopoeia dropped whisky, brandy, red wine, white wine, and the few remaining medicated wines.

Beer and other malt liquors never have been included in the United States Pharmacopoeia. The drug in beer beside alcohol is lupulin, a mild narcotic derived from the hops. Even the extract of lupulin is now gone from the pharmacopoeia.

The United States Pharmacopoeia, therefore, now contains no alcoholic beverages—spirits, wines, or malt liquors—among official medicinal agents.

Mr. JONES of Washington. I also ask to have printed in the RECORD as part of my remarks an article from the same journal headed "Physicians protest against beer," together with the names of the physicians making the protest.

The PRESIDING OFFICER. Without objection, the article will be inserted in the RECORD together with the names.

The matter referred to is as follows:

#### PHYSICIANS PROTEST AGAINST BEER.

The following protest against the manufacture and sale of beer and other malt liquors for medical purposes has been signed by 104 well-known physicians of the United States from some 20 different States and sent by the organizing committee of physicians to Government officials. The list includes the president, vice president, and three members of the pharmacopoeial convention having in charge the ninth revision of the United States Pharmacopoeia. There are the names of editors of medical journals, of four former presidents of the American Medical Association, of professors in 23 medical schools and colleges, physicians connected with the Rockefeller Institute for Medical Research, the Burke Foundation, and the Mayo Foundation, with the Life Extension Institute and 18 well-known hospitals in 9 States. There are also physicians connected with local, State, and national public health service. The protest has been signed by over 450 additional physicians in the State of Massachusetts:

To whom it may concern:

The undersigned physicians of the United States desire to place on record their conviction that the manufacture and sale of beer and other malt liquors for medicinal purposes should not be permitted. Malt liquors never have been listed in the United States Pharmacopoeia as official medicinal remedies. They serve no medical purpose which can not be satisfactorily met in other ways, and that without the danger of cultivating the beverage use of an alcoholic liquor.

Donald S. Adams, M. D., visiting surgeon, out-patient department, Memorial Hospital, Worcester, Mass.; Howard S. Anders, M. D., Philadelphia, Pa.; James Anders, M. D., professor of medicine, Graduate Medical School, University of Pennsylvania, Philadelphia, Pa.; R. A. Bartholomew, M. D., associate in gynecology and obstetrics, Emory University School of Medicine, Atlanta, Ga.; Albert M. Barrett, M. D., professor of psychiatry and director of State Psychopathic Hospital, University of Michigan, Ann Arbor, Mich.; W. A. Bastedo, M. D., assistant professor of clinical medicine, Columbia University, third vice president United States Pharmacopoeial Convention, New York City; J. T. J. Battle, M. D., member Guilford County Board of Health, Greensboro, N. C.; Harvey G. Beck, M. D. (personal, not official, indorsement), president Baltimore City Medical Society, Baltimore, Md.; M. A. Blankenhorn, M. D., assistant visiting physician, Lakeside Hospital, Cleveland, Ohio; George Blumer, M. D., clinical professor of medicine, Yale University, New Haven, Conn.; Frank Van de Bogert, M. D., instructor in pediatrics, Albany Medical College, Schenectady, N. Y.; Robert Curtis Brown, member of medical staffs of Columbia and Milwaukee Children's Hospitals, Milwaukee, Wis.; David Chester Brown, M. D., ex-president Connecticut State Board of Health, Danbury, Conn.; James W. Bruce, M. D., instructor in pediatrics, University of Louisville Medical School, Louisville, Ky.; Frederick Brush, M. D., medical director, the Burke Foundation, White Plains, N. Y.; John Bryant, M. D., Boston, Mass.; Richard C. Cabot, M. D., Boston, Mass.; C. N. B. Camac, M. D., medical director Gouverneur Hospital (Bellevue and Allied Hospitals), New York City; Walter B. Cannon, M. D., Boston, Mass.; David Cheever, M. D., Boston, Mass.; Henry W. Cheney, M. D., assistant professor of diseases of children, Northwestern Medical School, Chicago, Ill.; Elbridge G. Cutler, M. D., consulting physician, Massachusetts General Hospital, Boston, Mass.; John M. Dodson, M. D., dean Rush Medical College, Chicago, Ill.; C. W. Edmunds, M. D., professor of pharmacology, Cornell Medical School, New York City; Cary Eggleston, M. D., assistant professor of pharmacology, Cornell Medical School, New York City; Haven Emerson, M. D., medical adviser of Bureau of War Risk Insurance, lecturer Teachers' College, Columbia University, New York City; Bernard Fantus, M. D., associate professor of therapeutics, Rush Medical College, Chicago, Ill.; Charles E. Farr, M. D., instructor in surgery, Cornell Medical College, New York City; Eugene Lyman Fisk, M. D., medical director, Life Extension Institute, New York City; H. L. Foss, M. D., surgeon in chief of the Gersinger Memorial Hospital, Danville, Pa.; George W. Gay, M. D., surgeon, City Hospital, Boston, Mass.; Joel E. Goldthwait, M. D., Boston, Mass.; George W. Hall, M. D., Chicago, Ill.; Winfield Scott Hall, M. D., Ph. D., professor of physiology, Northwestern University Medical School, Chicago, Ill.; William Van V. Hayes, M. D., formerly professor of diseases of the digestive system, New York Polyclinic, New York City; John L. Heffron, dean of College of Medicine, Syracuse University, Syracuse, N. Y.; James B. Herrick, M. D., pro-



fessor of medicine, Rush Medical College, Chicago, Ill.; Alfred I. Hess, M. D., clinical professor of pediatrics, University and Bellevue Medical School, New York City; Henry F. Hewes, M. D., Boston, Mass.; Arthur D. Hirschfelder, director department of pharmacology, University of Minnesota, Minneapolis, Minn.; L. Emmett Holt, M. D., professor of diseases of children, Columbia University, New York City; Herbert B. Howard, M. D., Reading, Mass.; John Howland, M. D., professor of pediatrics, Johns Hopkins University, Baltimore, Md.; Josiah C. Hubbard, M. D., Boston, Mass.; Reid Hunt, M. D., Ph. D., Boston, Mass.; J. H. Hurty, M. D., Ph. D., State health commissioner, Indianapolis, Ind.; Edwin P. Jordan, M. D., professor of bacteriology, University of Illinois, Chicago, Ill.; Elliott P. Joslin, M. D., Boston, Mass.; James E. King, M. D., Buffalo, N. Y.; J. H. M. Knox, M. D., associate in clinical pediatrics, Johns Hopkins University, Baltimore, Md.; George W. Kober, M. 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D., St. Paul, Minn.; Joseph L. Miller, M. D., professor of medicine, Rush Medical College, Chicago, Ill.; W. P. Morrill, M. D., superintendent Charity Hospital, Shreveport, La.; John D. Musser, M. D., assistant professor of medicine, University of Pennsylvania Medical School, Philadelphia, Pa.; Robert B. Osgood, M. D., instructor in surgery and orthopedic surgery, Harvard Medical School, Boston, Mass.; R. D. Mussey, M. D., Rochester, Minn.; George Roe Lockwood, M. D., consulting physician, Bellevue Hospital; clinical professor of medicine, Columbia University, New York City; Edward O. Otis, M. D., medical school, Tufts College, Boston, Mass.; Walter Palmer, M. D., associate professor of medicine, Johns Hopkins Hospital, Baltimore, Md.; James Parrott, M. D., F. A. C. S., president State Hospital Association, Kingston, N. C.; William E. Quine, M. D., dean College of Medicine of University of Illinois, Chicago, Ill.; Walter A. Ramsey, M. D., associate professor of diseases of children, University of Minneapolis, Minn.; G. E. Robbins, M. D., commissioner of health, Chillicothe, Ohio; Aaron J. Rosanoff, M. D., clinical director, Kings Park State Hospital, Kings Park, N. Y.; M. J. Rosenau, M. D., professor, Harvard Medical School, Boston, Mass.; L. G. Rountree, M. D., director department of internal medicine, Mayo Foundation, Rochester, Minn.; David D. Scannell, M. D., visiting physician, City Hospital, Boston, Mass.; George H. Simmons, M. D. (changed the phrase "Should not be permitted" to "Is unnecessary"), Chicago, Ill.; Frank Smithies, M. D., associate professor of the Medical School of the University of Illinois; secretary general American College of Physicians, Chicago, Ill.; Frederick B. Sweet, M. D., surgeon, Springfield Hospital, Springfield, Mass.; W. S. Thayer, M. D., professor of medicine, Johns Hopkins University, Baltimore, Md.; James C. Thompson, M. D., surgeon, United States Public Health Service, West Haven, Conn.; William C. Thro, M. D., professor of clinical pathology, Cornell Medical School, New York City; A. Van der Veer, M. D., consulting surgeon, Albany Hospital, Albany, N. Y.; Victor C. Vaughn, M. D., dean medical schools, University of Michigan, Ann Arbor, Mich.; Herman Vickery, M. D., member consulting staff Massachusetts General Hospital, Boston, Mass.; Alfred Scott Warthin, M. D., professor of pathology, University of Michigan, Ann Arbor, Mich.; Ralph W. Webster, M. D., Ph. D., assistant professor of pharmacological therapeutics, Rush Medical College, Chicago, Ill.; George W. Webster, M. D., Chicago, Ill.; Stephen A. Welch, M. D., consulting physician, Rhode Island Hospital, Providence, R. I.; Ernest A. Wells, M. D., attending surgeon, Hartford Hospital, consulting surgeon, New Britain Hospital and Manchester Memorial Hospital, Conn.; H. Glendon Wells, M. D., professor of pathology, University of Chicago, Chicago, Ill.; F. N. Whittier, M. D., professor of pathology and bacteriology, Bowdoin College, Brunswick, Me.; DeWitt G. Wilcox, M. D., F. A. C. S., professor of surgical gynecology, Boston University School of Medicine, Boston, Mass.; Harvey W. Wiley, M. D., Ph. D., Washington, D. C.; C. G. Willis, M. D., Huntington, W. Va.; Joseph E. Winters, M. D., New York City; Jarvis B. Woods, M. D., Bangor, Me.; Paul G. Woolley, M. D., manager Pathological Laboratory of Michigan, Detroit, Mich.; Charles R. Borsiller, M. D., medical director, Buffalo Columbia Hospital, Buffalo, N. Y.; J. Madison Taylor, M. D., professor of physiology, therapeutics, and dietetics, medical department, Temple University, Philadelphia, Pa.

#### PRODUCTION AND SALE OF COTTON.

Mr. HEFLIN. Mr. President, I wish to say a word or two in line with what has been said by the Senator from South Carolina [Mr. SMITH]. Statistics show that we have exported more cotton since August, 1920, than the American crop of 1921 will be. We have consumed in the United States since August,

1920, nearly as much as the American crop of 1921 will be. If the American crop should be 7,000,000 bales this year, it will require 5,000,000 bales of that amount to supply the American mills. That would leave only 2,000,000 bales out of this crop to go where more than 7,000,000 bales went before.

Mr. President, the statistical position of cotton indicates that we are facing a cotton famine. Why is it that cotton is selling below the cost of production? I have always favored regulating the cotton exchanges, if they could be regulated. I do not want to hurt any agency that may help in the distribution of the crop or contribute toward carrying out the law of supply and demand; but I am thoroughly convinced to-day that the New York Cotton Exchange and, perhaps, the New Orleans Cotton Exchange also are standing in opposition to the operation of the law of supply and demand. We know that the 150,000,000 and odd spindles operating in the world need more than the amount of cotton that we are going to be able to produce in America this year, far more than we can supply, and yet we are confronted with a situation to-day where the price of cotton is below the cost of production. For the best grade of cotton the price to-day is 16.82 cents a pound.

Some of my friends in the Northern States do not understand what is meant when they see the price of cotton quoted at 16½ or 17 cents a pound. That is the top-notch price; it ranges all the way down from that figure to 10 cents perhaps. So the highest point of the price to-day is 16 and 17 cents, and it ranges on back down to 9 or 10 cents.

Mr. President, I repeat that that is below the cost of production, and no country is justified through its constituted authority in permitting any condition of things to exist that denies to those who produce the wherewithal to clothe the world a fair price and a living profit. It is inexcusable and indefensible for any country to sit silent and permit products to be forced upon the market below the cost of production; and yet that is what we see to-day in the cotton market.

What office is the exchange performing in this critical time for the cotton farmers of the United States? Within the four walls of the New York Cotton Exchange some strange things occur each day. Let me read to the Senate a line from the market report of yesterday, and show you how the cotton industry of thirty-odd million American people is affected by the various things that come into the minds of the speculators on the New York Cotton Exchange. Listen:

#### NEW YORK COTTON.

NEW YORK, November 14.

Optimism over the prospect for limitation of naval armaments was considered responsible for an advance of nearly a cent a pound in the cotton market during to-day's early trading.

What on earth did any prospect of disarmament in the future have to do with the cotton market on the exchange in New York on yesterday, God, and God only, knows. Optimism regarding the outlook for disarmament affected the cotton gamblers as they stood around the pit of the New York Cotton Exchange yesterday. While they were feeling good, and they imagined that the situation look rosy in some direction, they permitted the price of cotton to go up nearly a cent a pound. Later on in the day they got to feeling badly, after they ate their lunches. Some indisposition or indigestion seized some of them, and they broke the price back down about what it gained while they were feeling good. So goes the exchange.

Are we going to permit that condition to exist? There never was a better time than now to stop them, to cut their heads smooth off. There never was a time when it was better for the producer to be drawn up in battle array on the one side against certain spinners and speculators upon the other and fight out this question and decide whether or not the producer shall have a fair price and a living profit.

Why do I say that? Because the supply of cotton is so small, the demand for cotton is so great, the threat of a cotton famine so imminent, that there never was a better time for the producer to see whether or not he can live and continue to produce cotton when he holds the whip hand; and he does hold it now. If he holds out of this crop 3,000,000 bales, as I believe he will do, he can shut down the spinning industry of the world in April of next year. Will he do it? Yes; he will do it. In spite of those who sit with their machine guns in the cliffs shooting him from the exchange breastworks, he will hold his cotton, when he knows that he will double the price in doing so.

There is not any excuse now, as the Senator from South Carolina [Mr. SMITH] has said, for cotton remaining at a low price. The horizon is clear so far as German peace is concerned. The railroad strike is out of the way. With nothing of a disturbing nature along the horizon, with increasing demand, and with the smallest cotton crop in 30 years, cotton is still selling below the cost of production.

Mr. President, the Senator from Georgia [Mr. WATSON] has called attention to a very serious fact here to-day, that the per capita indebtedness of the United States is greater than the per capita circulation. I do not know what the Federal Reserve Board is doing with regard to permitting money to be loaned on cotton. I quoted here a few days ago a statement from a member of the board at Atlanta saying that they would lend money on cotton to the extent of 80 per cent of its value for 12 months. I do not know whether they are talking one way and acting another or not.

Mr. WATSON of Georgia. Mr. President—

The VICE PRESIDENT. Does the Senator from Alabama yield to the Senator from Georgia?

Mr. HEFLIN. I am glad to yield to my friend from Georgia.

Mr. WATSON of Georgia. In the statement which I made I did not allow for taxes—State, county, or municipal; but I will say to my friend from Alabama that according to the statement of the War Finance Corporation, now lying on my desk in my office, they have not loaned one cent to the State of Georgia, or to the Senator's State, or to any other southern State around us.

Mr. HEFLIN. Mr. President, I am sorry to hear that. Our people can not be deceived. They must be dealt with fairly. You can not write with chalk marks on a blackboard that this thing or that thing can now be done and is being done, when it is not being done, and accomplish results. If the farmer can be enabled to hold his cotton off the market—and no honest man or woman will deny him the right to have a price that will yield a profit—he can compel a fair price and a living profit. It is the duty of the Government to see that he has a fair chance in the struggle for existence, and aid ought to be given him, especially when one of the institutions of the Government, the Federal Reserve Board, is largely responsible for his sad plight to-day.

Mr. President, I quoted here a few days ago from a statement given to the Washington Post by the Federal Reserve Board. It did not contain the facts as to what the rediscount rate was in various places. Reading from that report, I said that the rediscount rate at the Atlanta bank was 5 per cent. That was a mistake. It is  $5\frac{1}{2}$  per cent; but New York has a rate of 4 or  $4\frac{1}{2}$  per cent, I believe. Now, why is it, I ask, in all honesty and fairness, that for the benefit of Wall Street, where the speculators congregate and the gamblers hold high carnival in the exchanges, the Government will reduce the rediscount rate of the speculators to  $4\frac{1}{2}$  per cent and hold it up to  $5\frac{1}{2}$  per cent for the producer of the American cotton crop? Is there anything fair in that? Is there anything honest or just in that? Yet that is the situation that we have to-day.

Mr. President, I expect to spend some time, with other Senators, in calling upon the cotton producers to hold out of this crop and off the market 2,000,000 bales or more. If they will do that, the time is coming in the early spring when the spinner will have no cotton to spin, when he will have to go out and buy it, when he can not get it in the cotton exchange. The dog-tail stuff that they tender on contracts will not feed a cotton mill, and they will have to go out in the open market then and buy from the man who produced it. I look to see cotton sell for 30 cents next spring, maybe higher than that, and then what are you going to see? You are going to see every yard of cloth from that time on—the cotton having been bought maybe for 15 cents a pound—sold on the basis of the cost of the raw material at 30 cents or 35 cents, or whatever it is, so that the producer will have been robbed, and the consumer will have been robbed, and nobody benefited except the speculator and certain spinners.

Mr. President, agriculture is the most important industry in the country. It is the cornerstone upon which all other industries rest. Without it there would be no life in the Republic. It is the industry of all industries that must be safeguarded and protected; and yet how are we treating it to-day? You are just kicking it around. No definite plan has the majority in Congress or the party in power to protect the interests of the agricultural industry of the United States.

Rome neglected her agricultural industry. That is the first great crime she committed, and from that time on she commenced to totter to her fall. This Government to-day is pursuing a policy which permits the agricultural products of the West to sell under the cost of production. Potatoes out there are selling under the cost of production; wheat, corn, cattle, your main products, and our money crop, cotton, are selling under the cost of production, while the gamblers in the exchange flourish in evil doing. They can get all the money they want through the Federal reserve system at  $4\frac{1}{2}$  per cent, while the cotton farmers of my section must face a rediscount rate of  $5\frac{1}{2}$  per cent.

Do you know what that means, Senators? They do not lend money to the individual. They lend through a bank. The individual presents himself at a local bank, and he says:

"I want to borrow some money on this cotton."

The local banker says: "I will take it up with the Federal reserve bank and see what can be done for you. I suppose you are aware of the fact that I have got to indorse your paper. I have got to put the wealth of my bank back of your paper."

"I understand that."

"I have got to pay the bank at Atlanta  $5\frac{1}{2}$  per cent for you before we can get a dollar. Now, what am I going to receive for the risk that I take for you?"

The States have fixed legal rates of interest, some of them 6, some 7, and my State has a rate of 8 per cent. The individual has to pay an interest rate to the local banker, he has to pay that rediscount rate to the Federal reserve bank, and God only knows how much it is before he gets through. It may be 10 or 12 per cent. To Wall Street the rate is  $4\frac{1}{2}$ , but to him it is  $5\frac{1}{2}$ . Why that difference of 1 per cent? Are we putting a premium upon speculation? Are we encouraging the devilish work of those who pillage and plunder the agricultural masses of America, and are we making it more difficult by placing obstacles in the way of the poor man in distress to borrow money to meet his needs? That is what is occurring, Senators. That is exactly the situation which confronts us to-day.

I have about reached the conclusion that it would be well to suspend the operation of the cotton exchanges for 90 days at least. We could not be hurt. The producer then would not have any gun fired on him from smoke screens and ambush, where those who could borrow money at a small rate of interest could come and with a very few dollars deal in cotton futures. It does not take much money to speculate in a hundred bales of cotton, or a thousand, or fifty thousand, but the farmer holding it has his year's toil in it, has the cost of production from the standpoint of money, in fertilizer and labor and implements, and all that.

Mr. President, we will soon have a meeting to discuss this question and to decide what should be done. I myself am ready to have the activities of the exchanges suspended for a time. There never could be a better time for that, I repeat, because we have a small production of cotton now. If we had an overproduction, it would be different, but with the small supply of cotton and with the increased and increasing demand there never was a better time than now to start the matter of getting along without a gambling exchange.

Why should there be a gambling exchange to fix the price of produce? Why is it necessary, where men and women consume articles, to have somebody speculating or gambling in them on the street corner? Why not let the law of supply and demand be untrammelled in its operation, unhampered and unhindered by any gambling den anywhere in the country?

Mr. President, we were told a while back, when an increase in the appropriation for the purpose of building a big Navy was asked, that a lot of people were out of employment and that the expenditure of that money by the Government would afford them employment. What would such a course as that mean? It would mean the taking of money out of the pockets of the taxpayers of America to give certain people a livelihood.

We are simply asking that the Federal Reserve Board shall be required to supply the money necessary to meet the needs of agriculture.

Why should we be paying  $5\frac{1}{2}$  per cent? Senators, some tell us that Germany is in a woeful fix; that the German mark is worth only so much in certain countries; that it is practically valueless. Let me call the Senate's attention to this significant fact, brought to my attention by the Senator from Georgia, that Germany is prosperous, Germany is getting along well within the confines of the German Empire. Her people are busy, everybody is at work, her industries are going, her cotton mills are moving, and there is no sign of distress in all the broad expanse of the German Empire. Why is that? Because that mark, however little you may value it, circulates freely from man to man and woman to woman, and meets the need of every one, be he laboring man, mechanic at the bench, blacksmith at the forge, or farmer in his field. He gets the wherewith in exchange for his produce. That presents a situation which thoughtful statesmen here might well consider.

What are we doing? The Senator from Georgia has pointed out that the per capita circulation is smaller than the per capita indebtedness. With the accumulated gold of the world, mountain high, we stand upon its summit, waving the golden scepter, with starvation in some places, 6,000,000 men out of employment, and the agricultural industry on the decline in this, the greatest country on the globe.



"What shall it profit a man if he gain the whole world and lose his own soul," and what shall it profit a nation if it gain the gold of the whole world and injuriously affect the mood and break the morale of its people, turn laborers out of employment, and strike down agriculture in the markets of the country?

That is the condition we have under the operation of the Federal Reserve Board, which the President continues to hold in place and power, a board discredited and repudiated by the honest business men of the South and West. And yet that board still holds its position. What is the tie that binds? Will somebody on the Republican side tell me what is the tie that binds? Why do you not turn that board out? You say it was appointed by President Wilson. Yes; and what a change of attitude in the board since Wilson appointed it—Democrats and Republicans they claimed they were. I repudiate all of them, without regard to party. I have been doing that ever since January, and will continue to do it. I repudiate them for being unfaithful to honest business in America. I impeach the business integrity of that board because of its treatment of the agricultural industry of the South and West. I indict that board for raising the rediscount rate from 3 to 7 per cent and charge that its members did it for the purpose of making it impossible for the farmers of the South and West to obtain the money needed to meet their needs in the hour of their great distress.

Mr. President, if that board is guilty of that President Harding ought to remove it. I hold to that view, and there are Senators who are sitting around me who hold to that view, and there are some on the other side who hold to that view. Then why will the President persist in holding at the head of this great banking system of America a board utterly discredited and repudiated by the American people?

I ask again, what is the tie that binds? Is it true that Wall Street will not permit you to turn this board out? Is there anything in the suggestion that Wall Street wants this board continued in power, that Wall Street promised to reward that board for special service rendered?

We frequently discuss vital questions here, and we are to pass on one in a day or two, as to whether seats in this body shall be bartered like sheep in the market place. We are going to determine in a day or two whether men with their millions can wade through the primary and purchase votes, poison public sentiment, buy up newspapers, and achieve a seat in this the greatest law-making body in the world; and that is a very great question.

Mr. President, there is no greater question touching the American people as a people than that of the control of the money supply and the credit of a hundred million people. When you turn that power over to a committee of seven, as you do when you put such power into the hands of the Federal Reserve Board as presently constituted, you give it the power of life and death over the business of the country. It can pick out its favorites, as it has done in Wall Street. It can reduce the rediscount rate to one concern, and raise it to another, and thus showing favors, hamstringing various kinds of industries in the United States.

I submit these observations for the consideration of Senators. There is not going to be any end to this. As long as the farmers of the West are carrying their produce to the market and selling it at prices under the cost of production, and as long as the farmers of the South are doing the same thing, I intend to protest, and others on this side are joining in that protest, as well as a few on the other side.

Mr. President, there are few on the other side who join with us in protesting against the treatment of the American farmer, but a very few.

There should not be any politics in this. We ought to work together here for the good of this great American industry, for cotton, corn, cattle, wheat, and all the agricultural products of our country. To that end there should not be any dividing line in this body. We ought to strike hands about a common center for an honest and square deal for the farmers of America.

Mr. WATSON of Georgia obtained the floor.

Mr. HARRISON. Mr. President, the Senator from Georgia is about to discuss a very important measure, and I suggest the absence of a quorum.

The VICE PRESIDENT. The Secretary will call the roll.

The principal legislative clerk called the roll, and the following Senators answered to their names:

Ashurst	Dial	Harris	King
Caldier	Ernst	Harrison	Laod
Cameron	Fernald	Heflin	La Follette
Capper	Fletcher	Jones, Wash.	McCormick
Caraway	France	Kendrick	McKellar
Cummins	Gooding	Kenyon	McKinley
Curtis	Hale	Keyes	McNary

Myers	Page	Spencer	Warren
Nelson	Poinexter	Stanley	Watson, Ga.
New	Pomerene	Sutherland	Williams
Nicholson	Ransdell	Swanson	Willis
Norris	Robinson	Trammell	
Oddie	Sheppard	Wadsworth	
Overman	Smith	Walsh, Mass.	

The VICE PRESIDENT. Fifty-three Senators have answered to their names. A quorum is present.

#### AMENDMENT OF NATIONAL PROHIBITION LAW.

Mr. WATSON of Georgia. Mr. President, if I correctly caught the words of the Senator from Washington [Mr. JONES], he made the most astounding statement of a legal proposition that I have ever heard. I understood him to say that in a republic there could be no such thing as personal rights.

Mr. JONES of Washington. Mr. President, I did not make any such statement as that.

Mr. WATSON of Georgia. Will the Senator kindly repeat his statement?

Mr. JONES of Washington. I said no personal liberty, in the sense that no man has a right to do what the majority have said should not be done.

Mr. WATSON of Georgia. Will the Senator repeat his statement as he formerly made it?

Mr. JONES of Washington. That is exactly as I stated it. Of course, I did not say that in a republic no man has any personal rights. I did not make such a statement as that.

Mr. WATSON of Georgia. But the Senator did say he had no personal liberty?

Mr. JONES of Washington. No personal liberty, in the sense that no man has a right to do what the majority have said shall not be done.

Mr. WATSON of Georgia. Even that is an unsound proposition of law. There are some things which belong to the individual, as an individual, and belong to him in a democracy or a republic more fully than anywhere else. It is not within the power of the majority to take away those personal liberties. I could cite so many instances in disproof of what the Senator alleged that he himself would admit that he made a statement which he can not sustain.

Does the Senator mean to say that there could be passed by this Congress or by any legislature a law that could prevent marriage, prevent divorce, prevent the rule of a father over a child, of a mother over her child, or the right of property, the right of freedom of locomotion within the bounds of liberty, within the bounds of the statutes? Does the Senator mean to state that Congress or any other legislative body could limit his or my right of occupation, our right to choose where we shall work, at what we shall work, and on what terms we shall work, if we can agree with those who desire our services? The Senator's proposition can not be maintained.

Neither can that of the Senator from Minnesota [Mr. NELSON], who is not present at this moment. I wish very much that he were present. This is twice that he has made an argument on the floor of the Senate that amounts to about this: That personal liberties are to be vested in the discretion of petty officers of the law, and that the only redress of a private citizen whose personal rights have been invaded is to have those officers arraigned and punished. Mr. President, that is not the law, and I am prepared to maintain my position against the Senator from Minnesota or any other lawyer in this body or elsewhere.

Let me say once again by way of introduction, lest my position be misunderstood, that I, in part, represent a banner prohibition State. The very first speeches I ever made were temperance speeches. In my own county I helped to win the fight to do away with the barrooms. In the legislature of my State I did the same thing. Those were the days when prohibition was in the minority, ridiculed, despised, fighting battles at a great disadvantage. In those days we had no campaign fund.

There were no papers which we could subsidize, no lecturers who were paid, no lobbyists to come here or to the State capitals to lobby measures through. The case had to stand on its merits. We pleaded it before the people upon its merits, and it may interest the Senate to know how, in one State at least, we gradually obtained prohibition.

The very first step that we took was to throw a line around the churches by the enactment of a statute reading "no intoxicating liquors shall be sold within 1 mile of New Hope Church," for instance, "during the hours of worship." From that we made the whole mile free of the traffic during the whole year. Then came the camp grounds. We made it illegal for anyone to vend spirituous liquors on the camp grounds or within a certain distance thereof—3 miles, as I remember.

I was in the courthouse one day when a white man, who was tried by a white jury, prosecuted by a white solicitor general, and

the law given to the jury by a white judge, was convicted of having violated the law at a negro camp ground. By those slow approaches to prohibition we spread the dry spots one after the other all over the State of Georgia until at length the cause came before the highest law-making body of my State. The best we could do or sought to do was to pass a local-option law giving to each county a free referendum vote to decide for itself whether or not there should be open barrooms in that county. Under that law we voted whisky out of 135 counties, leaving only the four or five big cities, which took the position that the country counties had no right to dictate to them as to what they should do in regard to their barrooms. They claimed the right to home rule; they claimed the right to decide that for themselves.

For a long time that plea maintained its ground, but finally there was passed in Georgia a State-wide bone-dry prohibition law drawn up at the instance of an Ohio lobbyist, with the aid of a man who had been lobbying for the whisky interests for years and who was probably paid a larger fee by the "dry" men than the "wets" were able to pay him. The moment he got the law through, without referendum to the people, he left the State of Georgia bone-dry and went to New York, where he could get something to drink. His name was T. B. Felder. That law was never referred to our people; they never voted on it; they never had a chance to vote on it.

Now, the lobbyist, who represents not so much the real temperance sentiment over this country as he represents those drinks that aspire to take the place of wine and beer, says that a doctor shall not prescribe beer or wine for the sick. The Senator from Minnesota [Mr. NELSON] on yesterday, reading his argument, declining to be interrupted, took the very life out of the fourth amendment, emasculated the fifth amendment, ignored the fourteenth amendment, and passed beyond the eighteenth amendment. I know quite well that speeches in the Senate do not change votes, but they change public opinion; they do have weight outside. What I want the country to know is that we lawyers, dictating to the doctors—one profession assuming to boss another—in trying to forbid by statute the prescription of beer or wine in cases where the doctors think it necessary are violating other clauses of the supreme law that are immensely more valuable than any one human life or any statute.

In this connection I am going to ask Senators to listen while I read a few words of James Otis, of Massachusetts, who made the noble fight against writs of assistance by which the King sought by what were really general warrants to invade the personal liberties which are now so much ridiculed, belittled, and trampled under foot. We have been told by the Senator from South Dakota [Mr. STERLING] and by the Senator from Minnesota [Mr. NELSON] that it is all-sufficient to base the discretion in a petty officer, provided we punish the officer afterwards, if he has acted without proper evidence. As well might we seek to restore the bloom of the faded rose as to restore the self-respect of a man or a woman who has had that self-respect violated by one of the petty prohibition officers acting upon his own discretion without any evidence whatever. James Otis, in 1761, denounced the writs of assistance as—

The worst instrument of arbitrary power, the most destructive of English liberty, and the fundamental principles of law that ever was found in any English law book, since they placed the liberty of every man in the hands of every petty officer.

That applies to you; it applies to me; it applies to your wife; it applies to mine; it applies to our children and to our grandchildren. We are asked to take action that will have that result, and we are told we ought to take it because the officer can be punished after he has violated the self-respect of those who are nearest and dearest to us. An ounce of prevention is worth a ton of cure.

I beg leave to call the attention of the Senate to the fact that we are asked to violate laws that are older than a thousand years—the right of every person to be secure in his person from every kind of search or seizure, unless he is caught in the act of crime; the right of that person to be secure in his luggage if he is traveling; in his vehicle if he is traveling; in his room at a hotel if he is stopping at one; and in the house in which he lives. We are told here that we will protect the sanctity of the home.

What makes the sanctity of the home? Is it the shingle roof, or the walls, or the chimney, or the floor? The sanctity of the home is made by the human beings that are in it, and surely those human beings should not be less respected by the law when they leave the home.

Let me go back to Magna Charta, and of that a very distinguished author, George Boutwell, on the Constitution of the United States, has said, quoting James Otis again:

Said James Otis, with the voice of inspiration: "Liberty is the gift of God and can not be annihilated. Old Magna Charta," said he, "was not the beginning of all things, nor did it rise on the border of chaos out of the unformed mass. A time may come when Parliament shall declare every American charter void, but the natural, inherent, and insuperable rights of the colonists will remain, and, whatever becomes of charters, can never be violated until the general conflagration."

Beyond the law book and the charter, beyond the code and its written word, is the law of nature, existing everywhere, under every sun, wherever the stars shine, wherever the seas ebb and flow; and those natural liberties can not be abolished by anything that can be done here. Blackstone says when Parliament makes laws that are shocking to common sense and to common reason and to the common instincts of humanity they are void; and every lawyer here recollects one of the illustrations he gave, that whoever drew blood in the streets of Bologna should suffer death, and it was held that the law did not apply to a physician who drew it in the effort to save life instead of taking it.

But I go back to the oldest of these charters, and let us see what it says—the charter of 1215, wrung from the hands of a cowardly and tyrannical king on that summer's day in the small meadow near London, Runnymede. Let us see what it says—just one clause of chapter 29:

No freeman's body shall be taken—

What does that mean? Taken into custody—not for a minute, not for an instant.

No freeman's body shall be taken, nor imprisoned, nor dis seized, nor outlawed, nor banished, nor in any ways be damaged, nor shall the King—

And so forth.

Then we come to the charter of King Henry III. It contains the same principle, showing how precious it was to the people of England, who fought on so many battle fields to wring these rights from their rulers, the feudal lords who exercised over them the power of life and death.

Before the recess I mentioned here the instance of Watt Tyler and his daughter. The tax collector was seeking to collect an excise tax out of that girl upon the ground that she had reached the age of adolescence. Her father said she had not reached it. This petty officer, clothed with his brief authority, and drunk with it, said he would test it himself, and he proceeded to try to do so; and the father of the girl struck him dead; and he was justified in the eyes of every Englishman, just as he would now be by our unwritten law, wherever the American jury has in it the red blood of Americanism.

The man who unlawfully lays his hands upon our women does so at the risk of his life, and whenever that ceases to be the case we will cease to be the great people that we now are.

The charter of Henry III:

No freeman shall be taken or imprisoned—

The word "taken" meaning to put your hand on him, seize him; that is, the taking of the person, and it shall not be done without due process of law.

We go on down further to the charter of Edward I, one of the greatest of English kings, and it repeats the exact language:

No freeman shall be taken, or imprisoned, or dispossessed—

Except by due process of law and the verdict of a jury of his peers.

That is the old law. We fought for seven years to establish the principles that when our fathers came to Jamestown and to Plymouth Rock they brought those principles with them, and that they had a right to enjoy them here. After seven years of strife, under difficulties almost impossible to describe, they made good that pretension; and upon those old charters and the unwritten English constitution rests our law, rest our constitutions, rest our rights as men.

In the Virginia constitution the Bill of Rights was written in this way by George Mason, a State paper which, as I have stated before, is in my judgment far above the Declaration of Independence, and anybody who compares the two papers will see that Thomas Jefferson quoted from George Mason, and did not always do so accurately.

ART. X. That general warrants, whereby an officer or messenger may be commanded to search suspected places without evidence of a fact committed, or to seize any person or persons not named, or whose offense is not particularly described and supported by evidence, are grievous and oppressive and ought not to be granted.

Now we come to our own Constitution, the fourth amendment of which has been construed away. That is what they are trying to do—construe it away. They can do it if they like. They will hear from the people on it. It has not been long since we heard from the people of New Jersey upon this very question, and the verdict was not favorable to those who construed it



away. It was favorable to those who upheld it. Now, let us see:

The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures shall not be violated, and no warrant shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

Is there any lawyer, is there any man practiced in the gentle art of construing language, who can get the word "warrants" out of both of those clauses? It can not be done. Only a comma separates the two clauses:

The right of the people to be secure \* \* \* against unreasonable searches and seizures.

And yet the Senator from South Dakota [Mr. STERLING] and the Senator from Minnesota [Mr. NELSON] seriously argue to this assembly, composed largely of lawyers, that a reasonable search can be made without a warrant! Upon what basis? Upon the basis that the little officer or the big officer who makes the search and the seizure believes he has the right to make it. Why, if that is the law, nobody is safe; nobody's house is safe; nobody's safe is safe. The word "warrants" is implied in both those clauses, and you can not construe them together to save your life without putting the word "warrant" into both.

And no warrant shall issue except—

They laid down the conditions. Does any lawyer mean to contend that because some bailiff or constable or policeman may suspect that your house contains these things that he is authorized to seize, he can violate your home at any hour of day or night? No such decision ever has been made, and in my judgment no such decision ever will be made. When you do it, you will have impaired the fourth amendment, you will have ignored the fourteenth amendment, you will have gone far beyond the eighteenth amendment.

Which is the more valuable—life, liberty, and property, or the mere apprehension that somebody will take a drink of beer inside of his house, or in a Pullman car, or in his motor car? Do you really mean to say that in your heart of hearts you believe that life, liberty, and property are less valuable than the prevention of some person who wants to take a drink of wine, as Jesus did every day of his life, or a drink of beer, as Bismarck did every day of his life?

Mr. President, the Senator from Minnesota—who read his speech and who did not want to be interrupted; I am not reading mine, and I will be interrupted by any Senator who wants to interrupt—read case after case of State courts, where the State police powers were stretched until you could hear their joints crack. Why did he not read from the decisions of the Supreme Court of the United States? That is the highest legal authority outside of the Constitution.

Here is as far as the Supreme Court has ever gone. I read from page 362, paragraph 617, of *Boutwell* on the Constitution of the United States, a standard work:

The court held that in the case of stolen goods the owner from whom they were stolen would be entitled to possession, and that, in such cases, search and seizure would be justifiable.

Upon what evidence? Upon the evidence of some man in the neighborhood who swore to the facts, described the goods, and described the place where he believed them to be held in possession. That is what the court decided, and that is good law. I read from the next paragraph, 618, on the same page:

It was held that in a case of stolen goods the owner from whom they were stolen would be entitled to possession, and that, in such cases, searches and seizure would be justifiable.

It was also held that in the case of dutiable articles that the Government, having an interest in them for the payment of duties thereon, might, until such duties were paid, keep them under observation and pursue them and drag them from concealment.

That is far removed from the State court decisions picked up here and there, as you pick up mercenary troops, some of which the Senator from Minnesota referred to in his written argument, which would not suffer an interruption; that the Federal Government, which is free and sovereign within its limits, might not itself search and seize without warrant, but could keep suspected goods under observation, because it had an interest in them to the extent of the duty which they ought to pay as they came through the customhouse.

In this connection the Supreme Court held, as stated by *Boutwell* in section 620 of the same work:

From these cases and others of a like nature, the court distinguished the attempt to extort from a party his private books and papers and make him liable for a penalty, or the forfeiture of his property. Indeed, the latter process was likened to the writs of assistance that in 1761 were denounced by James Otis.

What else do you do but make a man furnish evidence against himself when you force him to put his feet into tracks which you say the criminal made, accusing him of having been the criminal? You can not force him to do it. If he is forced to do it, the evidence is inadmissible.

You can not search a man's person illegally to get evidence against him and use it against him; else you are encouraging the violation of the supreme law of the land.

You can not search his house to find evidence against him, because in the broadest way it is making him furnish evidence against himself; and the old, old law, old as the hills, old as the mountains, and as pure as the snow that rests upon their summits, is that no man shall be made to criminate himself.

The fourteenth amendment, Mr. President, comes within the same class. It is true that the prohibition against depriving the citizen of right, liberty, and property, goes directly to the State; but, except in those cases in which, by necessary inference, the power is reserved to the Federal Government, that which the Federal Government says the States may not do, the Federal Government may not do.

Mr. STANLEY. Mr. President, in that connection, if the Senator will permit an interruption, there is no parity of reasoning between the power of the State and the power of the Federal Government to do these things. The theory under which the Constitution was written was that the Federal Government should exercise only delegated powers, and the powers not delegated were reserved to the States, respectively, and to the people.

Mr. WATSON of Georgia. That is correct.

Mr. STANLEY. There is a broad power to search and to seize, and a power to apprehend for a criminal offense, or for a breach of the peace, essentially a police power. The police powers of the States are determined only by the will of the people of those States, and a State can vest its own government with any powers not prohibited to it by the Bill of Rights.

The Federal Government, on the other hand, can exercise no police power not expressly delegated, and a decision of a State court, as to its control of the manufacture and sale of alcoholic liquors, or the regulation of gambling, or of nuisances, or the punishment for homicide or larceny, has no relevancy whatever when it comes to the exercise of the same power by the Federal Government. The only reason the State governments can not search and seize is because of the inhibition of the fourth and fifth amendments. Otherwise, State decisions on the question of the exercise of police power by the Federal Government are more than worthless.

Mr. WATSON of Georgia. Mr. President, the Senator from Kentucky has stated, in more forcible language than I was able to use, the thought that was in my own mind.

Mr. STANLEY. I did not hear the Senator's whole argument, and I want to call the Senator's attention to another point, to which I hope to advert later on, but for fear I shall not, I take the liberty of calling it to the attention of the distinguished Senator from Georgia.

Argument after argument has been made here, for hours in length, and the country has been flooded with propaganda touching the right to seize and to search the person of an apprehended offender, notwithstanding the fact that they who erected this man of straw to knock him down know that this so-called Stanley amendment does not touch top, side, or bottom, the right to seize and search the individual. As the amendment was originally drawn, it protected the "person and property" of the citizen from unreasonable search and seizure, just as the fourth amendment does.

It was objected on the part of the Senator from South Dakota [Mr. STERLING] and others that an inhibition against the searching of the person might be construed as an interference with the searching of dangerous criminals for weapons or other means of escape or injury to those arresting them. That is where the right to search and seize for such offenses as that touches closely upon the right to search a person for weapons, or for concealed bottles of alcoholic liquor, or something of that sort, and I agreed that the word "person" should be stricken out of the amendment. When it was offered it read "person or property." The Senator from South Dakota objected, and I had the word "person" stricken out in the Senate, as the Senator will remember. That our opponents know full well. Mr. Wheeler and those who voice his sentiments, if they are not mere conduits for his words, know that that question is not raised under this amendment, and never was raised. As far as the Stanley amendment goes, as far as our opposition to this infraction of the constitutional rights of the citizen goes, there is no question about the right of an officer to apprehend and to search the person of any suspected offender, whether for concealed weapons or liquor or anything else, and in the face of that the Senator from Minnesota read a learned thesis on the subject of the right to apprehend the individual and to search his person. No wonder he would not submit to an interruption. No such right is claimed by the advocates of this amendment. We have claimed that the home, including the

curtilage, and the property of the citizen, divested from his person, shall be exempt from search and seizure without a warrant, and that is the question they have not touched, and that is the question they dare not touch.

Mr. WATSON of Georgia. That is the reason why I was touching it. I do not know how it is in other States, but my understanding of the law in my own State is that the sheriff himself can not arrest a man, or anyone else, without a warrant unless the person has committed a crime in his presence and is about to escape; that in the absence of the sheriff a private citizen may arrest when a crime is committed in his presence, but he must turn the person over to the sheriff at the earliest possible moment and swear out a warrant.

Mr. STANLEY. And he makes the arrest at his own peril.

Mr. WATSON of Georgia. Yes; he makes it at his own peril; and, of course, it follows that the sheriff, as a matter of self-defense, as a matter of security, can search the person to find whether or not there is a weapon upon the prisoner which might enable him to escape jail or to make a fatal assault upon the arresting officer. There is no general power anywhere which gives a man who suspects another the right to subject that other person to the humiliation and disgrace of an arrest.

The Senator from Washington [Mr. Jones] said that this law could be enforced, and he read some impressive figures and some forcible statements upon that subject. I make the statement here and now that there never was a law which could be enforced if that law violated common sense and violated what the citizen thought were his personal rights. The prohibition law is not now being enforced anywhere. Let the officers say what they will, it is not being enforced. We have a bone-dry law in Georgia, and there is more whisky in Georgia than there was before the law was passed.

It is a well-known fact that anybody who wants liquor here in Washington City can get it if he can furnish the price, and we are told in the papers that this Government, "the best that the world ever knew," furnished a military escort to wines and brandies and champagnes and beers which are to be consumed by those who are here to disarm the world and establish universal peace.

Mr. President, if that were not ludicrous enough, the Jew can not worship his God without violating the law or getting an exemption. The Catholic can not worship his God without violating the law or getting an exemption. As my friend the Senator from Kentucky knows, there was a war inside the Catholic Church for centuries because they took away from the laity the right to drink the wine and confined it to the priests. The laity wanted some of it. The priests took it away from them, and the priests still have it; and now we do not want either the laity or the priests to have it, but they are both going to have it; you need not doubt that. We Baptists, we Methodists, we Episcopalians, we Presbyterians can not worship God without violating the law or getting an exemption from it. That is a queer state of affairs. It seems to me somebody is getting badly mixed on general principles.

If I had the time, I would like to read where God Himself tells how much wine you must bring as your religious gift when you worship. Of course, God did not drink the wine; the priests drank it; but God gave the order for it, and the wine had to be furnished.

Everybody who has read the New Testament knows that Christ himself drank wine every day of His life. There was not any water fit to drink in Palestine in those days, and I doubt if they have any there now.

Mr. Jefferson said, after having spent seven years in France and traveling all over the country, that everybody, young and old, drank wine; that the water was not fit to drink; and that he never saw an intoxicated man or woman during the whole seven years. That is the testimony of Thomas Jefferson.

The ceremonial, and about the only one that surrounds the primitive faith of Jesus Christ, commemorates the last supper in which He Himself did not drink nor eat, but in which He handed out the broken loaf and the wine cup. Now, we have become so rigidly righteous that we want to dictate to everybody what he or she shall do.

All history shows the vanity of sumptuary laws. They can not be enforced. Fashion may be the law to the lady of fashion, and she may follow it because others do, but let the law say what she must wear and how she shall wear it, and she will disobey the law. We can not put a limit to the cost of entertainment, to the cost of dress, to the cost of personal luxuries. It has been tried, ah, tried time and again. It runs counter to that natural liberty of man which makes every bird want a free wing to fly with, and every animal free feet to walk upon.

Mr. KING. Mr. President, will the Senator from Georgia permit an inquiry?

Mr. WATSON of Georgia. Certainly.

Mr. KING. I did not have the opportunity of hearing the Senator's address this afternoon, except the concluding part. Did the Senator discuss the question as to whether or not the eighteenth amendment carries with it the same authority to deal with police matters and police powers of the State on the question of prohibition and its enforcement as that possessed by the States themselves?

Mr. WATSON of Georgia. No; I did not discuss that question.

Mr. KING. I should have been glad to hear the Senator discuss that proposition because it is a very important one.

Mr. STANLEY. Mr. President, I wish to give notice that following the morning business on Thursday I shall discuss the Willis-Campbell antiprescription bill.

#### AMENDMENT OF TRANSPORTATION ACT OF 1920.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 3331) to amend the transportation act, 1920, and for other purposes.

Mr. CUMMINS. I ask that the Secretary may state the next committee amendment.

The VICE PRESIDENT. The next committee amendment will be stated.

The READING CLERK. On page 4, line 16, the committee proposes to strike out the words "and the President may sell to the corporation," and on page 5, lines 2 and 3, to strike out the words "and shall be sold by the President without recourse," so as to read:

Sec. 19(a). The corporation may purchase from the President any bonds, notes, or other securities acquired by the President either before or after this section takes effect, under authority of the Federal control act, the transportation act, 1920, or the act entitled "An act to provide for the reimbursement of the United States for motive power, cars, and other equipment ordered for railroads and systems of transportation, and for other purposes," approved November 19, 1919. The aggregate purchases thus made shall not exceed \$500,000,000. Any such securities so purchased shall be purchased at the prices, and subject to the discounts, if any, at which acquired by the President.

The amendments were agreed to.

The READING CLERK. The next committee amendment is, on page 5, to strike out lines 16 to 25, inclusive, and on page 6 to strike out lines 1 to 12, both inclusive, in the following words:

(d) The proceeds of all bonds, notes, or other securities sold by the President to the corporation or by the corporation as selling agent shall be a fund to be used by the President for the purposes described in section 202 of the transportation act, 1920. Any balance not so required shall be paid into the Treasury of the United States as miscellaneous receipts.

In using any fund or moneys available under this or any other act, for the purposes described in this subdivision, no payments or allowances shall be made to any carrier on account of the so-called inefficiency of labor during the period of Federal control. Such funds and moneys shall not be used in making any settlement between the United States and any carrier which does not forever bar such carrier from setting up any further claim, rights, or demands of any kind or character against the United States growing out of or connected with the possession, use, or operation of such carrier's property by the United States during the period of Federal control.

(e) Whenever used in this section the term "President" includes any agent or agency designated by him under the authority of any of the acts specified in subdivision (a).

Mr. CUMMINS. That is stricken out because the substance of it is contained in an amendment already agreed to. It transfers the amendment to the War Finance Corporation act to an amendment to the transportation act as it ought to be.

The amendment was agreed to.

The READING CLERK. The next amendment is, on page 6, line 13, to strike out "(f)" and insert "(d)"; in the same line, after "corporation," to strike out the words "and the President"; in line 14, after "subdivision (a)," to insert the words "of this section"; and in line 18 to insert after "(d)" the words "of this section," so as to make the paragraph read:

(d) The power conferred on the corporation by subdivision (a) of this section may be exercised at any time prior to July 1, 1922, notwithstanding the limitation contained in the proviso to section 1 of this act. The powers conferred on the corporation in subdivisions (b), (c), and (d) of this section may be exercised at any time during the life of the corporation.

The amendment was agreed to.

The READING CLERK. The next amendment is, on page 6, line 20, to strike out "(g)" and insert "(e)."

The amendment was agreed to.

Mr. CUMMINS. That completes the amendments proposed by the committee, and in so far as I am concerned I shall not ask for any further consideration of the bill to-night.

The VICE PRESIDENT. In the pending railroad bill there are a number of quotation marks which have no place in the



bill. If there is no objection, they will be stricken out. It is so ordered.

## EXECUTIVE SESSION.

Mr. CURTIS. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to, and the Senate proceeded to the consideration of executive business. After five minutes spent in executive session the doors were reopened, and (at 5 o'clock and 12 minutes p. m.) the Senate adjourned until to-morrow, Wednesday, November 16, 1921, at 12 o'clock meridian.

## NOMINATIONS.

*Executive nominations received by the Senate November 15, 1921.*

## UNITED STATES ATTORNEY.

Irvin B. Tucker, of North Carolina, to be United States attorney, eastern district of North Carolina, vice E. F. Aydlott, resigned.

## SPECIAL EXAMINER OF DRUGS, MEDICINES, AND CHEMICALS.

Dr. Cecil de J. Harbordt, of Dover, Del., to be special examiner of drugs, medicines, and chemicals in customs collection district No. 11, with headquarters at Philadelphia, Pa., in place of William R. Messick, resigned.

## APPOINTMENTS TO OFFICERS' RESERVE CORPS OF THE ARMY.

The persons named herein for appointment, to date from November 4, 1921, in the Officers' Reserve Corps of the Army of the United States under the provisions of section 37 of an act of Congress approved June 4, 1920:

*To be brigadier generals.*

Richard Coulter.	Karl Daenzer Klemm.
William Church Davis.	Leroy Vernon Patch.
Charles I. De Bevoise.	Milton Atchison Reckord.
Leigh Robinson Gignilliat.	Sanford Bailey Stanbery.
Edgar Stilson Jennings.	

## MEDICAL CORPS.

*To be brigadier generals.*

Lewis Atterbury Conner.	Fred Towsley Murphy.
George Washington Crile.	Frederick Fuller Russell.
Joel Ernest Goldthwait.	Thomas William Salmon.
Charles Horace Mayo.	William Holland Wilmer.

## FINANCE.

*To be brigadier general.*

Samuel Herbert Wolfe.

## PROMOTIONS IN THE REGULAR ARMY.

## CAVALRY.

*To be colonel.*

Lieut. Col. Stuart Heintzelman, from November 7, 1921.

## MEDICAL CORPS.

*To be captains.*

First Lieut. Lester Eastwood Beringer, subject to examination required by law, from October 24, 1921.

First Lieut. William Harvey Merriam, from November 7, 1921.

## CHAPLAIN.

*To be chaplain with the rank of lieutenant colonel.*

Chaplain Samuel James Smith, from November 9, 1921.

## APPOINTMENTS, BY TRANSFER, IN THE REGULAR ARMY.

## CHEMICAL WARFARE SERVICE.

Capt. James Wilson Rice, Infantry, with rank from July 1, 1920.

## FIELD ARTILLERY.

Capt. Parker Gillespie Tenney, Coast Artillery Corps, with rank from July 1, 1920.

## PROMOTIONS IN THE NAVY.

The following-named commanders to be captains in the Navy, from the 3d day of June, 1921:

Willis McDowell.

Edward C. Kalbfus.

Commander Joseph K. Taussig, an additional number, to be a captain in the Navy, from the 3d day of June, 1921.

Commander John W. Greenslade to be a captain in the Navy, from the 1st day of July, 1921.

Commander Charles E. Courtney, an additional number, to be a captain in the Navy, from the 1st day of July, 1921.

The following-named lieutenant commanders to be commanders in the Navy, from the 3d day of June, 1921:

Chester W. Nimitz.

William R. Furlong.

Richard P. McCullough.

Nelson H. Goss.

Isaac F. Dortch.

William Baggaley.

Joseph V. Ogan.

Isaac C. Johnson, jr.

George V. Stewart.

Burton H. Green.

Gordon W. Haines.

Halford R. Greenlee.

Conant Taylor.

Lieut. Willis A. Lee, jr., to be a lieutenant commander in the Navy, from the 7th day of August, 1920.

The following-named lieutenants to be lieutenant commanders in the Navy, from the 3d day of June, 1921:

Joel W. Bunkley.

Thomas E. Van Metre.

Frank E. Johnson.

Alfred T. Clay.

Joseph P. Norfleet.

Charles C. Davis.

Richard W. Wuest.

James R. Barry.

Percy K. Robottom.

Francis P. Traynor.

Lieut. (Junior Grade) Joseph H. Hoffman to be a lieutenant in the Navy, from the 1st day of July, 1919.

Lieut. (Junior Grade) Haiden T. Dickinson to be a lieutenant in the Navy from the 6th day of June, 1920.

The following-named lieutenants (junior grade) to be lieutenants in the Navy from the 1st day of July, 1920:

Gerard H. Wood.

Edward P. Sauer.

Seldon L. Almon.

Einar R. Johnson.

Ensign Edward P. Sauer to be a lieutenant (junior grade) in the Navy from the 3d day of June, 1919.

Ensign Seldon L. Almon to be a lieutenant (junior grade) in the Navy from the 28th day of June, 1920.

Ensign Einar R. Johnson to be a lieutenant (junior grade) in the Navy from the 29th day of June, 1920.

The following-named ensigns to be lieutenants (junior grade) in the Navy from the 1st day of July, 1920:

Adolph O. Gieselmann.

John J. Patterson, 3d.

The following-named passed assistant surgeons to be surgeons in the Navy, with the rank of lieutenant commander, from the 11th day of May, 1921:

Charles L. Beeching.

Howard Priest.

Carroll R. Baker.

Arthur E. Younie.

Ovid C. Foote.

Frank H. Haigler.

Louis H. Roddis.

William H. Massey.

James D. Bobbitt.

Harvey R. McAllister.

William E. Findelsen.

Asst. Surg. William J. C. Agnew to be a passed assistant surgeon in the Navy, with the rank of lieutenant, from the 30th day of July, 1919.

The following-named assistant surgeons to be passed assistant surgeons in the Navy, with the rank of lieutenant, from the 6th day of June, 1920:

Frank L. Kelly.

Louis E. Mueller.

Herbert L. Shinn.

Asst. Surg. Edgar F. McCall to be a passed assistant surgeon in the Navy, with the rank of lieutenant, from the 1st day of January, 1921.

Asst. Dental Surg. William F. Hawthorn to be a passed assistant dental surgeon in the Navy, with the rank of lieutenant, from the 1st day of July, 1920.

Pay Inspector Robert H. Orr to be a pay director in the Navy, with the rank of captain, from the 7th day of July, 1921.

The following-named pay inspectors to be pay directors in the Navy, with the rank of captain, from the 1st day of November, 1921:

George C. Schafer.

Trevor W. Leutze.

Paymaster Henry deF. Mel to be a pay inspector in the Navy, with the rank of commander, from the 7th day of July, 1921.

Paymaster Neal B. Farwell to be a pay inspector in the Navy, with the rank of commander, from the 11th day of November, 1921.

Asst. Paymaster Charles E. Swithenbank to be a passed assistant paymaster in the Navy, with the rank of lieutenant, from the 1st day of July, 1920.

The following-named officers of the United States Naval Reserve Force to be lieutenants in the Navy from the 3d day of August, 1920, in accordance with the provision contained in the act of Congress approved June 4, 1920:

George R. Henderson.

Cyril T. Simard.

Lieut. (Junior Grade) Frank A. Saunders, for temporary service, to be a lieutenant (junior grade) in the Navy from the

1st day of July, 1920, in accordance with the provision contained in the act of Congress approved June 4, 1920.

Lieut. Jens Nelson, for temporary service, to be an ensign in the Navy from the 6th day of June, 1919, in accordance with the provision contained in the act of Congress approved June 4, 1920.

Lieut. George Schneider, for temporary service, to be an ensign in the Navy from the 6th day of June, 1919, in accordance with the provision contained in the act of Congress approved June 4, 1920.

Lieut. Howard E. West, United States Naval Reserve Force, to be an ensign in the Navy from the 4th day of June, 1920, in accordance with the provision contained in the act of Congress approved June 4, 1920.

The following-named passed assistant surgeons, for temporary service, to be passed assistant surgeons in the Navy, with the rank of lieutenant, from the 3d day of August, 1920, in accordance with the provision contained in the act of Congress approved June 4, 1920:

Albert H. Faber, jr.

Roy J. Leutsker.

The following-named passed assistant surgeons of the United States Naval Reserve Force to be passed assistant surgeons in the Navy from the 3d day of August, 1920, in accordance with the provision contained in the act of Congress approved June 4, 1920:

Isaac B. Polak.

Ray E. A. Pomeroy.

The following-named passed assistant surgeons to be surgeons in the Navy, with the rank of lieutenant commander, from the 11th day of May, 1921:

William E. Eaton.

Lester L. Pratt.

Richard H. Laning.

#### POSTMASTERS.

##### ALABAMA.

James A. Stallworth to be postmaster at Crichton, Ala. Office became presidential April 1, 1920.

##### ARKANSAS.

Oscar L. West to be postmaster at Shirley, Ark. Office became presidential July 1, 1920.

##### CALIFORNIA.

Frank W. Roach to be postmaster at Calexico, Calif., in place of G. D. Dool. Incumbent's commission expired January 13, 1921.

William O. Hart to be postmaster at Orange, Calif., in place of James Fullerton, deceased.

##### COLORADO.

Reno H. Auld to be postmaster at Otis, Colo., in place of R. H. Weir. Incumbent's commission expired December 20, 1920.

##### GEORGIA.

John P. Herring to be postmaster at Climax, Ga. Office became presidential April 1, 1920.

Lelia W. Maxwell to be postmaster at Danville, Ga. Office became presidential April 1, 1921.

Mary D. Shearouse to be postmaster at Guyton, Ga. Office became presidential July 1, 1920.

Henry J. Claxton to be postmaster at Kite, Ga. Office became presidential January 1, 1921.

Benjamin N. Walters to be postmaster at Martin, Ga. Office became presidential October 1, 1920.

Acquilla M. Warnock to be postmaster at Brooklet, Ga., in place of B. C. Warnock, deceased.

Dollie Allen to be postmaster at Ellaville, Ga., in place of Dollie Allen. Incumbent's commission expired January 24, 1921.

John S. Brown to be postmaster at Locust Grove, Ga., in place of J. S. Brown. Incumbent's commission expired March 16, 1921.

Elisha A. Meeks to be postmaster at Nicholls, Ga., in place of E. A. Meeks. Incumbent's commission expired March 16, 1921.

Elios L. Moore to be postmaster at Willacoochee, Ga., in place of E. L. Moore. Incumbent's commission expired March 16, 1921.

##### ILLINOIS.

James F. Mill to be postmaster at Hillsdale, Ill. Office became presidential April 1, 1921.

Emma H. Howe to be postmaster at Ravinia, Ill. Office became presidential October 1, 1921.

Charles A. Jean to be postmaster at Anna, Ill., in place of T. W. Medlin, deceased.

James E. Harley to be postmaster at Aurora, Ill., in place of L. A. Stoll, deceased.

##### INDIANA.

Alfred S. Hess to be postmaster at Gary, Ind., in place of H. B. Snyder, resigned.

##### IOWA.

Michael D. Kelly to be postmaster at Harpers Ferry, Iowa. Office became presidential October 1, 1921.

##### KANSAS.

James Rae to be postmaster at Franklin, Kans. Office became presidential April 1, 1921.

Elizabeth Cooper to be postmaster at Utica, Kans. Office became presidential January 1, 1921.

##### KENTUCKY.

Walter L. Prince to be postmaster at Benton, Ky., in place of Joe Ely, removed.

##### LOUISIANA.

Nestor L. Currault to be postmaster at Westwego, La. Office became presidential October 1, 1921.

##### MAINE.

Maybelle Medeiros to be postmaster at Vanceboro, Me., in place of M. P. Ross, deceased.

##### MASSACHUSETTS.

Harold E. Cairns to be postmaster at Bernardston, Mass. Office became presidential October 1, 1921.

Harriette E. Smith to be postmaster at West Newbury, Mass. Office became presidential July 1, 1921.

##### MICHIGAN.

Gordon D. Daffoe to be postmaster at Owendale, Mich. Office became presidential January 1, 1921.

##### MINNESOTA.

Albert Newstrom to be postmaster at Cohasset, Minn. Office became presidential January 1, 1921.

##### NEBRASKA.

Elroy A. Broughton to be postmaster at Venango, Nebr. Office became presidential July 1, 1920.

##### NEW HAMPSHIRE.

Arthur H. Wilcomb to be postmaster at Chester, N. H. Office became presidential July 1, 1920.

Ambrose P. McLaughlin to be postmaster at Bretton Woods, N. H., in place of A. P. McLaughlin. Incumbent's commission expired March 16, 1921.

Ernest L. Abbott to be postmaster at Derry, N. H., in place of W. H. Benson. Incumbent's commission expired January 5, 1920.

##### NEW MEXICO.

Menhard L. Albers to be postmaster at Old Albuquerque, N. Mex. Office became presidential April 1, 1920.

##### NEW YORK.

Robert W. Gallagher to be postmaster at Buffalo, N. Y., in place of G. J. Meyer, deceased.

Horton Davy to be postmaster at Mechanicville (late Mechanicville), N. Y., in place of W. H. Hickey. Incumbent's commission expired August 3, 1920.

##### NORTH CAROLINA.

William S. Carawan to be postmaster at Columbia, N. C., in place of W. S. Carawan. Incumbent's commission expired January 8, 1921.

##### NORTH DAKOTA.

Mark Johnson to be postmaster at Ellendale, N. Dak., in place of L. G. McGinnis. Incumbent's commission expired August 8, 1920.

##### OHIO.

Ora A. Ridiker to be postmaster at Brunswick, Ohio. Office became presidential April 1, 1921.

Thomas O. Armstrong to be postmaster at Middle Point, Ohio. Office became presidential January 1, 1921.

William A. Cooper to be postmaster at Piketon, Ohio. Office became presidential July 1, 1920.

Paul R. Hart to be postmaster at Bradford, Ohio, in place of H. W. Purdy, removed.

Myron C. Cox to be postmaster at Fremont, Ohio, in place of Harmon Wensinger. Incumbent's commission expired July 21, 1921.

##### OKLAHOMA.

Frank S. Roodhouse to be postmaster at Shawnee, Okla., in place of O. B. Weaver, deceased.



## PENNSYLVANIA.

Mary A. Gatchell to be postmaster at George School, Pa. Office became presidential April 1, 1921.

Cecil E. Adams to be postmaster at Karns City, Pa. Office became presidential April 1, 1921.

Horace L. Couch to be postmaster at New Brighton, Pa., in place of D. H. Thomas, resigned.

George L. Van Alen to be postmaster at Northumberland, Pa., in place of Robert Leshar, resigned.

## SOUTH CAROLINA.

Bessie F. Cannon to be postmaster at Clifton, S. C. Office became presidential October 1, 1921.

## TEXAS.

Walter Wood to be postmaster at Springtown, Tex. Office became presidential July 1, 1921.

Kit C. Stinebaugh to be postmaster at Walnut Springs, Tex., in place of J. G. Lewis. Incumbent's commission expired July 15, 1920.

## VIRGINIA.

Daniel V. Richmond to be postmaster at Ewing, Va. Office became presidential October 1, 1921.

Howard S. Estill to be postmaster at Roda, Va. Office became presidential October 1, 1921.

## WASHINGTON.

J. Frank Hall to be postmaster at Edwall, Wash. Office became presidential April 1, 1921.

John J. Kashevnikov to be postmaster at Cle Elum, Wash., in place of C. G. Thomas, deceased.

## WEST VIRGINIA.

William B. Wilson to be postmaster at Panther, W. Va. Office became presidential October 1, 1921.

Kenna W. Snedegar to be postmaster at Renick, W. Va. Office became presidential January 1, 1920.

## WISCONSIN.

Alvin J. Side to be postmaster at Benton, Wis., in place of J. V. Swift, deceased.

Charles Pearson to be postmaster at Lavallo, Wis., in place of S. A. Towne. Incumbent's commission expired July 10, 1920.

## CONFIRMATIONS.

*Executive nominations confirmed by the Senate November 15, 1921.*

## UNITED STATES CIRCUIT JUDGE.

Robert E. Lewis to be United States circuit judge, eighth circuit.

## SURVEYOR GENERAL OF OREGON.

Wesley W. Caviness to be surveyor general of Oregon.

## UNITED STATES ATTORNEYS.

Clint W. Hager to be United States attorney, northern district of Georgia.

G. P. Linville to be United States attorney, northern district of Iowa.

## RECEIVER OF PUBLIC MONEYS.

John A. Gilluly to be receiver of public moneys at Lewistown, Mont.

## POSTMASTERS.

## ALABAMA.

Jesse L. McKay, Faunsdale.

Thomas A. Carter, Grove Hill.

Mary J. Anthony, Guin.

Annie M. Stevenson, Notasulga.

## COLORADO.

Clyde L. Hackley, Brighton.

Clarence F. Wright, Lake City.

Ella B. Montgomery, Salida.

## CONNECTICUT.

Moses G. Marcy, Falls Village.

Florence C. Chapman, Montville.

Nellie A. Byrnes, Pomfret.

## DELAWARE.

Clarence T. Esham, Frankford.

Samuel J. Dennison, Yorklyn.

## KENTUCKY.

Anna M. Seaton, Buechel.

David Johnson, Clinton.

William H. Sergent, Jenkins.

## MAINE.

Fred A. Manter, Anson.

Ned I. Swan, Bryant Pond.

Julia E. Lufkin, Deer Isle.

Edna B. Walker, Kineo.

Percie D. Jordan, Lisbon.

Bertha D. Redonnet, Mount Vernon.

Ernest L. Bartlett, Thorndike.

Edgar J. Brown, Waterville.

Anna T. Pratt, Yarmouthville.

William F. Putnam, York Harbor.

## MASSACHUSETTS.

Hannah E. Pfeiffer, Bedford.

Thomas F. Lyons, Billerica.

William M. Knowles, Brewster.

Frank C. Damon, Danvers.

David N. Wixon, Dennis Port.

Frederick L. Smith, Haydenville.

Harry F. Zahn, Hingham Center.

Frank M. Reynolds, Jr., Nantasket Beach.

James B. Logan, North Wilbraham.

Raymond J. Gregory, Princeton.

Robert H. Lawrence, South Dartmouth.

N. Gertrude McDonald, Ward Hill.

Samuel Highley, Woburn.

## NEW JERSEY.

Joseph H. Long, Anglesea.

Herbert K. Ball, Barrington.

Raymond W. Losey, Blairstown.

James E. Vanderhoof, Denville.

Edith D. Wikoff, Fanwood.

Herman Kuhn, Montvale.

Walter E. Harbourt, Netcong.

Bertha A. Chittick, Old Bridge.

O. F. Ferree, Stoneharbor.

## NORTH CAROLINA.

Bettie Martin, Biscoe.

James B. Houser, Cherryville.

## OHIO.

James E. Nutt, Beaver.

Elmore J. Phares, Camden.

Horace B. Ramey, Centerburg.

Stuart N. Austin, Chardon.

Anthony W. Abele, Ironton.

Lucina Byers, Poland.

Peter Mallendick, Whitehouse.

Frank B. James, Willard.

Edson C. Nichols, Willoughby.

## PENNSYLVANIA.

Mary W. Ritner, Bruin.

Mary E. Hendricks, Creekside.

Caspar A. Miller, Foxburg.

James J. Neil, Sligo.

Alvin L. Wenzel, Webster.

Jennie Sutton, Worthington.

## UTAH.

M. L. Harrison, Castlegate.

## HOUSE OF REPRESENTATIVES.

*TUESDAY, November 15, 1921.*

The House met at 12 o'clock noon, and was called to order by the Speaker.

The Chaplain, Rev. James Shera Montgomery, D. D., offered the following prayer:

O Lord, we would say our Father, and this is the name that unites us all. Through Thy providence the gate of high privilege is still open. May we not enter it alone, but be Thou with us. As the hours are big with duty, O may they be rich with results. Thou who canst hear the falling of a tear and the whisper of a breath, be in all our hearts as a sweet blessing, a rich grace, and as a fadeless blossom. Let Thy kingdom come throughout the earth, and may all oppression, all cruelties, and all things perverse and evil pass away, and may the sun of righteousness, with healing in his wings, fill the skies of the world. Through Jesus Christ our Lord. Amen.

The Journal of the proceedings of yesterday was read and approved.

## PERSONAL PRIVILEGE.

Mr. LAYTON rose.

The SPEAKER pro tempore (Mr. WALSH). For what purpose does the gentleman from Delaware rise?

Mr. LAYTON. I rise to a question of personal privilege. Yesterday, in the course of a rather heated debate on the bill to create a clinic in connection with the juvenile court, I asked of the chairman, who had charge of the bill, the privilege to ask a question. He yielded, and I made the remark to him, "The life of the Nation has been going on for 150 years." Mr. UNDERHILL replied: "It may have been going on for 150 years, but there is no reason why it should not go on for 150 years more, unless some mean, low-down, contemptible, trifling individual wants to stand upon the question of personal liberty when it affects my child, your child, and the children of the people of this District and of the whole country."

Now, Mr. Speaker, I want to understand whether or not, I having the floor and having just asked a question, the chairman of that committee applied those terms to me. That is what I want to know.

Mr. UNDERHILL. No.

The SPEAKER pro tempore. The gentleman, in the view of the Chair, does not raise a question of personal privilege.

Mr. UNDERHILL. Decidedly no.

## PRINTING ADDRESSES OF THE PRESIDENT AND SECRETARY OF STATE.

Mr. JOHNSON of Washington. Mr. Speaker, I ask unanimous consent for the present consideration of the resolution which I send to the Clerk's desk.

The SPEAKER pro tempore. The gentleman from Washington asks unanimous consent for the present consideration of the resolution which he sends to the Clerk's desk. The Clerk will report it.

The Clerk read as follows:

## Resolution.

*Resolved*, That 53,000 copies of Senate document 77, Sixty-seventh Congress, first session, being the addresses of the President of the United States and of the Secretary of State, delivered before the Conference on the Limitation of Armaments on November 12, 1921, be printed for the use of the House of Representatives.

The SPEAKER pro tempore. Is there objection to the present consideration of the resolution?

Mr. GARRETT of Tennessee. Mr. Speaker, reserving the right to object, I take it that, of course, there will be many public utterances at the conference that will be of great public interest. I have not heard from the conference this morning in any direct way, but I have no doubt that there have been utterances there this morning of public interest. I would like to ask, if I may, if thought has been given to what policy is to be pursued generally with regard to the publication by the Congress of the proceedings of the Conference for the Limitation of Armaments? Is it the thought of the committee that we shall every few days publish—

Mr. JOHNSON of Washington. Mr. Speaker, if I may make a very brief statement, I will say that the chairman of the Committee on Printing is away to-day and I am acting as the vice chairman. In the little talks we have had we have expressed personal views, not as a committee, and have rather felt that it should not be the duty of Congress to attempt to print or carry along in print the proceedings. In time they will be officially published, I assume. In this resolution we are asking for a limited publication of the first two speeches by the President and the Secretary of State.

The reason why I adopt the form of procedure of asking unanimous consent instead of calling up H. Res. 223, introduced by me and reported by the Printing Committee, is that the Senate yesterday, by unanimous consent, on the request of Senator LODGE, ordered these addresses printed as a Senate document. That causes the printing of a limited number, and if the House had acted first it would be the same as to numbers, 1,316 copies, distributed as follows: Three hundred and sixty to the House document room, 240 to the Senate document room, 475 to the libraries throughout the country that are depositories, 10 to the Congressional Library, and a few other minor distributions. That is the distribution for all House and Senate documents. The Senate having acted first, under the law the Public Printer is barred from duplication. Therefore all we can do is to ask for a reprint or additional print of the Senate document. The number that this resolution calls for—53,000—will cost \$326.48, and will distribute to each Member about one hundred and sixty-odd copies. Members desiring additional copies may buy them at about \$6 a thousand.

The gentleman from South Carolina [Mr. STEVENSON], a member of the committee, agrees that the document should be

printed, and the committee rather thought that the number ordered was too small, but it is sufficient, however, to let each Member send out about 160 copies, which will come to him through the folding room.

Mr. GARRETT of Tennessee. If the gentleman will indulge me, I have no very well-defined views, perhaps, but I have what might be called a hazy sort of a feeling that as a matter of propriety, as well as for other reasons, Congress ought to be very careful about the printing of the proceedings of the conference.

Mr. JOHNSON of Washington. I agree with the gentleman.

Mr. GARRETT of Tennessee. I think that it should apply not only to the matter of printing speeches or utterances as documents, but I think it should apply to the insertion of speeches in the RECORD that may be made at that conference. I have no objection to printing the speech of the President of the United States and the Secretary of State in the RECORD of yesterday, and I do not propose to object to printing these as a document at this time. But I hope that this will not be regarded as a precedent whereby, without very full consideration on the part of the proper committee or committees of the House, there will be requests for printing the proceedings of the Disarmament Conference either in the RECORD or as a document.

The SPEAKER pro tempore. Is there objection?

Mr. GARRETT of Tennessee. I believe the gentleman from Washington assured us yesterday that the form in which this resolution is presented requires the distribution to be made through the folding room.

Mr. JOHNSON of Washington. Yes.

The SPEAKER pro tempore. Is there objection?

There was no objection.

The resolution was agreed to.

## MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. Craven, its Chief Clerk, announced that the Senate had passed bills of the following titles, in which the concurrence of the House of Representatives was requested:

S. 167. An act for the relief of John H. Rheinlander;

S. 2492. An act to amend an act entitled "An act making appropriations for the support of the Army for the fiscal year ending June 30, 1922, and for other purposes";

S. J. Res. 120. Joint resolution providing funds for carrying into effect the provisions of Public, No. 28, Sixty-seventh Congress, approved June 30, 1921;

S. 2210. An act for the relief of Lucy Paradis;

S. 2312. An act to authorize the leasing for mining purposes of unallotted lands on the Fort Peck and Blackfeet Indian Reservations in the State of Montana;

S. 2439. An act for the relief of the West Okanogan irrigation district in the State of Washington;

S. 225. An act for the relief of settlers and town-site occupants of certain lands in the Pyramid Lake Indian Reservation, Nev.;

S. J. Res. 124. Joint resolution to amend Senate joint resolution 89, approved March 14, 1912, amending the joint resolution to prohibit the exports of coal and other material used in war from any seaport of the United States, approved April 22, 1898;

S. 2532. An act extending the time within which allotments may be made in the Crow Reservation, Mont.; and

S. J. Res. 118. Joint resolution authorizing the Secretary of War to obligate funds appropriated for the support of the Army for the fiscal year ending June 30, 1921, to the amount of \$236,095 from unexpended balances now in the Treasury.

The message also announced that the Senate had passed without amendment bills of the following titles:

H. R. 7051. An act to authorize the Secretary of the Interior to execute deeds of reconveyance for certain lands in the city of Mount Pleasant, Isabella County, Mich.;

H. R. 8442. An act to amend an act entitled "An act to authorize the President of the United States to locate, construct, and operate railroads in the Territory of Alaska, and for other purposes";

H. R. 8298. An act to amend section 1044 of the Revised Statutes of the United States relating to limitations in criminal cases.

The message also announced that the Senate had passed with amendments bill of the following title, in which the concurrence of the House of Representatives was requested:

H. R. 7108. An act authorizing a per capita payment to the Chippewa Indians of Minnesota from their tribal funds held in trust by the United States.



## SENATE BILLS AND JOINT RESOLUTIONS REFERRED.

Under clause 2 of Rule XXIV, Senate bills and joint resolutions were taken from the Speaker's table and referred to their appropriate committees as indicated below:

S. 167. An act for the relief of John H. Rheinlander; to the Committee on Claims.

S. 225. An act for the relief of settlers and town-site occupants of certain lands in the Pyramid Lake Indian Reservation, Nev.; to the Committee on Indian Affairs.

S. 2210. An act for the relief of Lucy Paradis; to the Committee on Claims.

S. 2312. An act to authorize the leasing for mining purposes of unallotted lands on the Fort Peck and Blackfeet Indian Reservations in the State of Montana; to the Committee on Indian Affairs.

S. 2439. An act for the relief of the West Okanogan irrigation district in the State of Washington; to the Committee on Indian Affairs.

S. 2492. An act to amend an act entitled "An act making appropriations for the support of the Army for the fiscal year ending June 30, 1922, and for other purposes," approved June 30, 1921; to the Committee on Military Affairs.

S. 2532. An act for extending the time within which allotments may be made in the Crow Reservation, Mont.; to the Committee on Indian Affairs.

S. J. Res. 118. Joint resolution authorizing the Secretary of War to obligate funds appropriated for the support of the Army for the fiscal year ending June 30, 1921, to the amount of \$236,095 from unexpended balances now in the Treasury; to the Committee on Appropriations.

S. J. Res. 120. Joint resolution providing funds for carrying into effect the provisions of Public, No. 28, Sixty-seventh Congress, approved June 30, 1921; to the Committee on Appropriations.

S. J. Res. 124. Joint resolution to amend joint resolution 89, approved March 14, 1912, amending the joint resolution to prohibit the export of coal and other material used in war from any seaport of the United States, approved April 22, 1898; to the Committee on Foreign Commerce.

## CHIPPEWA INDIANS.

Mr. STEENERSON. Mr. Speaker, I call up from the Speaker's desk, under Rule XXIV, the bill H. R. 7108, with a Senate amendment, not required to be considered in Committee of the Whole, and I move to concur in the Senate amendment. The Senate amendment provides that before any payment is made hereunder to the Chippewa Indians, Minnesota, they shall in such manner as may be prescribed by the Secretary of the Interior ratify and approve the act and accept the same.

The SPEAKER pro tempore. The gentleman from Minnesota calls up from the Speaker's desk the bill H. R. 7108, with a Senate amendment, which the Clerk will report.

The Clerk read as follows:

H. R. 7108. An act authorizing a per capita payment to the Chippewa Indians, Minnesota, from their tribal funds held in trust by the United States.

The Senate amendment was read.

Mr. SNYDER. Will the gentleman yield?

Mr. STEENERSON. I yield.

Mr. SNYDER. Mr. Speaker, I desire to say that the Committee on Indian Affairs had a meeting this morning, with a quorum present, and instructed the gentleman from South Dakota [Mr. JOHNSON] to ask the House to concur in the Senate amendment and pass the bill. The gentleman from South Dakota not being present at the moment, I make the request.

The SPEAKER pro tempore. The question is on agreeing to the Senate amendment.

The Senate amendment was agreed to.

## EXTENSION OF REMARKS.

Mr. HILL. Mr. Speaker, I ask unanimous consent to extend my own remarks in the RECORD on the subject of limitation of armament.

The SPEAKER pro tempore. The gentleman from Maryland asks unanimous consent to extend his remarks in the RECORD in the manner indicated. Is there objection?

There was no objection.

## THE RECLASSIFICATION BILL.

Mr. CAMPBELL of Kansas. Mr. Speaker, I submit a privileged resolution from the Committee on Rules.

The Clerk read as follows:

Resolved, That immediately upon the adoption of this resolution it shall be in order to move that the House resolve itself into Committee of the Whole House on the state of the Union for the considera-

tion of the bill H. R. 8928, being a bill to provide for the classification of civilian positions within the District of Columbia and in the field service.

Mr. CAMPBELL of Kansas. Mr. Speaker, the resolution simply makes in order, on the adoption of the resolution, the right to move that the House resolve itself into Committee of the Whole House on the state of Union for the consideration of this bill. It is a matter that has had a good deal of attention from Members of Congress. The committee has considered the bill and is ready to have the House act upon it. I ask for a vote on the resolution.

The SPEAKER pro tempore. The question is on agreeing to the resolution.

The resolution was agreed to.

Mr. LEHLBACH. Mr. Speaker, I move that the House resolve itself into Committee of the Whole House on the state of the Union for the consideration of the bill H. R. 8928, and pending that I would like to see if an agreement as to the time may be reached for general debate.

Mr. BLACK. Mr. Speaker, I suggest about three hours as the correct time for general debate, one-half to be controlled by the minority side.

Mr. LEHLBACH. There have been very few requests for time on this side. I do not know what the gentleman from Texas may have had, but it occurs to me that an hour on a side would be ample.

Mr. BLACK. I will say that I have not had many requests, but this is really a very important bill, and it involves a considerable change in the classification of civil employees. For that and for other reasons I thought that we should have at least three hours. If we do not use it we can go on with the bill.

Mr. LEHLBACH. Mr. Speaker, I ask unanimous consent that general debate on the bill 8928 be limited to three hours, one-half to be controlled by the gentleman from Texas [Mr. BLACK] and one-half by myself.

The SPEAKER pro tempore. Pending the motion, the gentleman from New Jersey asks unanimous consent that general debate be limited to three hours, one-half to be controlled by the gentleman from Texas [Mr. BLACK] and one-half by the gentleman from New Jersey [Mr. LEHLBACH]. Is there objection?

There was no objection.

The motion of Mr. LEHLBACH was then agreed to.

Accordingly the House resolved itself into Committee of the Whole House on the state of the Union, with Mr. SANDERS of Indiana in the chair.

The Clerk reported the title of the bill.

Mr. LEHLBACH. Mr. Chairman, I ask unanimous consent that the first reading of the bill be dispensed with.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. LEHLBACH. Mr. Chairman, the question of classifying the personnel of the employees of the Government has been considered from time to time for the last 20 years. The question was taken up in the administrations of Presidents Roosevelt and Taft, and a commission was appointed by President Taft to consider the question, which it did, and made a report, which, however, was never acted upon in the form of legislation.

The situation in the Government service is substantially this. There are about 1,200 different kinds of jobs in the Government service. These are carried in the estimates at the present time under 2,000 different titles. There are in certain instances six or eight different titles which apparently have no relation to each other, but which in fact describe people holding positions wherein they do identical work. We have salaries paid for certain kinds of work which vary in the different departments. That is to say, we pay a different rate of salary for work in one department than for identical work in another department. It is impossible to give an intelligent idea of what the personnel in a bureau and a division are engaged in by studying the estimates for clerical and other personal service for that division or bureau. The need of uniformity, the need of definiteness, the need of equalization in pay have been undisputed. Congress recognized this fact, and in March, 1919, adopted an act which provided that a joint commission be appointed to settle the question of reclassifying the civil service of the Government, which commission was composed of three Senators and three Members of the House. This commission made its report on the 12th of March, 1920. That report in the House was referred to the Committee on Reform in the Civil Service. That committee from that time until it made its report a few days ago has been giving careful consideration and exhaustive study to the report of the commission, to the proposed bill which the commission submitted, to various suggestions and such data and

information as it could gather from the different sources within the Government service, and has from time to time considered tentatively these drafts of bills until finally they have agreed upon House bill 8928, which is now before the House for consideration.

There is now under way, in charge of a commission, a plan for the reorganization of the departments to prevent duplication of work by divisions and bureaus in different departments, for the coordination of work that is done by such different bureaus and divisions, and for collecting them logically under the appropriate departments and eliminating the overlapping of the same work in more than one department. This work of reorganizing the departments would be incomplete without this complement, namely, the work of reorganizing the personnel within those divisions and bureaus when they have been properly gathered in homogeneous departments. The bill provides for such reclassification and provides for equalization of compensation by means of uniform compensation schedules appropriate for the grade and character of work described, but the chief reason for the legislation, the main object sought to be attained by the bill, is making uniform the classifications, the positions, and the equalizing of the pay. However, exact compensation schedules, exact salary ranges, are a detail which is of greatly less importance than the necessity for the scheme of reclassification and putting that into effect for the sake of creating order out of the present chaos in the civil service.

Mr. SNYDER. Mr. Chairman, will the gentleman yield?

Mr. LEHLBACH. Yes.

Mr. SNYDER. Can the gentleman state to the House whether or not if this bill should become a law it would increase or decrease the number of employees in the Government service and whether it will increase or decrease the amount paid to them?

Mr. LEHLBACH. I think the tendency unquestionably will be to substantially decrease the actual number of employees in the Government service. In respect to the pay, of course much depends upon the manner in which the various positions are allocated to the grades described in the bill, but if all employees were graded at substantially the grading which they now have, regardless of the fact whether they did work commensurate with the grading they now have, and if all employees were retained and conditions were not improved by reason of resulting efficiency in the reorganization of the departments, there would be an increase, due to the fact that certain positions are grossly underpaid at the present time, which the House and various committees understand. There would be an increase under such circumstances which the Assistant Director of the Budget has estimated at not to exceed 3 per cent.

Mr. SNYDER. That is a fair answer to my question, but what I had in mind was this: There seems to be such a pressing movement on the part of Government employees to have this bill enacted into law that I thought it must mean that there would be a considerable increase in the salaries by reason of this reclassification. While it would be an unfortunate thing not to have this reclassification go through, yet at this time I think we should consider carefully the question of whether or not it is going to put a greater burden upon the public.

Mr. LEHLBACH. I think that interest is most pronounced among those who hold responsible positions in the civil service, men of scientific and professional attainments, men who do that kind of work, men who take an intelligent interest in the civil service and its efficiency, men who are active in the higher branches of the civil service, rather than among the rank and file of ordinary employees.

The interest of this class is based on the fact, I think, that this bill will provide equality and justice in so far as that is humanly possible, and will also provide opportunity for advancement based on merit, and will in these respects, as well as in other respects, reform, reorganize, and make a rational working organization of the present haphazard, thrown-together civil service which the Government must rely on for its work at this time.

Mr. STAFFORD. Mr. Chairman, will the gentleman yield?

Mr. LEHLBACH. Yes.

Mr. STAFFORD. Has the gentleman any information as to the total increases in salaries by grades that are provided for in the bill which he reports to the House?

Mr. LEHLBACH. By the very nature of things it is impossible to draw up a table showing such increases, because, in the first place, until the employees in the various departments are assigned to the appropriate grades which their work justifies, there is no telling how many in each grade will be in the Government service or in the service of any department. Furthermore, after such allocations are made it is entirely the province of the Committee on Appropriations of the House to determine how many employees of a certain grade are justified in a divi-

sion or bureau, and it makes no difference how many would be tentatively allocated to that grade or are now employed, it would be what was appropriated for that would be paid for.

Mr. STAFFORD. Will the gentleman yield further?

Mr. LEHLBACH. Yes.

Mr. STAFFORD. Take, for instance, the Bureau of Standards, along the line just suggested by the gentleman. We are paying associate physicists in the Bureau of Standards to-day a salary of \$2,000 to \$2,700 a year. Under the proposed bill, in some instances, we will be paying double the salary. The work of the Bureau of Standards has to go on. When you fix the salary as provided by this bill it is without the jurisdiction of the Committee on Appropriations to cut down the number of positions. That work has to go on. Here we have on pages 10 and 11, under the professional class:

Grade 4, which may be referred to as the full professional grade, shall include all classes of positions in this service the duties of which are to perform independent and highly expert professional work, or to be responsible for the administration of a minor division of a large organization, or a major division of a small organization doing such work.

The annual rates of compensation for classes of positions in this grade shall be \$4,140, \$4,440, \$4,740, and \$5,040.

Now, will the gentleman permit further—

Mr. LEHLBACH. If the gentleman will, please, he said associate physicists are now paid \$2,700 and would be paid a salary double, and then he reads the salary fixed for, say, the Chief of the Bureau of Chemistry of the Department of Agriculture. An associate physicist who is now getting \$2,700 will in all probability be in the grade receiving a minimum of \$2,340, \$2,520, \$2,700, and a maximum of \$2,820.

Mr. STAFFORD. Will the gentleman permit further? Let us take the proposed grade, grade 3, and see whether by that phraseology he would come under the category of an associate physicist:

Grade 3, which may be referred to as the associate professional grade, shall include all classes of positions in this service the duties of which are to perform independently or with a small number of subordinates in the junior or assistant professional grade, or with other subordinates, responsible professional work requiring extended training and considerable successful previous experience.

Now, I take it that designation would cover an associate physicist.

Mr. LEHLBACH. Some of them undoubtedly—

Mr. STAFFORD. And the salaries that are provided here are \$3,120, \$3,360, \$3,600, and \$3,840, where to-day we are paying these men \$2,700, which is the maximum. Thirty-one at \$2,700, six at \$2,500, four at \$2,200, and seven at \$2,000. Permit me further—I do not want to encroach upon the gentleman's time, but I would like to have a full presentation of the idea of the gentleman—here we are increasing the salary more than \$1,000, and the gentleman says it will rest with the Committee on Appropriations to curtail the number. The Committee on Appropriations is helpless to curtail the number. That work has to go on, and will go on, at the new salaries provided by this classification.

Mr. LEHLBACH. Of course, the gentleman's question—I assume it is a question, and therefore presume to answer—is predicated on the premise that we are raising salaries \$1,000, but nothing he has said, nothing he has read justified such an assumption. I would like—

Mr. STAFFORD. If the gentleman will permit, I desire to get a clear idea. I have read the bill; does the gentleman mean to say the Committee on Appropriations would have the privilege to reduce the amount carried in these respective grades as provided in the bill?

Mr. LEHLBACH. They would not reduce the amount, but they could certainly limit the number of employees in the various grades that would be provided for in any division or bureau.

The CHAIRMAN. The gentleman from New Jersey has consumed 15 minutes.

Mr. LEHLBACH. Now, if I may just briefly outline the administrative provisions of the bill. The bill that was recommended by the Joint Commission on Reclassification, as I said, in 1920 was accompanied by a report, which was in fact a catalogue or a dictionary, if you please, of all the positions in the Federal service, and embraced in that catalogue or dictionary about 1,700 different positions and prescribed salaries for each one of those positions, and the method of enacting this catalogue of positions into law was by reference in the act.

The report was filed and the accompanying bill said that the report shall be known as the classification of 1920, and is hereby enacted into law. Thus the provisions relating to the classification itself would not be laid before the House, would not be read, would not be considered, or be subject to amendment. It was not deemed feasible to ask the Congress to legislate in that



manner. An attempt was made to reduce the classification within such limits that it could itself be incorporated in the bill and passed upon by the Congress. This was done in the bill (H. R. 15225) of the last Congress, but upon further study of the question—and I will say that the suggestion was first incorporated in the bill introduced by Representative Wood of Indiana in this House—instead of making a classification of positions, it was deemed desirable to make the classification one of broad grades, into which the classes in a given service, such as the professional service, the clerical service, the institutional service, and the custodial service, would be divided. Each such service would be divided into six or seven grades, according to the qualifications, requirements, and character of the work which in each grade was described in general language, and that plan has been followed in this bill. This bill provides in the second section for the necessary definitions.

Now, in the third section it excepts from the classification as here outlined—

Mr. STEVENSON. Mr. Chairman, will the gentleman yield? Before passing from section 2—I may be a little hard of understanding—lines 10 to 14 on page 2 read:

The term "position" means a specific civilian office or employment, whether occupied or vacant, in a department other than offices or employments in the Postal Service and teachers under the Board of Education of the District of Columbia.

Does it mean that the teachers are excluded, or is the position of a teacher a position—

Mr. LEHLBACH. It is not a position such as is meant here, because the Postal Service and teachers are already classified.

Mr. STEVENSON. The teachers are classified?

Mr. LEHLBACH. They are classified, as well as the Postal Service. When we say this applies to all positions except Postal Service and the District of Columbia teachers, it lets them out.

Mr. ROSSDALE. I would like to say that the so-called classification in the Postal Service does not relate to any kind of a classification like this, because there is really no classification in the Postal Service.

Mr. LEHLBACH. It was really a revision of the pay roll. That was all it amounted to. But everybody agreed it was a wise thing not to disturb the arrangement, which seemed to be satisfactory both to the department and Congress and employees.

Mr. ROSSDALE. Might I interrupt the gentleman one moment to ask the reason for the limitation to the District of Columbia?

Mr. LEHLBACH. Why, because there exists at the present time only data as to the employees in the District, how many there are, the character of the work, and the nature of the work, and consequently the classification could only be made to embrace those concerning whom the information existed. If you do not know what people in the field are doing, you can not very well describe their work in a classification. There is a provision in this bill to extend these provisions to the field service as promptly as possible. This classification is not a haphazard proposition. It is based on precise information and consequently it is limited to those concerning whom the information is in hand.

Mr. ROSSDALE. I am not hostile to this bill, but very favorable to it, but I would like to ask, taking it on the assumption that it is a good thing for the department service in the District of Columbia, would it not naturally follow it was a good thing in the field?

Mr. LEHLBACH. If the gentleman will permit me, I have not made any progress yet, and I will fully answer the gentleman in regard to the field service when I come to that provision in the bill.

Section 12 of the bill is the reclassification with the appropriate range of salaries for each grade in each service, and the bill provides that the head of each department shall assign those in his employ to their appropriate grade in the service to which they belong. To let the allocation, in the first instance, be made by an outside agency would be useless labor, because it would have to acquaint itself with the work of every employee, which is already within the knowledge of the head of the department and his subordinates. They make the allocation. That is subject to revision and review and ultimate approval by the Bureau of the Budget. It is by making proper allocation that inequalities are prevented from being made in the department, exorbitant or unjustified salaries from being paid, and equality throughout the service is assured. But in view of the fact that the allocations in a large measure control the expense of the new classification, your committee was unwilling to intrust any governmental agency other than that which is directly responsible for the administrative expenditures—the Bureau of the

Budget—with final responsibility for the allocations. It is given large general powers with regard to the compensation schedules and the allocation of positions which may be unique, and which are not assignable to any existing grade, and may also divide the existing salary grades into divisions wherein may be placed positions for which no higher salary may be paid than the specific work justifies, though the specific position may fall in a grade wherein the salary range is higher than the salary range ought to be for this specific position.

Now, with regard to the salary ranges and the possibility of increase in salary of employees: It does not mean that an employee who starts at the beginning of a grade automatically or annually goes to the next higher salary rate. He does not go to the next higher salary rate if his work is simply sufficient and satisfactory.

A system of efficiency ratings based on uniform rules, principles, and methods is provided for, and an employee could only receive an increase in salary if he reaches a standard of efficiency set for the granting of such an increase. There is a standard of efficiency set which a man must attain in order to remain stationary in his position, a standard of efficiency set which if a man does not reach he is demoted or dismissed from the service, and demotion or dismissal from the service is made mandatory on the department heads by this bill in every instance where the employee does not maintain the standard so fixed.

As regards extending this system to the field, the Bureau of the Budget is ordered to make a report on schedules of positions, grades, and salaries for the field service which will follow the principles and rules of the compensation schedules in so far as they are applicable to the field service. This report shall include a list prepared by the head of each department allocating all of the field positions in his department to their appropriate grades in said schedules and fixing the proposed rate of compensation of each employee thereunder. That means that after this bill becomes a law, at the next session of Congress the Bureau of the Budget reports a similar classification of the field service, which, however, does not automatically go into law, but is reported to Congress, and will then be subject to the scrutiny and to whatever action Congress may see fit to take upon it. In the original classification employees in the recognized trades and crafts and skilled laborers were included and salaries and rates of wages were fixed at that time at the then prevailing rate of wages. Now, that that is a poor plan is shown by the fact that in this original joint commission classification, having been made 18 months ago, there were fixed rates of wages for skilled crafts and labor decidedly in excess of the prevailing rates in those trades now. The Government, in its departments where large numbers of these mechanics or tradesmen are employed, does not have a fixed statutory wage rate. They have various wage boards which from time to time adjust wages in accordance with prevailing rates in the industries generally, and these wage boards have at times increased salaries, and recently have in certain instances decreased them.

The wage board system is not disturbed by the classification, but is adhered to and is extended to all this class of employees—to skilled trades and to skilled laborer classes.

Mr. DUNBAR. Mr. Chairman, will the gentleman yield?

Mr. LEHLBACH. Yes.

Mr. DUNBAR. In the compensation for classes provided in this bill have they been estimated with a view to eliminating the bonus of \$240?

Mr. LEHLBACH. Oh, surely.

The time is limited. I have tried to answer such questions as have been asked from time to time. I may have not given the subject as exhaustive a review as it merits, but I shall be glad to supplement what I have said if anyone wishes to ask a question.

Mr. RAMSEYER. Mr. Chairman, will the gentleman yield?

Mr. LEHLBACH. Yes.

Mr. RAMSEYER. There are no amendments in this bill to the retirement bill? You are not dealing with that at all?

Mr. LEHLBACH. No. In the bill recommended by the Joint Classification Commission various other matters of reform in civil-service affairs were included, such as providing for appeals in cases of discipline involving dismissal, and possibly provisions for leave of absence and sick leave, and other questions dealing with much-needed and desirable improvements in the service but which have no direct connection with the reclassification of the service; and your committee thought it wise in considering the subject and in reporting a bill to confine ourselves entirely to this subject and to eliminate other matters, no matter how desirable their consideration at the proper time might be.

Mr. STAFFORD. Mr. Chairman, will the gentleman yield?

Mr. LEHLBACH. Yes.

Mr. STAFFORD. Can the gentleman state the amount of increase in the police and fire department forces as carried in the bill?

Mr. LEHLBACH. The initial salary in the salary ranges is, I think, in every instance below what is actually being paid the police and fire departments at the present time, but in view of the fact that there is a range of salary provided and a system of obtaining promotion the bill provides that where an employee is receiving a salary at a given salary rate within the grade in which he falls, he should remain undisturbed in his salary. If he is receiving a salary within the range, but not at a rate fixed in the bill, he should obtain the salary at the next higher rate, and that involves in a good many instances in the fire and police departments a slight increase, varying from \$20 to \$30 per man, and which in the police force would amount to \$19,000 and in the fire department something less than \$10,000. But anticipating that there might be objection to this, and in view of the fact that there was no intention on the part of the proponents of this bill to make present increases in the police and fire departments of the District, I have drawn a series of amendments which will include the rates of salary within the range of salaries of the police and fire departments, which will insure the fact that there will be no increase whatever.

Mr. STAFFORD. Mr. Chairman, will the gentleman yield further?

Mr. LEHLBACH. Yes.

Mr. STAFFORD. Will the gentleman inform the committee whether in determining the basis of arriving at the salary scale the committee took into consideration the present salary plus the bonus, or whether they eliminated entirely the bonus now being paid, for instance, in the clerical positions of the Government?

Mr. LEHLBACH. In the first place, the compensation schedules are not permanently based upon existing salaries paid by the Government. You could not do that. Where you have persons doing the same kind of work, receiving varying from \$1,000 to \$2,100, you can not base salaries for all doing such work, but for purposes of comparison between the present salaries and proposed salaries in the compensation schedule the bonus is included.

Mr. STAFFORD. Is any increased percentage allowed in addition to the present salary and bonus?

Mr. LEHLBACH. Wherever, in certain instances, increases are justified, they have been made. There are classes of positions in which by reason of coming peculiarly in contact with certain classes of the public, like the Patent Office, it was made manifest to everyone that there was a very gross underpayment. That has been sought to be cured by special legislation.

Mr. STAFFORD. I am referring generally to the clerical positions. Has there been an increase in the pay in addition to what they are now receiving, including the bonus?

Mr. LEHLBACH. There is no substantial increase in clerical service at all, but increases come in the positions where scientific and professional attainments are necessary, and where the turnover is constantly hampering the functioning of Government departments, where we have 100 or 150 per cent turnover every two or three years because of the grossly inadequate salaries paid. Any increase resulting from this bill will not be a uniform increase, but will go to those who admittedly are not getting enough at the present time.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. The gentleman from Texas [Mr. BLACK] is recognized.

Mr. BLACK. Mr. Chairman, the gentleman from New Jersey [Mr. LEHLBACH] has explained a great many of the provisions of this bill, and I shall endeavor not to duplicate the explanation which he has made. However, there are some sections of the bill to which I want to give some attention. All of us who were Members of the House when the World War began and when the cost of living began to soar, remember that an appeal was made, and very properly made, upon Congress to increase these salaries. The answer was made, and made on good ground, that there were so many thousand employees in the Government service and that their duties were so diverse that it was impossible to take up and undertake in a short while to reclassify their salaries and adjust the differences in pay, and that all that could be done at that time, when the pressure on Congress was so great for more important business, was to make a general horizontal increase of \$240 for each employee, and by that method undertake to give some relief from the very real burdens of the high cost of living.

Mr. DUNBAR. Mr. Chairman, will the gentleman yield?

Mr. BLACK. Yes; I shall be glad to yield.

Mr. DUNBAR. The \$240 bonus did not apply to Government officials receiving over \$2,500 a year?

Mr. BLACK. That is correct. The higher paid employees, those that are in the more technical services, and the supervisory officials in the Government departments, and positions of that kind, were in many cases not affected by the \$240 bonus.

I may also add for the sake of accuracy that the first bonus or horizontal increase, which is a more proper designation, was only \$120 per year and was only increased to \$240 per annum after the general cost of living had taken a very substantial rise.

Naturally, in a flat increase of this kind represented by the so-called bonus, some employees received it who were not entitled to any increase at all and others were entitled to receive a good deal more than they got, in view of the salaries then prevailing in outside industries. But that result could not be avoided in dealing with so many thousands of employees and without the time to make a comprehensive review of the whole subject. Congress, after adopting this horizontal plan as a temporary measure, appointed a reclassification commission to investigate the whole subject and report its findings and recommendations to Congress. This commission was appointed at the time the Democratic Party was in control of the House, and Speaker Clark appointed Mr. Keating, of Colorado; Mr. Hamlin, of Missouri; and the gentleman from Wisconsin [Mr. COOPER] as members of the commission. After a very exhaustive and comprehensive investigation of the subject the commission submitted its report, which makes a very voluminous document, something over 800 or 900 pages. It goes into a very detailed analysis of all these Government positions, giving outlines of their several duties, compensation received, and other related matters, and suggests a plan of reclassification.

After this report on reclassification was submitted to Congress, bills were introduced which undertook to follow the plan suggested by the commission. These bills were so voluminous, so much in detail, undertook to split up the positions in so many numerous divisions and classes, that when our committee came to consider the subject and to report a bill to Congress it was decided to abandon the plan of such great detail and to simplify the matter in every possible way, and the result of these efforts is the present bill, which, after being amended in several respects, was introduced by the chairman of the committee [Mr. LEHLBACH]. It divides up the different positions into a limited number of classified services, and then splits up the different services into grades which take into consideration the responsibility and the knowledge and skill and labor required for the different duties of the position.

Mr. BOX. Will the gentleman yield?

Mr. BLACK. I will be glad to.

Mr. BOX. As I understand from reading some of the provisions of the bill and hearing the remarks of the gentleman up to this time, the allocation of groups of men and employees to certain classes, and the salaries dependent on such allocation is primarily fixed by those having the employees in charge—that is to say, the heads of the departments.

Mr. BLACK. That is true, with a certain very important qualification which I will discuss presently.

Mr. BOX. That means in effect that the actual working of the bill depends on the manner of its administration.

Mr. BLACK. Yes; that would necessarily be true of any reclassification bill that Congress might pass. I do not see how it could be administered in any other intelligent manner. Naturally the heads of departments must have something to do with allocating employees.

Mr. BOX. In view of the fact that the almost uniform attitude of heads of departments, the bureau itself, and others who will do the allocating, is opposed to economy and in favor of a large expenditure, on what does my colleague base the hope that this will result in economy?

Mr. BLACK. I am glad to give the gentleman an answer to his question. Assuming that the premise of our committee is correct—to wit, that the only way to get a fair division of the Government services and to stop the favoritism and discrimination among employees is to enact a law requiring a careful and fair classification of all Government employees—then our bill should promote efficiency and economy. Of course, if that premise is not correct and it is better to pursue a "haphazard skip and jump" method of dealing with the employees, then perhaps no legislation at all would be desirable. But it seems to me to be a matter beyond dispute that if we are to have order and system in the Government service that we must have a yardstick to measure with. Congress passes laws. We know we can not administer them; that is beyond our province. We



do not have the facilities to do it even if it were desirable, and we must necessarily trust the administration of laws to some one, and of course one of the most important inquiries and subjects of investigation in connection with this bill which the committee had was, Who is best to administer the law? We had witnesses before us in the hearings who advocated that the Civil Service Commission in the first instance should make the allocations. Personally I did not think that the Civil Service Commission was a body that ought to undertake to administer the law. Its function is to prescribe the examinations necessary to enable qualified employees to get on the eligible list for appointment and not to perform the work of allocating them to their respective positions.

There was another suggestion to the effect that the heads of the departments make such allocations in the first instance and then put the work up to the Civil Service Commission for their approval. Our committee did not like that any better than we did the first suggestion. The logical thing to us seemed to be to lodge this power with the Bureau of the Budget, which is responsible to Congress and to the country for the submission of estimates of expenditures and which stands as the right arm of the President in accounting to the country for policies of economy. There was a suggestion that we allow the Bureau of the Budget to do this reclassification of positions in the original instance. But the committee on investigation decided that the bureau would necessarily have to refer the matter to the heads of the departments who were familiar with the duties of their several employees and with their qualifications to perform them, and so we decided that the best system was to allow the heads of these executive departments to tentatively allocate all of the employees in their departments to the proper grades provided for in this bill and after such allocation submit the work to the Bureau of the Budget subject to its right to revise and correct the allocations in any manner that it should decide to be proper. It seems to me that we will come as near securing uniformity, equality, and justice, not only to the employees but to the public, in that manner as in any way I can think of.

Mr. ANDREWS of Nebraska. Will the gentleman yield?

Mr. BLACK. Certainly.

Mr. ANDREWS of Nebraska. Will this bill fix definite salaries for each position in the service?

Mr. BLACK. Yes, it will; because if any particular position in the Government service does not come strictly within the definitions of services in the bill, then the Bureau of the Budget is given the power to classify that position in the same class as another position which the bureau regards as similar and akin to it.

Mr. ANDREWS of Nebraska. Another question. Would that classification make it impossible for the head of an office or bureau in charge of a lump-sum appropriation to increase the compensation fixed by the bill for any individual or person?

Mr. BLACK. Yes. The head of a department would not be permitted to change any of these allocations—and to allocate a man means to place him in the position where he belongs—without the approval of the Bureau of the Budget.

Mr. ANDREWS of Nebraska. Then, if I understand the gentleman correctly, the bill would result in substantially a fixed statutory salary for each position in the service.

Mr. BLACK. That should be the result, and I think it will be the result if it is properly administered. I see no reason why it should not be. One of the complaints which we have often heard is that in lump-sum appropriations there have been instances of extravagance, favoritism, and waste. The purpose of this bill is to do away with it and place an employee in the salary grade where he properly belongs.

Mr. ANDREWS of Nebraska. That is a very important feature running through this matter of classification.

Mr. BLACK. I agree with the gentleman.

Mr. MOORE of Virginia. Mr. Chairman, will the gentleman yield?

Mr. BLACK. Yes.

Mr. MOORE of Virginia. In line with the inquiry made by the gentleman's colleague, I want to ask whether section 9 contemplates that the Civil Service Commission shall fix the standards that are to be observed by the heads of departments in making their allocations. Is the duty of fixing the standards intrusted to the Civil Service Commission?

Mr. BLACK. If I understand the inquiry which the gentleman has in mind, I may say in reply that the Civil Service Commission at the outset will not have anything to do with these allocations because they now have no system of efficiency ratings in the departments, or if they do they have no uniform ratings. It may be that some departments have systems of efficiency rating; but if so, such system is not under the control of the Civil Service Commission.

What this bill contemplates is that after the allocations are made, and are approved by the Bureau of the Budget, and the employees go into their several positions, then in the future their promotions, their demotions, their separations from the service for inefficiency shall depend upon their records, a copy of which will be found in the office of the Civil Service Commission and in the several departments.

Mr. MOORE of Virginia. I understand, then, from what the gentleman says, that after these allocations are made by the heads of the departments, subsequently the Civil Service Commission is to have something to do with establishing standards that will govern changes.

Mr. BLACK. That is true. It is to keep a complete efficiency record of each and every employee in the Government service, covered by the provisions of this bill.

Mr. MOORE of Virginia. Why would it not have been well to authorize the Civil Service Commission in a general way to have prescribed the standards that shall be observed by the heads of the departments in making the original allocations?

Mr. BLACK. I shall be glad to give the gentleman my opinion upon that for whatever it is worth. I believe that such a plan would have presented an almost impossible task. It would really have involved an examination of each and every employee because the Civil Service Commission now has no efficiency ratings of the employees. It might be that it could have been done by establishing a time limit in which a uniform system of ratings should be observed by the departments and later on making the allocations from the information furnished by such efficiency ratings, but that was a plan which the committee did not consider, and I would not be prepared to say that it is feasible.

Mr. SISSON. Mr. Chairman, will the gentleman yield?

Mr. BLACK. Yes.

Mr. SISSON. I desire to ask two or three questions. The first question I ask is, What increase will this make in the expenditures for salaries, as a whole?

Mr. BLACK. That is a very difficult question to answer, inasmuch as the expenditures will depend of course upon the correctness of the allocations by the Bureau of the Budget. I will say this to the gentleman, however, that the chairman of the committee [Mr. LEHLBACH] has submitted this bill to the different heads of the departments for their tentative allocations, and his estimate is that the increase over present expenditures for salaries will be about 5 per cent, including the bonus, now being paid. My own judgment is that if employees who are not needed are dropped from the pay rolls when this reclassification is made, savings enough will be made to prevent any increase in expenditures at all.

Mr. SISSON. I do not know whether that is true or not, and I do not know whether anybody knows whether it is true or not. I do not know whether Mr. LEHLBACH does, but I do not believe any expert can tell.

Mr. BLACK. If we should have an inflated allocation, if the law should be inefficiently and badly administered, of course it would cost a great deal more money than we are now spending for the same purpose. But if the allocations are correctly made and the law is administered with exactness and without favoritism then I do not think there should be any increase, but rather a saving.

Mr. SISSON. I feel the gentleman is perfectly fair with the House and always fair with himself. I have great respect for not only the gentleman's capacity, but for his intellectual integrity in that I believe that he does not ever try to fool himself, and that is the trouble with most of us. Following up that question let me ask this. Take professional services on page 8 of the bill, going down to nearly the bottom of page 11. The positions begin with rather small salaries, as in grade 1, \$1,800 up to \$2,160, but when we get down to grade 6 the salaries run from \$6,000 and up, and as high as \$7,200, unless specifically fixed higher by law.

In the allocation of that grade it is within the province, as I have read the bill, of whoever shall allocate these professional services to put a maximum number of employees under grade 6. If that be true, then their salaries in the aggregate will be enormous. In the clerical service they begin at a reasonably low grade, No. 1 being \$1,080 to \$1,260, but over here in grade 7 we find for clerical service that it goes from \$4,320 to \$5,280. I take those two typical classes, because there are a great many that under the definition of professional services will be included. Of course, the greater number of civil-service employees will be under the clerical force. What I am asking is, if the power to allocate is absolutely fixed in any one Government institution, then Congress will have nothing to do with the amount of money appropriated, and it will depend entirely, will it not, on what these people do who allocate to these grades?

Mr. BLACK. I believe I can give the gentleman a satisfactory answer to his question. Theoretically the gentleman has mentioned a feature of the bill which I admit may be open to criticism. The power to allocate would be almost the power to destroy the Public Treasury, if we assume that it will be flagrantly and shamefully abused. But there is one feature in the bill which I think destroys that possibility and makes it perfectly safe for Congress to enact this law, and that is this: Every allocation made by a head of a department before it becomes effective must be approved by the Bureau of the Budget. If it does not approve the allocation, it revises it and says how it ought to be made.

Now, the very purpose of the creation of the Bureau of the Budget was to bring about economy in Government expenditure, and surely we do not have any justification for assuming that it will venture off on a riotous rampage of extravagance in making these allocations.

Another safeguard which the bill provides is found in the concluding section of the bill, which provides that the Bureau of the Budget shall submit its estimates upon these classifications to the next regular session of the Congress after the passage of the law. Now, that will be for the fiscal year beginning July 1, 1923.

Mr. LEHLBACH. Will the gentleman yield?

Mr. BLACK. In just a moment. If Mr. Dawes, in the event he is still Director of the Budget, submits to us at that time estimates which the Committee on Appropriations says are out of all line with our past expenditures for these objects, then, of course, Congress can and no doubt will remedy the situation at once by repealing or amending the law. In other words, we are retaining control of the situation as I view it.

Mr. LEHLBACH. Will the gentleman yield?

Mr. BLACK. I will.

Mr. LEHLBACH. I want to suggest, if the gentleman will permit me, how the Committee on Appropriations and through it the House, may control the allocation. Suppose a division has 20 clerks, which it has estimated for, and they are graded and allocated. Suppose 17 of them by reason of their grading do supervisory work and the remainder are doing ordinary clerical work. The Committee on Appropriations would immediately say, "You can not have 17 men to supervise 3 clerks. We will give you 2 supervisors and 18 clerks."

Mr. Sisson. Unless the estimate is made giving us all that information—and I do not know of anything in this bill that provides for the giving of it—we will never have that light. Here is what I am afraid of, and that is the reason that I am asking these questions of the gentleman from Texas, for whose ability I have great respect, and that is this: Whether or not you have not put it within the power—I have not studied the bill closely enough to know—of the people in a department having the power to classify the power to fix a claim against the Government by fixing the salary.

Now, if that is true, then if they allocate the salary and we give the power for them to do it, and the Government fails to appropriate sufficient money to pay that salary, unless there is some clause in this bill that cares for that situation, the general statute which provides that appropriations shall be made to cover the salaries of these particular employees might be actually repealed either by implication or directly by the passing of this act. If that is true, Congress has lost the power to control if it can not control the allocation.

Mr. BLACK. Let me answer the gentleman very frankly. I admit that the only way we could avoid a situation like that which the gentleman from Mississippi depicts, if it should actually arise, would be if Congress was of the opinion that the Bureau of the Budget had made extravagant allocations and had abused its power, then repeal the reclassification law and appropriate upon the old basis, because this law, so far as appropriations go, does not go into effect until July 1, 1923. That would give us plenty of time to deal with the possible situation which the gentleman from Mississippi mentions.

Mr. Sisson. I hope the gentleman is right about that.

Mr. BLACK. I will admit that if the Bureau of the Budget should make these allocations to the several positions under this law, it would be binding upon the Government unless repealed prior to the date when the bill is to become effective.

Mr. Sisson. Let me give a specific illustration, and I think I am not far wrong, and, if so, I will ask Mr. Wood of Indiana, who has been with me on this committee for some time, to correct me. For instance, the secretaries of the Cabinet officers get about \$2,500 a year now. Which grade would they fall under here?

Mr. WOOD of Indiana. The \$4,000 grade.

Mr. Sisson. I think that is true.

Mr. WOOD of Indiana. I will say this to the gentleman—

Mr. BLACK. The private secretary to a Cabinet officer would come under grade 6. The annual compensation for classes of positions in this grade are fixed in the bill at \$3,300, \$3,540, \$3,780, and \$4,020. The entrance grade would be \$3,300.

Mr. Sisson. I want to give a specific case. My recollection is that the salary of secretary of a Cabinet officer is about \$2,500, is that right?

Mr. WOOD of Indiana. It is \$2,500, and this provides that he shall be included within the grade named, which includes private secretaries to members of the Cabinet or the heads of the largest independent establishments, and range from \$3,300 to \$4,020.

Mr. Sisson. That is my opinion from a cursory examination of the bill, that the illustration is a fair illustration of what is to happen through the bill. You have got a bill here where the salary will be increased from \$2,500, something like 60 per cent.

Mr. BLACK. No. The gentleman is extravagant in his estimate of increases.

Mr. PADGETT. If the gentleman will yield in that same connection—

Mr. BLACK. Let me answer.

Mr. PADGETT. Just in connection with that. Is it not a fact the bill altogether makes permanent the \$240 bonus? Does it not make permanent the \$240 bonus in all cases?

Mr. BLACK. No; if the gentleman will permit, I will say that the bill does not do that.

Mr. PADGETT. How does it exempt any case. This act provides that the compensation means the salary plus the bonus, and then it provides that if one does not exactly fit into the graduations that are given in section 9, that they shall be put into one next higher. So that includes the bonus and the salary.

Mr. BLACK. Let me answer these questions with entire frankness. I will say to the gentleman from Tennessee that I think the result of the allocations under the bill will be in most cases to continue their basic salary under the old law, plus the bonus, or horizontal increase of \$240 per annum, which was given by Congress during the war, but it will not be necessarily true in all cases. Now, the bill as originally recommended to the committee by the so-called experts—and I do not say that in any disrespectful sense—would have continued every salary in the Government service without reduction, regardless of whether the employee was earning that salary or not, but we unanimously rejected that plan.

The committee took the position that if, in the investigation of conditions pursuant to the enforcement of this law, the Bureau of the Budget finds a certain employee receiving a salary out of all proportion to what he is entitled to receive, then the bureau shall put him into the particular grade where he properly belongs, and if it is necessary to reduce his salary to do this, then it shall be done. In other words, the purpose of this bill is to land every Government employee in the grade where he belongs, whether to do so carries him up or down. If that purpose is not accomplished, then the fault will not be with the law but with its enforcement.

Mr. PADGETT. I notice that the statement says that the allocation was left with the heads of the several departments.

Mr. BLACK. Subject to the approval and revision of the Bureau of the Budget.

Mr. PADGETT. But it adds that the revision that is contemplated there is only a recommendation. The Bureau of the Budget can not itself fix the salary or the allocation. They can recommend to the heads of the bureaus what it should be, but the report states that it is left with the head of the bureau.

Mr. BLACK. I do not agree with the gentleman, but if we have erred in that respect, we will amend it.

Mr. PADGETT. I was reading what is in the report.

Mr. BLACK. But let me say to the gentleman, and see if he does not agree with me, that the bill provides that the head of a department in the original instance shall make the allocation, but such allocation in order to be effective must be approved by the Bureau of the Budget. Suppose the head of the department sends to the Bureau of the Budget an inflated allocation and the Director of the Bureau declines to approve it, the bill says he may revise and correct it. I submit I do not know of any stronger language we could write to accomplish the purpose which the committee had in view, but if there is any doubt about it, of course the committee wants the Bureau of the Budget—

Mr. PADGETT. Will the gentleman yield further?

Mr. LEHLBACH. I want to suggest to the gentleman from Tennessee that the language in the report to which he makes reference is, "These allocations, however, are subject to revision."



sion by the Bureau of the Budget." Wait a moment. The gentleman did not read it all. It says:

and shall become effective only upon their approval by said bureau. The Bureau of the Budget, in order effectively to revise and approve allocations, is given reasonable latitude to make necessary adjustments, but may not substantially amend the grades or alter the salary ranges.

Mr. BLACK. That is the law of Congress.

Mr. LEHLBACH. Will the gentleman yield? In the range of salaries the Budget Bureau may make subdivisions, rules, and regulations for the guidance of the department heads in making the allocation. That limitation "may not substantially amend the grades" means they may not amend the law that we passed.

Mr. BLACK. I am glad the gentleman called my attention to that particular provision. The bill as originally written I did not think properly safeguarded that feature enough, and so we provided that the Bureau of the Budget should have no power to change these grades, but only make such rules and regulations not inconsistent with the provisions of the bill as were necessary to carry out the provisions of the act. We did not want to give the Bureau of the Budget any power to change these grades or these ranges of compensation. That is a legislative function of Congress, and we certainly did not delegate any of it to the Bureau of the Budget.

Mr. PADGETT. It says:

And your committee was unwilling to intrust to any other agency of the Government than the one directly responsible for administrative expenditures the final review of the work of applying the classification.

That is carrying out the idea I suggested, that the final classification was left to the head of the bureau.

Mr. BLACK. Now, I am going to read the gentleman the law itself, and then he will find that even though the report—

Mr. PADGETT. I wanted to see what it meant.

Mr. BLACK. I am glad you have asked the question. I want to read to the House the particular provision which I think upon hearing read they will agree with me goes as far as we need go to safeguard the matter of these allocations. Page 3, line 12, says:

The head of each department shall allocate all positions in his department in the District of Columbia to their appropriate grades in the compensation schedules, and shall fix a rate of compensation of each employee thereunder, in accordance with the rules prescribed in section 6 herein.

That is the section to which I referred a while ago. It says further:

Such allocations and rates of compensation may be revised by the Bureau of the Budget and shall become effective upon their approval by said bureau.

Mr. MOORE of Virginia. Ought you not to say "shall be revised"?

Mr. KINCHELOE. Mr. Chairman, will the gentleman yield?

Mr. BLACK. I will say this to the gentleman, and I am sure I say it with the approval of the gentleman from New Jersey [Mr. LEHLBACH], that if it is found that stronger and more certain language can be used to make it sure that the allocations of heads of departments shall be subject to correction and revision by the Bureau of the Budget, then, of course, we will amend the language.

Mr. Chairman, how much time have I used?

The CHAIRMAN. The gentleman has used 42 minutes.

Mr. BLACK. I will answer one more question, and then I must conclude.

Mr. KINCHELOE. Mr. Chairman, will the gentleman yield?

Mr. BLACK. Yes.

Mr. KINCHELOE. The gentleman stated that the effect of this bill, generally speaking, would be an increase of the basic salary and the bonus. I wanted to ask the gentleman what effect, if any, this bill will have upon the salaries of the secretaries of Members of Congress?

Mr. BLACK. None at all. It does not affect anything but the executive departments.

Now let me say a few words in conclusion, because I must not use too much of the time, because some other Member from my side of the House might want to speak on the bill. I want to say one word with reference to the bonus, or \$240 per annum increase which was given to Government employees during the war. The bonus was really an increase in salary. It was improperly, I think, termed a bonus. I never have like the word "bonus," because it is not descriptive of what was done. It was not a gift which we made to employees, but a salary increase, which, in view of the increase in the cost of living and wages and salaries prevailing in other employments, was very reasonable.

Now let me call the attention of the House to the fact that in June, 1920, we passed by a unanimous vote a bill that reclassi-

fied the entire Postal Service, embracing more than 250,000 employees. Under the old law which was in force prior to the war the basic salary, for instance, of a letter carrier in class 2 was \$800. Class 2 had really taken the place of class 1, because class 1 was originally \$600, and that was so low that—

Mr. ROSSDALE. Does the gentleman mean city letter carriers?

Mr. BLACK. Yes. Class 2, where the basic salary was \$800.

Mr. ROSSDALE. The gentleman is mistaken.

Mr. BLACK. I was on the committee, and I think I know what I am talking about.

Mr. ROSSDALE. It has not been \$800 in 20 years.

Mr. BLACK. The gentleman from Wisconsin [Mr. STAFFORD] was a member of the Committee on the Post Office and Post Roads, and I am sure he will agree with the correctness of the statement which I have just made.

Mr. STAFFORD. What was the question?

Mr. BLACK. I said that before the first Madden reclassification bill was enacted that the basic salary of letter carriers and postal clerks in grade 2 was \$800, and ranged up to \$1,200 in grade 6.

Mr. STAFFORD. The gentleman is correct.

Mr. BLACK. Certainly I am correct. Now, what did Congress do with reference to these postal salaries? After enacting several temporary measures—I was referring to the old basic law that was in existence and in effect when the war began—after having passed several temporary measures, last year, June, 1920, we passed a postal reclassification bill which raised grade 1 to \$1,400, and we now have five grades in the Postal Service of letter carriers and postal clerks: Grade 1 at \$1,400; grade 2 at \$1,500; grade 3 at \$1,600; grade 4 at \$1,700; and grade 5 at \$1,800; and gentlemen can see that we increased the salary \$600 from the initial grade of \$800 to what is now the initial grade of \$1,400.

Mr. WILLIAMSON. Mr. Chairman, will the gentleman yield?

Mr. BLACK. In a moment. And not only that, but the basic salary of rural carriers for a standard route of 24 miles was \$1,200, and we increased that to \$1,800.

The postal reclassification bill passed this House by a unanimous vote, and so far as I know, it has received the general approval of the country. In my judgment, taking this reclassification bill as a whole, the salary increases are not any greater in proportion than those in the postal reclassification bill, and in my judgment they are not as great. There may be, and probably are, instances where they will be greater. There are certainly instances where they will be much less in proportion; and, taking the bill as a whole, I am quite sure that the percentage increases will not be as great as was provided in the postal reclassification bill.

Mr. WILLIAMSON. Mr. Chairman, will the gentleman yield?

Mr. BLACK. Yes; I yield.

Mr. WILLIAMSON. The general question I want to ask is, About what is the average increase over the present amount, including the bonus?

Mr. BLACK. That can not possibly be determined, as I stated, until the allocations are made by the heads of departments and approved by the Director of the Budget. But the chairman of the committee [Mr. LEHLBACH] submitted this bill to the heads of departments for tentative allocations, and he states that in figuring up the expenditures based upon these tentative reports it will increase the total pay roll for this same number of employees 5 per cent more than it now is, which would include the basic salary and the bonus.

Mr. DUNBAR. Mr. Chairman, will the gentleman yield?

Mr. BLACK. Yes; and then I must conclude.

Mr. DUNBAR. After the allocations are made by the heads of bureaus and approved by the Bureau of the Budget, can those allocations afterwards be changed?

Mr. BLACK. Yes; they are subject to be revised and changed at any time, except—

Mr. DUNBAR. By whom would they be revised and changed?

Mr. BLACK. We will say, for example, that an employee is placed in a certain grade in the clerical force. The gentleman wants to know whether, if the head of the department should decide that the employee was improperly allocated, he can demote him. Is that the purpose of the gentleman's question?

Mr. DUNBAR. I would like for the gentleman to answer that question.

Mr. BLACK. What I was about to say was that the employee, in order to be demoted, must be demoted according to his efficiency rating, which efficiency ratings will begin immediately after this law goes into effect and will be on file with the Civil Service Commission.

Mr. DUNBAR. Then, on the other hand, if a clerk is allocated to a particular class and is found to be deficient, the class to which this clerk belonged could not receive a different allocation? In other words, if that class received a salary of \$2,000 a year, that class could not afterwards be paid \$1,800 a year?

Mr. BLACK. No; Congress itself, if the bill passes, fixes the grades and the compensation that goes with the different grades. Of course, the allocation of any particular employee to a specific grade will be an administrative feature which Congress could not exercise and never has attempted to exercise.

Mr. DUNBAR. If Congress fixes the salary of a clerk at \$2,000 next year can the next Congress increase it or decrease it?

Mr. BLACK. Congress could amend a law at any time in any particular, but the law itself will govern the range of salaries in the future, until amended.

Mr. BRIGGS. Will the gentleman yield?

Mr. BLACK. I will yield to the gentleman.

Mr. BRIGGS. Will the gentleman explain just how the efficiency of employees is to be determined and through what agency? How is the Bureau of the Budget going to fix it? Are they going to delegate it to some irresponsible official that Congress does not come in contact with and have a report made back to the bureau and adopt that?

Mr. BLACK. The Bureau of the Budget does not in any way handle the efficiency rating of the employee. That will be handled by the heads of the departments subject to revision by the Civil Service Commission. The heads of departments must work out the efficiency ratings in harmony with the Civil Service Commission.

Mr. BRIGGS. Is there any rule prescribed for determining that fact?

Mr. BLACK. No; it would be utterly impossible for Congress to do that for all the varied employees; it would be impossible to lay down rules for efficiency which would go into such great detail as would be necessary. That is one of the things which must be left to administration.

Mr. BRIGGS. Is there any court of appeal by which an employee whose efficiency has been rated down could have his case reviewed?

Mr. BLACK. There is not at the present time any board of appeals. There is a bill on the calendar providing for such a board of appeals. If after the passage of this bill the head of a department undertakes to dismiss an employee for inefficiency, such dismissal must be subject to the approval of the Civil Service Commission.

Mr. BRIGGS. Does the employee have a hearing on that or can he be removed from the service without a hearing?

Mr. BLACK. I assume that the Civil Service Commission would not give approval without being satisfied that the employee's record was such as to justify his removal. In other words, that the employee will be given full opportunity to be heard.

Mr. BRIGGS. And there is no board of appeal?

Mr. BLACK. No. We considered the Civil Service Commission a sufficient board of appeal.

Mr. HUDSPETH. Will the gentleman yield?

Mr. BLACK. I yield to the gentleman for a question.

Mr. HUDSPETH. I would like to ask my colleague if in this bill they fix a minimum salary?

Mr. BLACK. No; we do not attempt to make a minimum wage law at all; we fix the range of salaries beginning at a fixed sum and ranging to a higher sum, but we have undertaken to do that not with a view of complying with any minimum wage agitation but with an endeavor to fix a compensation in fair proportion to the work done.

Mr. PARKS of Arkansas. Will the gentleman yield?

Mr. BLACK. I will.

Mr. PARKS of Arkansas. What is the probable maximum amount to be paid under this bill as it is now drawn? You have a range from a minimum to a maximum, and I will take the maximum.

Mr. BLACK. Perhaps the gentleman was not in the Hall when I answered a similar inquiry of the gentleman from Mississippi [Mr. Sisson]. Of course, if the Bureau of the Budget should approve an erroneous and inflated allocation, the bill would cost a great deal more than the present expenditure; but if the work is well done, it seems to me that there should be very little, if any, additional cost. Enough should be saved in dismissing unnecessary employees and in getting better work out of those who remain to more than make up for such increases in compensation as the bill provides.

Mr. Chairman, I reserve the balance of my time.

Mr. LEHLBACH. Mr. Chairman, I yield 10 minutes to the gentleman from Indiana [Mr. Wood].

Mr. WOOD of Indiana. Mr. Chairman, I ask not to be interrupted, for I have some very concrete propositions which I wish to submit for the consideration of this committee and in opposition to this measure. I regret that the membership of the House is not larger, because, in my opinion, this is the most important and far-reaching measure that will come before Congress, and if I am not mistaken, if the bill is carried out in its terms, it will increase the salaries and the expense of the Government more than \$8,000,000 a year.

Mr. STAFFORD. Mr. Chairman, in view of the importance of the subject, involving an aggregate expenditure, in my estimation, of \$10,000,000, if the bill passes, I make the point that no quorum is present.

The CHAIRMAN. The gentleman from Wisconsin makes the point that no quorum is present. The Chair will count. [After counting.] Fifty-eight Members present, not a quorum. The Doorkeeper will close the doors, the Sergeant at Arms will notify absent Members, and the Clerk will call the roll.

The Clerk called the roll, when the following Members failed to answer to their names:

Anderson	Fordney	Klecza	Porter
Andrew, Mass.	Frear	Knight	Rainey, Ala.
Ansorge	Freeman	Kopp	Rainey, Ill.
Anthony	French	Kreider	Riordan
Bacharach	Frthingham	Kunz	Roach
Bell	Funk	Lampert	Rogers
Bland, Ind.	Gahn	Langley	Rosenbloom
Bond	Gallivan	Lee, Calif.	Rucker
Brand	Garrett, Tex.	Lee, N. Y.	Sears
Brennan	Goldsbrough	Linthicum	Shelton
Britten	Gorman	Little	Siegel
Burke	Gould	Longworth	Slemp
Campbell, Kans.	Graham, Pa.	Luce	Snell
Cantrill	Greene, Vt.	Lyon	Snyder
Carter	Griest	McClintic	Stevenson
Chandler, N. Y.	Harrison	McKenzie	Stoll
Clarke, N. Y.	Haugen	McLaughlin, Pa.	Sullivan
Classon	Hawes	Maloney	Summers, Tex.
Cockran	Hawley	Mann	Tague
Connolly, Pa.	Hays	Mansfield	Taylor, Ark.
Cooper, Ohio	Herrick	Martin	Taylor, Colo.
Copley	Hill	Mead	Thompson
Crago	Houghton	Michelson	Tillman
Cullen	Hukriede	Michener	Tilson
Dale	Hull	Miller	Treadway
Denison	Husted	Moore, Ind.	Tyson
Drane	Jeffers, Nebr.	Morin	Underhill
Dunn	Johnson, Ky.	Mott	Upshaw
Edmonds	Johnson, Miss.	Mudd	Vare
Elliott	Johnson, S. Dak.	Nolan	Vestal
Elston	Jones, Tex.	O'Brien	Ward, N. Y.
Evans	Kahn	Oliver	Wason
Fairfield	Kelly, Pa.	Overstreet	Wheeler
Fenn	Kendall	Parker, N. J.	White, Me.
Fess	Kennedy	Parker, N. Y.	Williams
Fish	Kless	Parrish	Winslow
Fisher	Kincheloe	Patterson, N. J.	Wise
Fitzgerald	Kindred	Peterson	Woodyard
Flood	Kitchin	Peters	Wright

The committee rose; and Mr. WALSH, as Speaker pro tempore, having resumed the chair, Mr. SANDERS of Indiana, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee, having under consideration the bill H. R. 8928, and finding itself without a quorum, he had caused the roll to be called, when 276 Members answered to their names, a quorum, and he handed in a list of the absentees for printing in the journal.

The committee resumed its session.

Mr. WOOD of Indiana. Mr. Chairman, this bill prescribes a number of compensation schedules, establishing work classes and subclasses, each carrying a definite range of compensation. The head of each department is required to allocate the positions under his jurisdiction in the District of Columbia to these classes and to fix the compensation of his employees accordingly. The action of the department head, however, with respect to both the allocation of employees to grades and the fixing of rates of pay, requires the review and approval of the Bureau of the Budget before becoming effective. The first regular estimates to be submitted to Congress after the adoption of the legislation must conform, under the terms of the bill, to the compensation schedules prescribed; and the compensation schedules are to become effective on the first day of the fiscal year following the presentation of these estimates to Congress, and not before.

The compensation schedules are not to apply to field employees nor to skilled tradesmen in the District of Columbia. The pay of mechanics and other skilled laborers is to be fixed, and readjusted as may be necessary, by a new agency proposed in the bill, to be known as the Federal Wage Commission. For field services the Bureau of the Budget is required to submit special compensation schedules to Congress at the beginning of



the first regular session following the approval of the legislation, accompanied by lists prepared by the various department heads allocating all field employees to the grades prescribed in the schedules and fixing their proposed compensation.

Under the terms of the bill the Civil Service Commission is required to establish uniform systems of efficiency ratings throughout the departments, and to fix maximum and minimum ratings for the purpose of controlling promotions and demotions and dismissals from the service. Department heads are required to rate the efficiency of their employees in accordance with these systems. Promotions are to be given only to employees whose ratings reach the minimum limitation; they are to be allowed only once a year, and no one may be promoted more than one subclass at a time. Reductions in pay or dismissals from the service may be made by department heads, but only with the concurrence of the Civil Service Commission.

Thus the administration of the provisions of the bill is scattered among the following agencies: First, the heads of departments, who under the terms of the bill are stripped of virtually all their authority in personnel matters, but who are permitted tentatively to allocate their employees to grades and tentatively to fix their salaries; second, the Bureau of the Budget, which is required to approve the allocation of all positions to grades and the fixing of all rates of pay; third, the Civil Service Commission, which is to establish uniform systems of efficiency ratings, which is to fix minimum and maximum ratings for the purpose of governing promotions, demotions, and dismissals, and which is to control department heads in making reductions in pay and dismissals from the service; and fourth, a Federal wage commission, which is to fix the compensation of skilled tradesmen.

Here is the first serious objection to this legislation. No proper reclassification plan should be permitted to impair the authority of department heads over their personnel, for the department heads are responsible under the law for the work which the employees do. But this plan takes away from the responsible executive officers virtually all their authority over their employees. Not only that, but it divides this authority among three separate and distinct outside establishments, none of which is in any way responsible for the work done—the Bureau of the Budget, the Civil Service Commission, and a new Federal wage commission.

All of these agencies, one of which is of course not yet in existence, are wholly lacking in experience in administrative matters. They do not pretend to know anything about the question of fixing salaries or efficiency ratings or personnel management.

Take the Budget Bureau. The director of this bureau makes no secret of the fact that he does not want the job of reclassifying salaries. The Budget Bureau was established as a planning agency for the President—to assist the President in coordinating the work of the several executive departments and establishments. Its functions should be limited to the consideration of broad questions of fiscal policy and other similar matters such as the distribution of work among the different departments or the duplication of activities between different Federal agencies. Its principal business ought to be the construction of the annual work program for the executive branch of the Government, to be submitted to Congress for its consideration. Certainly, this was the intent of the budget and accounting act. But it is now proposed that the Bureau of the Budget shall take over an administrative duty—a stupendous piece of research work—a job that has no connection whatever with the functions which the bureau was established to perform. The Budget Bureau does not want this administrative job, and it could not handle it—even if it had the necessary force, which it has not—without greatly interfering with the more important work which it is required by law to do. Congress has in recent months been subjected to severe criticism for assigning two or more entirely unrelated functions to the same executive establishment. Why make a similar blunder now and give to the Bureau of the Budget this administrative function which is wholly without relation to its present statutory duties?

Virtually, the same argument applies to the Civil Service Commission. The function of the Civil Service Commission is to examine candidates for positions in the Government service and to certify successful candidates for appointment in the departments. The hands of the commission have heretofore been kept clear of dabbling in the administration of personnel matters; that is, the handling of matters affecting employees actually working in Government offices. The Civil Service Commission is an employment agency pure and simple, and if it is to be even reasonably effective as an employment agency we must see to it that it is given no duties that will interfere with its work of examining applicants for positions in the Government

service. The commission is wholly lacking in the force, the funds, and the experience which would be required by any agency expecting to make a success of the installation and supervision of efficiency rating systems in the departments. But more important than that, these new duties are not compatible with the commission's present work, and in all probability were Congress to make the blunder of giving it the job of supervising efficiency ratings in the executive departments, neither that job nor the commission's present work would be performed with the effectiveness which the public has a right to expect.

Now the proposed Federal wage commission. This is a new commission which we are proposing to add to the already long list of independent establishments of the Government. Evidently we have not enough boards, bureaus, commissions, and offices already in existence. We must keep piling up new agencies. Whenever we think of a new job which we should like to have done, instead of giving it to one of the 220 existing bureaus and offices, we create a new board or commission, adding more confusion to the already confused order of our executive departments and establishments. This proposed Federal wage commission can not be justified on any grounds whatsoever. If it is true that Congress is no longer intelligent enough or honest enough to fix the compensation of Government employees—if we must turn over to an irresponsible executive establishment the authority to determine the wages of skilled laborers employed in the various departments of the Government—we should at least make use of some of the machinery which has already been set up. What this Government needs is a reduction—not an increase—in the number of its executive agencies.

A few weeks ago the President issued an Executive order directing the Bureau of Efficiency to establish a uniform system of efficiency ratings in all executive departments and establishments in the District of Columbia. Under this order the head of each department and establishment has appointed a representative to cooperate with the Bureau of Efficiency in installing the system. The necessary regulations have been prepared, the system has been worked out in detail. It will be possible, I am told, to have the initial ratings made within the next few weeks. The Bureau of Efficiency has a force trained in the operation of efficiency rating systems. It designed the system now used in the Post Office Department and the State Department. It installed the system employed in the Loans and Currency Division of the Treasury Department, and in the office of the Register of the Treasury. It has put rating systems in every department that has shown any interest in rating systems. It has a force trained in this business, and in all other matters connected with personnel administration.

Under the provisions of this bill all the work done by the Bureau of Efficiency on efficiency-rating systems is to be scrapped. The duty of installing rating systems is to be given to the Civil Service Commission, which has neither training nor experience in work of this kind nor the force to carry it on. The President has selected the Bureau of Efficiency to handle efficiency ratings. He was doubtless influenced by the fact that the Bureau of Efficiency has been engaged successfully in these matters for almost nine years. This bill is in direct conflict with the President's expressed wishes and with his program for the immediate establishment of a rating system under the general supervision of an experienced organization.

What the proponents of this bill have apparently overlooked is that an adequate efficiency rating law is already in existence. I refer to the act of August 23, 1912, which, as amended by the act of February 28, 1916, requires the Bureau of Efficiency, when directed by the President, to install uniform efficiency ratings throughout the entire service in the District of Columbia. Every single thing that could be accomplished under the pending bill can be accomplished by this existing legislation. Through failure of the President to act, this legislation has lain practically dormant for a number of years, but President Harding has put life into it by his recent Executive order. A uniform efficiency-rating system will be in operation within a few months at the latest, under the superintendence of the Bureau of Efficiency, which not only has the experience and the force and the funds required to do the work but has also the active backing and support of the President. While on the subject of existing efficiency-rating legislation, I want to mention one point, at least, wherein the present law is distinctly superior to this bill which we are now considering. The act of August 23, 1912, as amended, requires that preference be given to honorably discharged ex-service men who have good ratings when reductions are being made in the force of any office. This provision is reiterated in the Executive order of October 24. Every ex-service man in the country will be resentful of any legislation designed to upset the present arrangement for efficiency ratings which fails to

protect discharged soldiers and sailors and to give them the preference to which they are entitled under existing law.

So far I have been speaking with more particular reference to the provisions of this bill relating to matters of administration—the transfer of administrative authority over employees from the heads of the various departments and establishments to the inexperienced Bureau of the Budget, to the untrained Civil Service Commission, and to this proposed new wage board; the transfer of the functions of standardizing departmental efficiency ratings from the Bureau of Efficiency to the Civil Service Commission, with the substitution of new law for provisions already on the statute books which are in fact superior to those which are proposed in this bill. I now want to take up the more important question of the reclassification itself. In the first place, when is it to become effective under this bill? Section 13 provides:

That the estimates of the expenditures and appropriations set forth in the budget transmitted by the President to Congress on the first day of the next ensuing regular session shall conform to the classification herein provided, and that the rates of salary in the compensation schedules shall not become effective until the first day of the fiscal year estimated for in such budget.

In plain terms, Mr. Chairman, section 13 means this: If we pass this bill, and it is accepted by the Senate and approved by the President within the next three weeks, it will be necessary for the Bureau of the Budget to revise completely the Book of Estimates so that all salary rates for Government employees in the District of Columbia will conform to the compensation schedule contained in this bill. This is the work of reclassification. The Book of Estimates contains usually something more than 1,000 printed pages. It must be presented to Congress on the 5th day of next month. Gen. Dawes is an able and an industrious man, and he has able and industrious assistants, but no group of men in the world could apply the classification schedules contained in this bill to the employees in the District of Columbia within the period now remaining before the budget is to be presented to Congress in December, and the Members advocating this bill know it. If this legislation is adopted and approved before December 5 next, we are legislating the impossible; we are making a joke of salary standardization in the Government service.

But suppose we pass this bill and it is approved after the budget for the fiscal year 1923 has been submitted on December 5 next. What then? Why, then, Mr. Chairman, under the provisions of this section 13 the budget, or the Book of Estimates, to be submitted on the first day of the following regular session—that is, the budget to be presented the first Monday in December, 1922—will be the first budget to conform to the classification provided in this bill, and under the provisions of section 13 the rates of pay in the proposed classification schedules will then not be effective until the 1st day of July, 1923.

Considering the size of the job to be done, the provisions of the bill relating to the field service are even more absurd. Section 5 provides:

That the Bureau of the Budget shall report to Congress at the beginning of the session following the passage of this act schedules of positions, grades, and salaries for the field services, which shall follow the principles and rules of the compensation schedules in so far as these are applicable to the field services. This report shall include a list prepared by the head of each department allocating all of the field positions in his department to their appropriate grades in said schedules and fixing the proposed rate of compensation of each employee thereunder in accordance with the rules prescribed in section 6 herein.

Suppose that this bill should become a law within the next few days. Is there any Member here so enthusiastic about the talents of the Budget Bureau that he believes that Gen. Dawes and his assistants and the heads of the executive departments could comply with these provisions before the 5th day of next month? The thing is impossible, Mr. Chairman, and the proponents of this legislation know it. As a matter of actual fact, this bill contemplates no positive action whatever on the question of reclassification until the regular session of Congress convening in December of next year. No reasonable person will assert that reclassification under this legislation, whether relating to employees in the District of Columbia or to employees in field services, could be made an accomplished fact before the fiscal year 1924; that is, before the 1st day of July, 1923.

What do the gentlemen mean? Are we to be called upon to appropriate the \$240 bonus for another year—with everyone marking time and waiting for the Bureau of the Budget and the Civil Service Commission and a new wage board to experiment with this reclassification business? Or, do the proponents of this measure expect to deprive the employees of their bonus—to require them to exist as best they can on their basic salaries for the next fiscal year? Mr. Chairman, I am absolutely and irreconcilably opposed to the continuation of the \$240 bonus

beyond the present fiscal year, and in this I believe that I am in agreement with the majority of the House. But at the same time I am in favor of a reclassification of Government salaries to be effective on the 1st day of next July, without any dodging and without any legislative phillandering whatsoever. I favor a reclassification by the heads of the departments, with only such outside supervision or intervention as is absolutely essential to the maintenance of uniform rates of pay between different offices.

I favor intrusting all these supervisory functions, which this bill would divide up among three inexperienced offices, to a single agency, an agency which for years has been cooperating with the departments in the establishment of efficiency rating systems, which for a considerable period has been engaged in the classification of employments throughout the service, and which has built up an adequate staff of specialists trained and experienced in these fields.

Mr. Chairman, on April 12, 1921, I introduced a bill to provide an equitable system for the valuation of the services of civil employees of the Government and making an appropriation of \$20,000,000, to be apportioned by the President during the fiscal year 1922—this present fiscal year—for the payment of the increases in the compensation of employees resulting from the operation of the system. This bill, like the bill now under consideration, contained so-called compensation schedules to be used as a basis for classifying the employees in all departments. Under these schedules the Bureau of Efficiency, in cooperation with the heads of all executive departments and establishments, has classified every Government position in the District of Columbia. This has involved a minute examination and appraisal of all positions. The Bureau of Efficiency has prepared statistical tabulations showing by offices what the classification would cost in increased compensation. These tabulations are now being brought up to date and revised to correspond with the Book of Estimates for the fiscal year 1923, so that the Committees on Appropriations and the two Houses of Congress when they consider the estimates will be in possession of information which will make it possible to reclassify the service in the District of Columbia, effective July 1 next. Not only that, the Bureau of Efficiency, with the cooperation of the heads of the departments, is making a similar classification of positions in field services, so that the salary adjustment may be applied also to Government employees outside the District of Columbia and at the same time. These are operations, Mr. Chairman, which have either been concluded or else are well under way. Mind you, I am not asking you to take up the bill which I introduced as a substitute for the measure now under consideration. The only legislation necessary to obtain the full benefit of the reclassification work which has already been done by the Bureau of Efficiency, with the cooperation of the heads of the departments, is legislation appropriating for the compensation of Federal employees on the basis of the appraisals made.

Legislation of this kind the Committees on Appropriations will have an adequate opportunity to consider, and there is every reason to believe that just as a uniform efficiency rating system is being worked out and installed without further general legislation, so can the reclassification of salaries be effected without general legislation of any character. More than that, under the present plan now going forward with the support of the President, reclassification can be made a certainty on the 1st day of next July, one full year earlier than is contemplated by the bill which we are now considering. I can not believe, Mr. Chairman, that it is the wish of this House that all the work done in the practical phases of reclassification by the Bureau of Efficiency and by the administrative officers in the departments be thrown aside, junked, scrapped. I can not believe that it is the desire of Congress to require the heads of the departments to begin again where they were a year ago—to turn at this late date to new and strange compensation schedules, and, under the instructions of inexperienced agencies, to undertake anew the immense task of allocating the positions under their jurisdiction to classification grades. I can not believe, Mr. Chairman, that this House will consent to the perpetuation of compensation schedules in permanent legislation without first ascertaining the aggregate amount of the annual pay roll increase which would follow such action. If we pass this bill we buy a pig in a poke. Until the Budget Bureau should submit its estimates a year from next December no one could tell the amount which Congress in adopting this legislation would be morally obligated to appropriate in salary increases throughout the service for the fiscal year 1924. The proponents of this bill may talk of the percentage of the increase in this department and in that department, but these percentages are mere guesses, which could be verified only by the actual application of the



classification, which the bill itself provides is to be done by the Bureau of the Budget after the compensation schedules have been indelibly written in the statute books.

Mr. Chairman, I am opposed on principle to the adoption of this bill. On principle I am opposed to the adoption of any measure which will result in the interruption and the abandonment of the work which has been done by the Bureau of Efficiency both in the matter of the reclassification and standardization of salaries and in the matter of efficiency ratings. But this bill seems to me to be particularly defective in detail, just as it is unsound in its fundamentals. For instance it purports to follow the principle of equal compensation for equal work. But, in the rules prescribed in section 6, I fail to find any provision for reducing the pay of an employee—and there are many such employees—who now receives a salary in excess of the maximum salary of the grade to which his position is allocated. Is this equal pay for equal work? We find provisions for increasing the compensation of the underpaid. Why the omission of any provision for reducing the wages of the overpaid? Again, we find that no employee—whatever the degree of his proficiency—can be promoted oftener than once each year; and further, that no employee may receive a promotion greater than to the salary rate next higher than his present salary. Does this conform with the principle speciously put forward that promotions are to be made strictly on the basis of merit? An effective efficiency rating system will disclose cases of employees whose work is of such a character as to entitle them to more rapid promotion than one small advance each year. This vicious provision, Mr. Chairman, would make it impossible to grant sufficient reward for unusually meritorious service to create the incentive that the Government must hold out to its employees if standards of output are to be raised in Government offices and the numbers of workers reduced.

I shall not abuse your patience to catalogue the imperfections of the so-called compensation schedules included in the bill. I can not, however, pass over this feature of the measure without offering the suggestion that each Member make it his business to study these schedules carefully and to conclude for himself whether or not the terms are sufficiently clear, and the classes and subclasses sufficiently definite, to make possible the accurate and certain classification of even the larger part of the employees in the service of the Government in the District of Columbia.

Consider for a moment the schedule applying to the "professional service." Consider the skill with which this schedule was drawn:

The professional service shall include all classes of positions the duties of which are to perform apprentice, routine, advisory, administrative, or research work which is based upon the established principles of, and which require training in, a recognized profession.

Well and good, you say; but listen:

Positions in the following callings, when requiring professional training equivalent to that represented by graduation from a college or university of recognized standing, shall be regarded as in the professional service: Accountancy, agricultural economics and marketing, architecture, astronomy, bacteriology, biology, chaplaincy, chemistry, child hygiene, civil-service examining, dentistry, dietetics, economics, education, engineering, forestry, geology, history, law, library science, mathematics, medicine, metallurgy, meteorology, patent examining, pathology, pharmacology, physics, political science, social economics, statistics, therapeutics, translating, and veterinary science.

In this, the highest paid of all services covered in the bill, we find strange yokemates—the learned and ancient profession of the law and library science, the medical profession and the profession of civil-service examining, engineering and the profession of social economics. The biologist ranks with the chaplain, the chemist with the dietist. And the specific mention of these callings is not to be construed to exclude other callings which are to an equal degree professional. Mr. Chairman, is this body expected to subscribe to the thesis that everyone who has a college degree is a professional man? Are we expected so to characterize every whippersnapper engaged in the pro-forma examination of income-tax returns in the Bureau of Internal Revenue, or each desk clerk in the public library, or every statistical clerk in the Census Office? Certain callings under the terms of this bill are recognized professions. But many others shall be regarded as professions, evidently for the purposes of this legislation only. The inclusion of these unrecognized professions—which we are asked temporarily to regard as professions—is a perfect illustration of the effrontery which characterizes the organization which is lending its support to this measure. If this House were to be a party to any such mockery, if it should consent to this classification of clerical and other routine positions requiring a modicum of specialized knowledge on the part of the incumbents, it would be deserving

of the scorn of every scientist and every bona fide technical and professional man in the country.

I wish to say in addition that this is the worst time of all times to pass a fast and fixed statutory reclassification measure, and that is exactly what this thing is. When it is once passed we are surrendering, except by repeal or amendment, our right through legislation or through the Committee on Appropriations to fix or modify these salaries at any time.

Mr. BLACK. Mr. Chairman, will the gentleman yield?

Mr. WOOD of Indiana. Yes.

Mr. BLACK. Speaking of the fact that this is an inopportune time to reclassify these Government employees, the gentleman recalls that in June, 1920, we passed a bill reclassifying all of the 250,000 postal employees, at a time when the cost of living was right at its peak, and, if I recall correctly, the gentleman supported the bill, as I did, and I think the bill passed unanimously in the House.

Mr. WOOD of Indiana. I admit that I did, but we did a great many things during the war, by reason of the abnormalcy of that situation, that we would not be justified in doing now. The fact is that we are far afield with reference to normalcy at the present time. There is not a man in this House who thinks as normally to-day as he did before the war. To illustrate by a concrete case, one of the prominent lawyers of Ohio told me that the greatest expert stenographer they have in the State of Ohio told him that men are now speaking faster on the witness stand by 15 per cent than they did before the war. Yet we are now undertaking to fix a statutory list of salaries, if this bill be passed; and those of you who have been here some time know how difficult it is ever to reduce a salary. It is quite another thing to increase it, but once having increased it we can never reduce it. At this one stroke, in my opinion, if we pass this bill, according to the experts who have been figuring upon it, we will increase immediately the expense of the salary list of the United States in this District by more than \$8,000,000, and if we include those in the field—200,000 in all—\$20,000,000. Therefore I say we should go slow in doing this thing. We should content ourselves by putting into force the Executive order of the President of the United States, who has asked every head of every department for an efficiency rating from his establishment, so that those might be promoted or receive additional salaries that are entitled to them, and whereby those who are now receiving excess salaries may be reduced. Through very little legislation attached to an appropriation bill a sufficient sum of money could be appropriated for these Departments so that with the present statutory salaries these people could be compensated for the still high rate of living until such time as we can write a reclassification bill, which, I admit, is badly needed, but one which does not surrender the right of Congress to some new board, one which does not surrender the right of Congress to the Civil Service Commission or the Bureau of the Budget or to this so-called wage-fixing board.

Here we are each day—perhaps not each day, but each week—creating some new bureau, adding new machinery with new expenditures. We are now considering a deficiency bill where we have the result of two bills which we passed during this Congress that many of us were led to believe would not incur much additional expense, that the machinery and personnel already established would take care of them. We find, however, they are to have a complete bureau, with a new chief, with an assistant chief, with a subchief, with new examiners, with fancy salaries going into the hundreds of thousands of dollars. Now, here is another new bureau provided for. There is no legislation of consequence passing this Congress any more but what provides for a bureau. Two hundred and fifty of these bureaus now legislating for and regulating the business and industries of the country. We no longer have a republican form of government. Ours, in fact, has degenerated or is rapidly degenerating into a bureaucratic government. [Applause.]

Mr. WILLIAMSON. Will the gentleman yield?

Mr. WOOD of Indiana. I will.

Mr. WILLIAMSON. I notice this proviso in the bill, and I read it for the purpose of the question:

Reductions in compensation and dismissals shall be made by heads of departments in all cases wherever the efficiency ratings warrant, as provided in section 9 herein, subject to the approval of the Civil Service Commission.

How will this provision effect the reduction of employees in the different departments?

Mr. WOOD of Indiana. It will not effect the reduction of employees in the departments, and under it, instead, the head of the bureau, who is responsible under the law and under the direction, if you please, of the President of the United States for its enforcement, is absolutely shorn of his authority. He can not take and dismiss anybody, no matter how well such

dismissal might be deserved, unless he secures the approval of the Civil Service Commission. What does that commission know about the conduct of an employee? He is not under their observation. Neither the Civil Service Commission nor any member of it has him under observation, but he is under the observation of the head of the department. He is in authority; he is responsible for his conduct. No business concern in this country would like to have a club held over them whereby some agent, far removed, clear outside the conduct of the business, could say whether or not a recalcitrant or an utterly inefficient employee shall be removed. It is unbusinesslike. There is no one with any business sense who will subscribe to that kind of doctrine for a minute. Aside from that, the Civil Service Commission is the last authority on earth that ought to have anything to do with determining whether the men are efficient or inefficient. [Applause.]

They are the ones who put these men in, and before they give a man employment that commission ought to inquire into the efficiency of that man through his examination, and it would be asking them in many cases to take and reverse their first judgment. [Applause.] So, gentlemen, as I said at the outset, this is the most important piece of legislation that will come before us. It is one that is most far-reaching in its effect, and if it is passed as it is written, this Congress is going to surrender the right that it has always jealously guarded, the right, if you please, of appropriating. You will have nothing to do with that business any more except to make the appropriation as submitted by these various departments. It is the last thing that the Congress ought to do—that is, to surrender its right to hold on to the purse strings of the Treasury of the United States. [Applause.]

Mr. Chairman, I have said all I desire to say on this subject. [Applause.]

During the delivery of the foregoing remarks the following occurred:

Mr. LEHLBACH. Mr. Chairman, I move that the committee do now rise.

The motion was agreed to.

Accordingly the committee rose; and Mr. WALSH having resumed the chair as Speaker pro tempore, Mr. SANDERS of Indiana, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill H. R. 8928 and had come to no resolution thereon.

Mr. LEHLBACH. Mr. Speaker, when by unanimous consent the time for general debate was fixed upon the pending measure, there were comparatively few requests on either side for time. It was not anticipated that as the debate progressed more such requests would be received. The bill is an important bill and is entitled to be thoroughly discussed. The committee welcomes the discussion. For that reason, in order that time may be accorded to those who are interested but who by reason of the limitation of time heretofore fixed are unable to be granted any, I ask unanimous consent that the time for general debate be extended for 30 minutes, one-half of that time to be controlled by the gentleman from Texas [Mr. BLACK] and one-half by myself.

The SPEAKER pro tempore. The gentleman from New Jersey asks unanimous consent that the time for general debate upon the bill H. R. 8928, in Committee of the Whole House on the state of the Union, be extended for 30 minutes, one-half of that time to be controlled by the gentleman from Texas [Mr. BLACK] and one-half by the gentleman from New Jersey. Is there objection?

Mr. CAMPBELL of Kansas. Mr. Speaker, reserving the right to object, I am sure that many Members of the House will join in the sentiment I am about to express, and that is that the gentleman from Indiana [Mr. Wood] should have an opportunity of concluding his remarks. Is it the intention of the gentleman from New Jersey to yield further time to the gentleman from Indiana out of this time now being added?

Mr. LEHLBACH. It was my intention to yield the gentleman further time, but in order to insure adequate discussion I shall change the request and make it 50 minutes instead of 30.

Mr. GARRETT of Tennessee. I suggest that the gentleman make it one hour.

Mr. LEHLBACH. Very well, I make it one hour.

The SPEAKER pro tempore. The gentleman from New Jersey withdraws the request previously submitted and asks unanimous consent that general debate upon the bill be extended for one hour, one-half to be controlled by the gentleman from Texas [Mr. BLACK] and one-half by the gentleman from New Jersey [Mr. LEHLBACH]. Is there objection?

Mr. CAMPBELL of Kansas. May 15 minutes of that time be yielded to the gentleman from Indiana to give him an opportunity to conclude his remarks?

Mr. LEHLBACH. I have requests for much more than 15 minutes which can not be granted now. Possibly the gentleman from Texas will help me out. I would be glad to yield the gentleman some time.

Mr. BLACK. I can not yield more than five minutes, but I should be very glad to do that.

Mr. LEHLBACH. How much more time does the gentleman from Indiana desire?

Mr. WOOD of Indiana. I think I can conclude my remarks in 10 or 15 minutes.

Mr. LEHLBACH. Very well. The gentleman from Texas will yield the gentleman 5 minutes and I shall yield him 10 minutes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. LEHLBACH. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill H. R. 8928.

The motion was agreed to.

Accordingly the House resolved itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill H. R. 8928, with Mr. SANDERS of Indiana in the chair.

Mr. LEHLBACH. Mr. Chairman, I yield 10 minutes to the gentleman from Indiana [Mr. Wood].

Mr. BLACK. Mr. Chairman, I yield five minutes to the gentleman from Indiana [Mr. Wood].

Mr. WOOD of Indiana then concluded his remarks.

The CHAIRMAN. The gentleman yields back five minutes. To whom does the gentleman from Indiana yield it back?

Mr. WOOD of Indiana. I yield three minutes to the gentleman from New Jersey and two to the gentleman from Texas. [Applause.]

Mr. LEHLBACH. Mr. Chairman, how much time have I remaining?

The CHAIRMAN. The gentleman has 63 minutes remaining.

Mr. BLACK. Does the gentleman from New Jersey intend to use some time now?

Mr. LEHLBACH. Mr. Chairman, I yield 15 minutes to the gentleman from Wisconsin [Mr. STAFFORD].

Mr. STAFFORD. Mr. Chairman, take this bill up item for item and compare it with the existing scale of salaries paid to the various employees in the Government and in every instance you will find an increase, and in some instances the increases range as high as 100 per cent. In the professional service, in particular instances, salaries are raised from \$2,200 to \$5,000.

This is not the first time that the heads of departments and heads of bureaus have come before the legislative appropriating committee asking for increases, which have been denied by the Congress and for good reasons.

Mr. CRISP. Will the gentleman yield?

Mr. STAFFORD. I will.

Mr. CRISP. What is the average increase?

Mr. STAFFORD. The gentleman reporting the bill stated he could not give any information on that subject. He did not have any data. His report is very vapid in information so far as to what the bill really does. There is nothing here, no line, nothing in the report giving any data along that line. I just happened to turn this minute to the scale of wages paid to every person in the District of Columbia under the District appropriation law, and I find here the superintendent of the bathing beach receives \$720. Under the estimate for 1923 he would receive \$720 and the bonus, if granted. Under this bill he would receive \$1,500. They have comfort stations about the District in charge of colored people. You and I have had occasion to visit them on occasions of emergency. These men receive about \$900. It is proposed that they receive, under this bill, \$30 a week. These are instances culled at random from the bill showing the proposed increase. When we come under the five-minute rule I intend to take up seriatim and compare the increases with existing salaries paid and show what an outlandish proposal is being made to raid the Treasury. We are strong in our promises for economy, and yet to-day on this bill and to-morrow on the mining bill, when another raid of \$12,000,000 on the Treasury is being attempted, you will decide whether this House is going to have a record of economy based only upon that rare event of this session of yesterday, when the House defeated an appropriation for less than \$10,000 for a most meritorious purpose of improving the health of delinquents brought before the juvenile court of this District.

That is the record up to this day of economy at this session of Congress, \$10,000. We come in here strong at the close of the session and say, "We stand for economy." But to-morrow we will vote perhaps—I hope not—\$12,000,000 to persons who



have no right to it under any circumstances, under a bill changing the law under which those mining claims were originally presented, changing it directly and positively from that which Congress intended. We will have an opportunity to defeat that, and we will have an opportunity before this bill is concluded to defeat this bill, which I estimate in three years will aggregate in increases of salary \$15,000,000 to \$25,000,000.

It is a rash estimate, it is true. Some years back, before that interregnum which has been so frequent in my legislative experience, I served on the legislative subcommittee, a position now held by the gentleman from Indiana [Mr. Wood] who has just preceded me. I had occasion to go over for two months each session the bill providing salaries, item by item—the legislative, executive, and judicial appropriation bill. Under existing law we are appropriating around \$150,000,000 for salaries, of which \$69,000,000 goes for bonus. In response to an inquiry directed by me to the gentleman from New Jersey [Mr. LEHLBACH], reporting this bill, he stated that this bill is predicated upon the hypothesis of including the bonuses and, in many cases, an increase upon that.

Mr. LEHLBACH. I said for the purposes of comparison with present salaries the bonus was included in the present salaries.

Mr. STAFFORD. That is substantially as I stated. With every individual and employee of the Government, in this era when in private employment they are seeking to scale wages down, you are attempting to fasten for all time the wage that was adopted during the emergency of the war. That \$240 in many instances was merited and in many instances it was not, as it was paid to many clerks coming into the District who were receiving only half of that salary at home and are now desirous of holding on. And now when there is such an effort to hold on to Government positions we propose to make permanent these high salaries and surrender, as the gentleman from Indiana [Mr. Wood] says, all control over the salaries paid to the officials in the executive departments.

Why, if you pass this law Congress will have no further control. The gentleman from New Jersey [Mr. LEHLBACH], the chairman of the committee, says there is going to be economy in allocation; that it does not rest upon the Committee on Appropriations to appropriate as many of these higher salaries as they are appropriating to-day. I stated in reply to him then, and I state now without fear of contradiction, from my acquaintance with the subject that the Bureau of Standards, with the great work it is undertaking, must be maintained. Are you going to pay the present salaries under existing law or give them an increase of from 25 to 50 per cent and in many instances still higher?

Take, for instance, private secretaries—a concrete case. I do not care where you look. Mention any item and I will show you there is an increase. Take, for instance, private secretaries to the department heads. Under the existing law they get \$2,500; under this bill they are privileged to receive over \$5,000.

Mr. LEHLBACH. Will the gentleman suggest to me where he can find that in the bill?

Mr. STAFFORD. I will be very glad to do it under the five-minute rule.

Mr. LEHLBACH. Very well. Take your time.

Mr. BEGG. It is \$4,000 instead of \$5,000.

Mr. LEHLBACH. Thirty-three hundred dollars is the salary which they can get until they have shown superior merit.

Mr. STAFFORD. Superior merit? Of course my good friend has not had any experience with hearings of executive and bureau officials. If he had, he knows that what we have had to contend with in the inner committee rooms of the Committee on Appropriations has been to prevent these bureau chiefs from always raising the salaries up to the highest notch. You gentlemen know that when these salaries are provided here, ranging from the lower to the higher, it will be only a little while before they reach the top notch.

Why, gentlemen, during the war, when we were all concerned with winning the war, we had heads of the engineering force come before us and say that there were men needed in the Government service who could get \$10,000 a year in private employment, but were only receiving \$3,000 or \$4,000, and they asked us to increase their salary. Did we do it? No. We felt if those men had the proper patriotic feeling for the Government they would continue in the service and not make the dollar mark the issue of their patriotism.

Mr. BANKHEAD. Does not the bill provide that all of these proposed increases shall be approved by the Director of the Budget, and does the gentleman think Gen. Dawes will stand for it?

Mr. STAFFORD. Without overburdening a present overburdened official to determine these niceties, the gentleman

knows that this work will not even be supervised, much less reviewed, by the Director of the Budget, even though you may say so in the bill.

Mr. BANKHEAD. The bill provides that they can not become effective until they are approved by the Director of the Budget.

Mr. STAFFORD. The gentleman knows there will be some subordinate official that will submit it, and the Director of the Budget will necessarily be obliged to O. K. the recommendation.

This is a surrender, even if it can not be performed until the Director of the Budget approves, of our congressional duties. For over a hundred years we have been legislating the amount of salaries and the number of positions, detailed work that I would be glad to escape from, but it has been my duty, and there will always be Members found willing to do this detailed work in order to protect the Government, and why should we now surrender all control over the administration of the salaries of these respective clerks and officials within the range prescribed in this bill?

Mr. LONDON. Now, the gentleman from Wisconsin spoke of the Director of the Budget leaving the work to subordinates. Under this bill the initial work must be done by the Bureau of the Budget. At the very start of the report, at the very beginning, the Bureau of the Budget is to readjust the rates and fix the rate of compensation. Now, the gentleman will credit the Chief of the Bureau of the Budget with honesty?

Mr. STAFFORD. I am not going to be diverted by placing the Chief of the Bureau of the Budget on such a high pedestal as to do work that he can not accomplish. The gentleman knows he can not, if he knows about this work. As pointed out by the gentleman from Indiana, there is an existing organization that is passing upon the efficiency of the respective clerks and officials. I hold in my hand a prepared report of all the employees in the District of Columbia, to be considered by the Congress and the Appropriations Committee, revised and submitted by the Bureau of Efficiency. This report covers the estimated salary of each employee of the District, and an appraisal as to the amount of salary he should receive made by the Bureau of Efficiency. This is feasible, leaving to Congress, with changing conditions, the amount to be paid. The proposal is fixed without any leeway to Congress except between the stated minimum and maximum salaries. A great economy was accomplished about six years ago by the former Postmaster General, Mr. Burleson.

Mr. KING. What was that?

Mr. STAFFORD. In having efficiency ratings to determine promotions to the respective grades in the Post Office Department. It was extended to one division in the Treasury Department, and the Bureau of Efficiency is now equipped for the work; equipped to do that work in a well-qualified manner in all the departments of the Government.

But I dissent from this overscientific scheme of paying all these scientific professional men the same salary, based upon the certificate of graduation from a college, whether they are engaged in accountancy, in agriculture, in economics, in dietetics, in education, in metallurgy, or in meteorology, and so forth. It is not practicable to have the same salary applied to chemists and assistant chemists in the Bureau of Standards with those of chemists and assistant chemists in the Department of Agriculture, and why?

Mr. LONDON. Mr. Chairman, will the gentleman yield?

Mr. STAFFORD. In a moment. And why? Because in the Bureau of Standards young men fresh from college enter there as probationary workers to qualify them for higher positions in the outer world. They come there from high schools and they come there from colleges, willing to take positions at a low salary in order to get the experience. It is a large university out there; in one sense a scientific educational institution. We are asked to prescribe the same salary for assistant chemists or associates in the Bureau of Standards, where they have one end in view, with those down here in the Bureau of Chemistry in the Department of Agriculture, where they intend to make a life career in the Government service. Or take the Bureau of Patents. I could go on and on and cite illustrations.

Mr. BLACK. Mr. Chairman, will the gentleman yield?

Mr. STAFFORD. Will the gentleman from Texas yield me some time?

Mr. BLACK. I will yield the gentleman time.

Mr. STAFFORD. Permit me to make this statement: In the Bureau of Patents young lawyers take up the work of examination of patents with the idea of equipping and preparing themselves to become patent attorneys out in the field. You can not under this system fix the same standard salary for the various scientific activities of the Government. It is a beautiful theory,

but unworkable in private enterprise, and no large corporation in the country, with vast industries, and the Government with its diverse interests, should think of having such an unworkable scheme as the basis of compensation for the personnel in their respective employments.

Mr. BLACK. The gentleman from Wisconsin was formerly a member of the Committee on the Post Office and Post Roads, and he knows that when he was a Member of Congress we divided up the postal clerks and carriers into nine grades as to railway mail clerks, and prescribed the compensation in each grade. Now, can the gentleman tell me where Congress loses any more control over the compensation of an employee in providing for these grades and compensations than it did when we prescribed that there shall be nine grades, or ten grades, I believe, in the Railway Mail Service and six in the postal clerks and employees?

Mr. STAFFORD. We lost control by the very reason of that classification, because when that first went into effect the system of compulsory promotions stopped at \$1,000, and it rested with the Congress to control the administration officials in determining how many should be promoted to the \$1,100 and \$1,200 grades. But the pressure became so great that Congress had to surrender its prerogatives and promote all to the higher grades. They were all promoted to the higher grades. We surrendered our authority then. We surrender it here.

But, speaking of the post-office classification, there is work of a kindred character. Those men are engaged in similar work. The railway postal clerks, with a greater hazard, receive a higher salary. The post-office clerks differ considerably in their work from the letter carriers, although they are receiving the same salary. I have always felt that the postal clerk ought to receive a higher salary than the carrier because of the work he performs, but their work is practically made one under political exigencies. However, that is one identic work. This is not identic.

Mr. WILLIAMSON. Mr. Chairman, will the gentleman yield?

Mr. STAFFORD. Yes.

Mr. WILLIAMSON. Has the Bureau of Efficiency established any rule of efficiency that affects the employees covered by this bill?

Mr. STAFFORD. Yes; it has. I hold their report in my hand, and every member of the committee is privileged to examine it. It covers all the employees of the District of Columbia under the District government. It shows what the estimate is, what their recommendation is to the Appropriations Committee as to the salary that should be paid, based upon their investigation and acquaintance with existing commercial and industrial conditions.

Following this system, as you will see, Congress will always be able to hold its control as to what salary the incumbents of the respective positions shall receive. Congress will always be able to control, but if we pass this act we surrender our authority.

Oh, the gentleman says it is within our control at any time to change it. But remember, gentlemen, there is such a thing as legislative inertia, and when once a statute is on the books it is mighty hard ever to repeal or modify it.

Mr. LONDON. Mr. Chairman, will the gentleman yield?

Mr. STAFFORD. Yes.

Mr. LONDON. The gentleman from Wisconsin, as well as the gentleman from Indiana [Mr. Wood] spoke of the exaggerated importance of the professional service in this bill.

Mr. STAFFORD. Yes.

Mr. LONDON. It seems to me both the gentleman from Wisconsin and the gentleman from Indiana have overlooked the schedule providing for subprofessional service, and also that they have overlooked the junior grade of professional service.

Mr. STAFFORD. Oh, I have not only not overlooked that, but I have considered that, and also the inspectional force, and in the debate under the five-minute rule I will point out where it is proposed to increase salaries from in many instances 25 to 50 per cent, and in some still higher percentages. [Applause.]

Mr. BLACK. Mr. Chairman, I yield five minutes to the gentleman from Texas [Mr. Box].

The CHAIRMAN. The gentleman from Texas is recognized for five minutes.

Mr. BOX. Mr. Chairman, I am seeking information and do not wish to answer any questions. I want to inquire, first, whether or not this bill, if administered according to the plan contemplated by the committee, does not as thus administered increase salaries and materially increase expenditures. A number of gentlemen who have spoken concerning the bill have said that it very greatly increases salaries on the average. I have not heard anybody deny that it will materially increase expenses even if it is administered according to the idea of those who wrote the bill.

Then I ask the question whether or not it does not place with the heads of departments, bureau chiefs, and heads of divisions the power to greatly increase salaries by their allocations. Since I came here there has been no general appropriation bill discussed involving salaries and compensation of employees and questions of economy in which there has not been uniform complaint that the heads of departments, the bureau chiefs, and others do not cooperate in measures of economy. It is always said that they do everything they can to increase salaries and expenditures. This complaint has been made against men of both political parties. It applies to no one party exclusively. If that is so, then is the check provided against it in this bill effective? That is, will the Bureau of the Budget have in actual practice sufficient opportunity to control and correct that evil?

I understand that it is admitted that the heads of departments and bureau chiefs are to make the initial allocation because the Bureau of the Budget has not sufficient information to enable it to make the allocations which will determine the salaries. If it is without information it must seek it, and in order to secure the information it will have to investigate the work and compensation of a great number of employees. The Joint Committee on Reclassification have had hearings, voluminous hearings, the reports of which are voluminous, filling two or three volumes. They have made a report, filling more than 800 pages. I seriously doubt that the Bureau of the Budget will be able to go into details and secure information which it is admitted they have not now, so as to effectually revise the work done by the much criticized heads of departments and bureaus, who are to make the allocations in the first instance. Does this not mean that the allocations will in actual practice usually be made and therefore salaries largely determined by the heads of departments and bureaus?

In the discussion by those who are familiar with the terms of the bill I would like to have these two questions answered: First, does not the bill even if fairly administered materially increase the Government expenditures? Second, is there any assurance that this tendency to be reckless in creating Government expense which is constantly charged against bureau chiefs and heads of departments is properly guarded? Is there anything to effectually prevent them from doing the things which my colleagues say they uniformly do; that is, to increase expenditures, raise salaries, and constantly oppose the efforts on the part of Congress to reduce expenditures? [Applause.]

I hope, Mr. Chairman, that we will get clear and explicit answers so that Members of the House can see their way clear in regard to this measure. I do not.

Mr. LEHLBACH. Mr. Chairman, I yield 15 minutes to the gentleman from Wyoming [Mr. MONDELL].

Mr. MONDELL. Mr. Chairman, it has long been recognized by those familiar with the Government service that the Congress should take action providing for a general reclassification of the salaries in the bureaus and departments of the Government. The situation was sufficiently unsatisfactory at the beginning of the war, when there were many inequalities in compensations. The conditions became very much worse during the war period, with the creation of new bureaus and administrative agencies. Most of the new bureaus were organized largely under lump-sum appropriations, and in the fixing of salaries under those appropriations they were in the majority of cases increased above those being paid in the old bureaus and departments for the same class of service.

The increased cost of living from war conditions rendered it necessary for us to make some provision to meet, partially at least, the situation as affecting those in the Government service. We did it rather lamely and inadequately, but the best we could under the circumstances, by granting a bonus, first of \$120 and second of \$240 per annum, to Government employees in departmental and the field services who received a salary less than \$2,500. We have been limping along under the bonus plan. It never was an entirely logical and scientific plan, and we have all realized that eventually we must eliminate the bonus and provide some sound, sensible, and reasonable basis of compensation.

A general commission on classification was appointed and in due time made its report. From time to time since the report was made committees having jurisdiction over these matters have considered reclassification bills. The bill before us is the latest suggestion and recommendation which has been made to Congress. It is the most moderate and carries the lowest salaries of any of the various bills that have been presented, so far as I now have in mind.

In presenting this bill the committee has very wisely, I think, made provision for the taking effect of this modified and classified salary in a very practical way. If this bill shall become a law any time after the 5th of December or the meeting of the



next session, it would become the duty of each departmental chief in presenting his estimates to the Bureau of the Budget next summer or fall to present those estimates with salaries based on allocations under the new law. It would then become the duty of the Director of the Budget to review and revise the allocations of the departments, and independent agencies of the Government, and make such changes in the allocations as he deemed wise, proper, and fair, and to transmit to Congress a year from the coming December estimates based on the new classification and on the allocations under it. It would then become the duty of the Committee on Appropriations in considering these estimates to take into consideration whether or not the allocations made by the bureaus as modified by the Bureau of the Budget were fair, reasonable, and just under the law.

Mr. CAMPBELL of Kansas. Mr. Chairman, will the gentleman yield?

Mr. MONDELL. Yes.

Mr. CAMPBELL of Kansas. Would the Committee on Appropriations have authority to go back of the salaries fixed by the authority given in this bill in making their appropriations?

Mr. MONDELL. The Committee on Appropriations would have authority to reduce the appropriations, and a reduction of the appropriations would compel either a reduction of the personnel or a change in the allocation of the personnel—one or both.

Mr. SISSON. Mr. Chairman, will the gentleman yield?

Mr. MONDELL. Yes.

Mr. SISSON. I think this is a very important portion of this bill, and I invite the gentleman's attention to it and would like to have his opinion upon it. After these men have been assigned to the particular class or grade under the bill, and they are then acting within the powers granted to them, would not the salary of each man then be fixed by that act under this law, and if we fail to make the appropriation would not each man have the right to go into court and claim that he is entitled to additional pay?

Mr. MONDELL. I think not. Practically every one of the classifications—I think every one—has from three to five salary grades, and the question is into which salary grade is a clerk entitled to go? That is a matter of opinion. Gentlemen will realize that while the question of how much this change is to cost is important, and it is to a certain extent a question of the basic salary, yet of even greater importance is the matter of the allocation in the service.

Mr. CAMPBELL of Kansas. Mr. Chairman, will the gentleman yield?

Mr. MONDELL. Yes.

Mr. CAMPBELL of Kansas. Is it not much easier, more practical, for Congress to exercise its authority over these positions and over these expenditures now than it would be after we pass this bill?

Mr. MONDELL. The gentleman has been here a long time. He is a very valuable and efficient Member of Congress. He knows perfectly well that the Congress can not, never has, and never will in the passage of an appropriation bill properly classify, allocate, and adjust salaries. It must be done in the first instance by the departments. It is altogether too much of an undertaking for the Committee on Appropriations.

Mr. CAMPBELL of Kansas. That is exactly what I intended in my question, and this is the time to keep down expenses rather than to turn this bill loose.

Mr. MONDELL. Of course, that is upon the theory that the bill does largely increase expenses. As to that there is a considerable difference of opinion. Frankly I do not pretend to know, as many gentlemen do pretend to know who have not studied the matter, I fear, more than I, just how much it is going to cost. I am compelled to take the opinion of men in whose judgment I have confidence, who I know have carefully considered the matter, and their opinion is that this law, properly administered—and we must assume that having gone through the hands of the budget for revision, having then had the scrutiny of the Appropriation Committee, it is to be fairly administered—will slightly increase the present cost of the Government service, with the same number of employees. There should be fewer employees under a proper classification. We all know this. It would be very difficult under any conditions to readjust salaries and decrease them. That would be a very difficult thing to do at any time in a general readjustment, and it is doubtful if we should attempt it. We all know that, as a matter of fact, there are bureaus and departments of the Government where employees, particularly those doing work requiring professional and scientific knowledge, are not properly paid or even reasonably paid. The Department of the Interior is one of the shining examples of a department which in many

of its bureaus requires professional and scientific knowledge of the highest character—

Mr. BEGG. Mr. Chairman, will the gentleman yield for a question?

Mr. MONDELL. In just a moment—where the salaries are not what they ought to be. I should expect under any reclassification that in a bureau of that sort there would be some increase in the cost. On the other hand, in some of the new bureaus and departments or establishments, unquestionably a fair classification under this act would reduce the present cost.

Mr. REED of New York. Mr. Chairman, will the gentleman yield?

Mr. MONDELL. I yield first to the gentleman from Ohio.

Mr. BEGG. I just wondered if the gentleman knew of any Government positions that did not have somebody now filling them or ready to fill them. I have a good many competent fellows that I would like to place in such a job.

Mr. MONDELL. Oh, if the gentleman from Ohio will permit, that is a very smart thing to say, but it does not do the gentleman credit to say it. Because you may be able to get a man or hold a man down to a miserable wage, to say that therefore you must not ever give him another dollar, I think would not do anyone credit.

Mr. REED of New York. Mr. Chairman, will the gentleman yield?

Mr. MONDELL. I yield to the gentleman.

Mr. REED of New York. Is it not a fact that in the Patent Office they have been stripped of their best men because they were underpaid, and that they are 50,000 applications behind now?

Mr. MONDELL. While we are talking about the Patent Office I am reminded that some gentlemen who are most disturbed about this bill were very earnest and very active in their efforts to bring before the House in the last Congress—pass through the House—a bill which increases the salaries in the Patent Office from 25 to 30 per cent above what they would be increased under this reclassification. They are very urgent upon me now and have been for months to bring up that bill for consideration in the present Congress. The bill is now upon the calendar, reported. It has once passed this body under a special rule.

The CHAIRMAN. The time of the gentleman from Wyoming has expired.

Mr. LEHLBACH. I yield the gentleman five minutes more.

Mr. MONDELL. I have not thought that that bill ought to be passed, because, in my opinion, the salaries are out of proportion to other Government salaries. It is not a question of whether they are too high or too low. They are out of proportion, and to pass it would make the inequalities greater than they are now. What we ought to do is to try to iron out the inequalities, not by a general increase of salaries but by such reasonable arrangement of salaries as will be fair and just.

Mr. WOOD of Indiana. Mr. Chairman, will the gentleman yield?

Mr. MONDELL. I yield to the gentleman from Indiana.

Mr. WOOD of Indiana. Suppose the gentleman is convinced that this bill, if enacted into law, would increase salaries in the District of Columbia \$8,000,000 and in the entire field, including the District of Columbia, \$20,000,000, does the gentleman think this is a good time to pass it?

Mr. MONDELL. If the gentleman from Indiana can prove that any of these basic salaries are too high, I hope he and all the other gentlemen will do the reasonable thing of analyzing those salaries and offering amendments reducing them to a point where they think they ought to be reduced. That is the way to treat this bill. The gentleman from New Jersey himself will be willing to admit, I assume, that there is ground for difference of opinion as to these various salaries, and if gentlemen think they are too high I hope they will offer amendments as we go through adjusting them, as they think they ought to be adjusted. It is one thing to amend a bill as gentlemen may think it ought to be amended, and another thing just blindly to be against it [applause] and against a proper and reasonable and legitimate classification of Government salaries.

Now, gentlemen certainly can not take the position that we can go on forever as we now are. Some salaries are high, some salaries are low, unquestionably and indefensibly, with a bonus going along applying to some to a greater extent than it ought to and not applying at all to many employments in the service. We can not continue that way. Gentlemen know that the Committee on Appropriations can not go through the whole list and fix these salaries. If there is any other way under heaven whereby you can cure the situation and get down to something reasonable and equitable other than this, some gentleman ought to propose it. If the salaries are too high, some

one ought to propose an amendment. They should try to reduce them to the proper level; and I am sure if the House or the committee is convinced that any of these levels are too high it will be glad to join in reducing them; but it is certain we must legislate on this subject. We can not avoid it.

Mr. LEHLBACH. Will the gentleman yield?

Mr. MONDELL. I yield.

Mr. LEHLBACH. The gentleman spoke of the Patent Office, and in that connection the gentleman from Indiana asked whether the rates in the bill under discussion were high. The gentleman embodied his views, which he expressed this afternoon, in a bill which was introduced, and I call attention to the fact that the Solicitor of the Patent Office under the bill under discussion would get a salary of \$3,120 and under the bill which the gentleman from Indiana introduced he would get anywhere from \$4,500 to \$5,700, to be fixed by the head of the department without provision of review.

Mr. MONDELL. Now, gentlemen, this is work that can not be avoided. It is the duty of the Congress to begin to make some provision, and it has been my purpose to begin now, and it will be nearly a year and a half before these salaries go into effect, during which period they are going to be before the department for six months—

The CHAIRMAN. The time of the gentleman has expired.

Mr. LEHLBACH. I yield the gentleman two additional minutes.

Mr. MONDELL. And before the Bureau of the Budget for several months, and finally for consideration by the Committee on Appropriations of this House. Now, if any gentleman can propose any better plan than that I am sure we will be glad to hear it.

Mr. MOORE of Virginia. Will the gentleman yield for a question?

Mr. MONDELL. I will.

Mr. MOORE of Virginia. Would not it be a simple method of meeting a great deal of the adverse criticism to place a provision in this bill to reserve to the Congress the approval of the report made showing the allocation, showing the salaries that are to be paid, and therefore showing the number of increases that will be made?

Mr. MONDELL. The Committee on Appropriations will have full authority, as it has now, to increase or decrease the appropriation, and the control is there. Besides, the Bureau of the Budget passes upon it after the allocations are made. If the gentleman has any amendment he can offer along the line he suggests, I am sure it will be very gladly considered; but what I want to emphasize is this fact, that it is one thing not to agree with certain details in a bill—

Mr. SMITH of Michigan. Will the gentleman yield?

Mr. MONDELL. I will.

Mr. SMITH of Michigan. How long has it been since the salaries were fixed this way before?

Mr. MONDELL. There are many salaries which were fixed 60, 50, and 40 years ago. They are all out of harmony one with the other. We all know that, and are we going to continue indefinitely in that way or are we to meet the problem squarely? It does not settle a thing, it does not get anywhere, to say there is some provision in a bill I do not like. The way to cure that is to offer an amendment curing or reducing it, and let us discuss it and settle it here according to our best judgment; but the Congress must do something in this matter of reclassification or it is failing utterly in its duty with regard to a tremendously important matter. [Applause.]

The CHAIRMAN. The time of the gentleman has again expired.

Mr. BLACK. Mr. Chairman, how much time have I remaining?

The CHAIRMAN. The gentleman from Texas has 46 minutes remaining.

Mr. BLACK. I yield 20 minutes to the gentleman from Mississippi [Mr. Sisson].

Mr. Sisson. Mr. Chairman, the gentleman who has just taken his seat, the minority leader—

SEVERAL MEMBERS. Majority.

Mr. Sisson. Majority leader—it will not be long before it will be the minority, and if we pass many bills like this it is certain to be a minority—but what I started to say was I think he takes the wrong position. I do not think it is incumbent upon anybody opposed to the bill to try to clarify anything; I think it is the duty of the proponents of the bill to make it perfectly clear that they have a good and proper bill.

Mr. LONDON. Does the gentleman understand the bill? Has he read it? I mean it frankly.

Mr. Sisson. I have done the best I could to understand it. I will tell you frankly I do not understand every clause of it. Does the gentleman understand it?

Mr. LONDON. I think I do. Does the gentleman understand that the primary object of the bill is to eliminate duplication and thus promote economy?

Mr. Sisson. If it is, then it is far from the mark, and the gentleman's view, like the view he takes of politics generally, is all wrong. I did not know that the gentleman got up for the purpose of catechising me. If he has any light to offer, let him get the time and offer it to the committee. But this much you do know, that in the clerical service the present law provides that the classified service begins at \$900 a year, and the highest salary paid in the clerical service is \$1,800, except where it is specifically provided for some meritorious service, and that goes to about \$2,000, and I do not know of any man in it that gets over \$2,250. This bill starts the clerical service at \$1,080 and winds up at \$5,200.

I have been connected for several years with the committee that has to deal with the various departments of Government in regard to salaries, and it is the most terrific undertaking to keep salaries down under the present law. And I see the chairman who made up the last bill sitting before me, whose courage and patriotism and industry is not excelled by anybody in this House, the gentleman from Indiana [Mr. Wood], and he bears testimony that this statement is true. It is with the most terrific sort of pressure that we are able to keep down top-heavy salaries by crowding them all in the highest classification in the civil-service classification as it now exists. And just as certain as you pass this bill, just so certain will it be that in a very few years you are going to have all of these clerical forces crowded into these high salaries. What is the limit? The limit under this bill for clerical forces is \$5,200. Who is to determine what is going to be done under the bill? The bureau chief. The Secretary of the Treasury could no more attend to this than he could fly to the moon, because if he undertook to do it he could not be Secretary of the Treasury. Therefore he would have to delegate the power to the bureau chiefs of the various departments. This is equally true of all Cabinet officers. The chiefs in fixing the salaries of those under them will have the men above them to fix their salaries, so it will be tickle me and I will tickle you. I am talking about a practical proposition, not a theory. There will be men clamoring, as there are always, that they are not getting enough money. And you can not blame them. You do not blame a man for wanting to increase his salary, and when the limit is \$5,200 you are going to have men ambitiously crowding to get into the higher grade. Under the present law, if the Appropriations Committee should decide to raise a salary too high, it is subject to a point of order, but under this particular clause if your Appropriations Committee—

Mr. ROSSDALE. Will the gentleman yield for a question?

Mr. Sisson. For a question.

Mr. ROSSDALE. Does the gentleman think that the employees in the Patent Office ought to have their salaries revised?

Mr. Sisson. Some of them, perhaps, and some of them not. I want to say that if I thought you could always find the meritorious clerk and give him an increase in salary it would be all right. I know many of them are paid too low a salary. That is one of the evils that exists and will always exist. It is one of the evils of the civil service that merit is not always rewarded under it.

Mr. ROSSDALE. Will the gentleman permit one more question? If that is so, and this evil admittedly exists, then ought we to keep all of these employees at the lowest possible salary, because, forsooth, some employee who is not worth it may possibly get an increase under this bill?

Mr. Sisson. The gentleman ought to get time on the other side of the question. If you want to ask a question, ask it, because I do not intend to yield to the gentleman to make a speech in my time. There is nothing in my remarks or in my career in Congress that will warrant such an insinuation. The insinuation is far from the truth, because I believe every man is entitled to what he honestly earns, and I think that Congress ought to fix it. But I do not agree to the gentleman's position which would seem that he would pay every incompetent a big salary solely because a very few good people ought to get a better salary.

Now, when you get to fixing salaries in the Appropriations Committee you are going to find, if you try to economize, there is going to be some fellow get up and make a motion to increase a certain salary. Under the present law a point of



order will lie. But under this bill a point of order on a clerical raise will not lie until you try to make his salary above \$5,200, because they will say, "We have got the law for it." Now, gentlemen, I do not know who you are legislating for. I presume for the employees in the Government, certainly not for your constituents and the overburdened taxpayers.

Mr. STEVENSON. Then, as I gather it, here is a range from \$1,080 to \$5,200. A man is getting \$3,300 and a motion is made to increase it to \$4,500, and you can not make a point of order against it, because it is a part of the law that you can go up to that.

Mr. Sisson. Absolutely. Everything is now on a rising scale. These salaries have been increased from 20 to 100 per cent in the last five years.

Mr. BLACK. A particular employee to receive a particular salary would have to be allocated into a particular grade or else he would not be entitled to receive that salary.

Mr. Sisson. Do you mean to tell me, then, that Congress has abdicated its functions to not increase the salary of a little clerk, when we can change the law and increase his salary here?

Mr. BLACK. Of course, Congress could do it after you make it in order on an appropriation bill.

Mr. Sisson. It is in order, because it is the law.

Mr. BLACK. Unless the employee is allocated into the particular grade it would not be lawful to pay him that salary.

Mr. STEVENSON. On page 27, line 15, it says:

The annual rates of compensation for classes of positions in this grade shall be \$2,200, \$2,400, \$2,580, \$2,760, and \$2,940.

Now, you can take a man at \$2,200 and you can increase him to \$2,940 without a point of order being made?

Mr. Sisson. There is no doubt about that, because it is the same grade. But in this bill, if I have read it correctly, and I do not want you to follow me unless my reading of it will warrant what I am saying—I say that if a man should offer an amendment to increase the grade of an employee, there is nothing in this bill that would prevent it, because if you could convince Congress that he is a man that falls within this grade, the law provides for him. I may be wrong about it, but, at any rate, I do not think there is anything that is a better teacher than practical experience, and when you consult those men who have been dealing with the fixing of salaries you will find that the pressure is enormous all the time to go to the higher grade, and our only defense heretofore has been that you can not do it because the \$1,800 salary is the maximum.

Mr. SMITH of Idaho. Mr. Chairman, will the gentleman yield?

Mr. Sisson. Yes.

Mr. SMITH of Idaho. How much higher are the salaries that are paid from lump-sum appropriations than those on the statutory roll?

Mr. Sisson. I am glad the gentleman mentioned that. The greatest evil occurring in the executive departments of this Government in the last few years has been the lump-sum appropriation, which reached its maximum during the war. The result has been that the very evils complained of by the advocates of this bill have been brought about by the expenditure of these lump-sum appropriations, where they increased the salaries far beyond those of the other employees who are on the old statutory roll. The result has been that we have had to go back again, time after time, and increase the salaries for services in all the departments of the Government. Why? Because they will show you that in a certain bureau of the War Department, for example, which is paid out of a lump-sum appropriation, the employees' salaries are higher than are the salaries of those sitting at the same desk who are on the regular pay roll, so that in that way they have gradually increased the salaries until they are now not only \$240 higher but in many instances higher by many times \$240.

The gentleman from Tennessee [Mr. PADGETT] called attention to a feature of this bill which I wish to speak of, and I am glad he did it. It is an important thing to consider that every one of these salaries will be at least \$240 higher than the present statutory salary provided for each position, and in many instances they will be very much more than that. Therefore this bill writes the \$240 bonus into permanent law.

Mr. GRAHAM of Illinois. Mr. Chairman, will the gentleman yield?

Mr. Sisson. Yes.

Mr. GRAHAM of Illinois. As I understand, section 1 and section 6 fix that bonus on us perpetually.

Mr. Sisson. Yes.

Mr. GRAHAM of Illinois. It has been stated on this side that it is conceded that some clerks are paid too much and some

too little. Does the gentleman know any way under section 6 whereby anybody who is paid too much could be reduced?

Mr. Sisson. No. I am very glad the gentleman mentioned that. If there are any inequalities existing in the Government service at the present time you will not get any of them remedied by this law, because those men who are the chief clerks and who administer the law are not going to reduce anybody's salary. Who is it that has served in Congress longer than any of the rest of us? I see before me one of the most distinguished Americans, the ex-Speaker of the House, who for many years was chairman of the Committee on Appropriations. He has been a Member here as long as many of us are old, and may God spare him to be here much longer! Ask Uncle JOE CANNON how many times during all the time he was chairman of the Committee on Appropriations he has seen a bureau chief or the head of a department come before Congress and ask that anybody's salary be reduced. Never! A man making such a request is an animal that never grew up in Washington. [Applause.]

Mr. LEHLBACH. Mr. Chairman, will the gentleman yield?

Mr. Sisson. Yes.

Mr. LEHLBACH. For that reason this bill makes reductions mandatory upon the heads of departments.

Mr. Sisson. Oh, I think there is nothing in this bill that makes reductions of salary mandatory. As a matter of fact, it is practically mandatory that there shall be no reductions unless the bureau chief or the man appointed to perform this duty shall arbitrarily reduce an employee, and he is not going to do it. I have been here too long to believe such a thing as that. Men who say that never served on the subcommittee on the legislative, executive, and judicial bill. If they had had that service they would never say that, because I say to you, Brother REED, that that animal does not grow, and he is not going to be produced by reason of this bill.

In some of these places the limit goes as high as \$7,200. Let us suppose for a moment that our friend here, Judge HARDY of Texas, is a chief of bureau or the head of a department, and I go to him, knowing him well, and say to him, "Judge HARDY, I am getting only \$5,000 a year. I think you think that I am a most valuable man, and I have a big family. Give me \$7,200, which is permitted under the law." The judge and I know each other well, we talk together every day, and we are engaged in the same kind of work. Our friendship, our association is a very close tie, a very close relationship. I get the raise, of course. I am not blaming the man who does it, but I blame the Congressman who puts it in the law so that a hand may be placed in the Treasury in that way, and that without the consent of Congress.

Now, gentlemen, if you gentlemen on this side of the House want to take the bars down and turn these men loose on the Treasury, you can pass this bill, but within from three to five years, as surely as I stand here, you are going to find the salaries of all these people doubled, while wages elsewhere in this country, all over the United States, may be cut in two.

I believe in reasonable salaries, but I want to remind you that these people in the departments here work a less number of hours than people outside in private employment. These people in the departments get 30 days' leave with pay, and they get 30 days' sick leave with pay, and they get more holidays than anybody else, and they get during the summer time a half holiday on Saturday.

Representing, as you do, your constituents, who work—and I do not suppose there is one of you whose constituents do not work—your thoughts should be for those people. The people never have a voice around here. The great public, whom we might style "Old Man People," is not a member here, and has no voice here. You will find organized labor and organized capital represented here on the one side or the other, and you will find people trying to get money for themselves, but it is rare that "Old Man People" has anybody to speak for him. If somebody does, he comes from some organization of some kind that pays his salary to come here. That is because the public is an inarticulate mass. They can only speak here through you. You should think of the people of whom and to whom you speak in such endearing terms when you solicit their votes. Do not lose your intellectual and mental integrity. Keep constantly in mind what a bookkeeper receives as his compensation at home. Keep constantly in mind what the ordinary laborer is getting at home; keep constantly in mind what the ordinary man is paid and what the ordinary Government clerk is paid. Keep their salaries in mind and when you do compare the salaries the men get at home with what the men working for the Government get, do not make it too attractive for some of them might lose their jobs. Increase the salary of Brother Smith, and some good man will be

reaching up for his office here. [Laughter.] If a man wants to serve his country, if he wants to serve his people, here is a good opportunity, vote against this bill. The complaint is not that the salaries are not high enough; with the platform you supported in the last election, under the Democratic platform that we ran on in the last election, no man is going to get up here and say "I am going to increase salaries wholesale." Why? Because you are not only bound to vote for economy in one instance, but you are bound to vote for economy all along the line.

The only reason for all of these bills has been on account of the so-called inequalities in salaries, and this bill will not, in my judgment, eradicate a single inequality. Why? Because the salaries that are now paid plus the bonus is going to be the base that the bureau chiefs and heads of departments are going to act upon. Are they different men than they were yesterday? They are the same people that have been here under a Democratic administration and under a Republican administration. When did they get the courage to reduce a salary? Will the passage of the bill change the leopard's spots? No. They are going to be just as tender toward these salaries as they were before. All they have to do now is to come before the Appropriations Committee and recommend the reduction of a salary, and the Appropriations Committee would jump at it like a duck would jump at a June bug. I would like to hear one man come before the Appropriations Committee and advocate the reduction of a salary. I would vote to promote him to the highest office possible under the Civil Service Commission. He would be a rara avis, he would be unique, a man that never was born, or if born never visited the city of Washington. I would like to have a photograph of him and have it exhibited as one of the wonders of the world—a bureau chief recommending that a man's salary be reduced. [Applause.] Yet that is what has got to be done under this bill.

The CHAIRMAN. The time of the gentleman from Mississippi has expired.

Mr. BLACK. Mr. Chairman, I yield to the gentleman from Mississippi two minutes more.

Mr. SISSON. Gentlemen, vote for this bill if you want to; it is every man's right; but when you do, do not vote for it blindly. The gentleman from Wyoming says do not vote against it blindly. I tell you when I do not see clearly I will vote "no," until they make me see clearly, until they resolve the doubt in favor of the taxpayer. You resolve the doubt in favor of the people. Shakespeare says:

Suffer those ills thou hast rather than fly to others you know not of.

Let us not hasten to vote for those bills we know not of. Let us not vote until they make it clear as noonday that we are not going to increase these salaries wholesale and build up a pay roll that will further greatly burden the overtaxed people. I am of the opinion, as is the gentleman from Indiana [Mr. Wood], that it will cost at least \$8,000,000 in the District of Columbia, and throughout the country the cost will run up to \$20,000,000, and we will be extremely fortunate in three years from now if you are not paying much more than \$20,000,000 to these people. Look and see clearly before you vote. I will reverse the proposition of the gentleman from Wyoming and ask you to see clearly before you take affirmative action. Be sure you are right before you go ahead. The best vote on earth, until you do see clearly, is the good, old honest "no," and that will do nobody any harm. [Applause.]

In conclusion, when you vote for this bill you abrogate your control of the salaries unless you amend this bill, for under its present terms the power to fix the employees' grade is in the department and that automatically fixes the salary. If Congress does not appropriate for it such employee would have a claim against the Government. Are you willing to do this, gentlemen of the House? I do not think so yet. If so, let us abolish Congress. [Applause.]

Mr. LEHLBACH. Mr. Chairman, I yield 10 minutes to the gentleman from Ohio [Mr. BEGG].

Mr. BEGG. Mr. Chairman and gentlemen of the committee, I am in entire sympathy with the purpose sought to be attained by this bill. I think the committee, in working it out, deserves credit for the accomplishment thus far. I am sorry that they did not do in this bill just exactly what the Senate has done with the bill known as the tariff bill that we passed in a hurry—secure definite information as to exactly what we are doing—instead of acting blindly, as we will be compelled to do in this bill. The only thing I am fearful of in this measure, and the only hesitancy I have at all, is that we will ignorantly and unreasonably increase a lot of salaries. Now, if I had any guaranty that that would not happen I would be enthusiastically in favor of the proposition; and I suggest that it would not

have been impossible to have secured that information. If the committee, after preparing the bill, had called on the chiefs of the departments and said, "Allocate these employees according to the bill and let us know what the Government pay roll will be under that allocation," then they could go before the House and with certainty told the House the resultant of its action instead of asking us to take it on faith and the guessing ability of those responsible for it, and if we find we have pulled a boner we can then repeal it. That is surely real statesmanship. However, the gentlemen on both sides of the House said that very thing could be done. If we pass this bill, no one knows whether it will increase the cost of government one million or twenty million.

I want to call attention to this fact, that either this bill is going to pay too high salaries in some departments or else we are not going to pay high enough salaries in other departments.

Now, the first classification of employees are those whose qualifications must be equivalent to a college graduate; in other words, known as the professional class. Their salaries range from \$1,800 to \$7,200 per annum. Not that I think \$7,200 per annum is too much for a man with a college education well trained scientifically for any particular work, but I want to call attention to the fact that teachers in the high schools in the city of Washington whose requirements for entrance into the job are that they be college graduates in one of the best universities in the United States, and if teaching special subjects must have diplomas in that special feature on top of the fundamental basic education. You are not paying them in this high school to start with but \$1,440, including the bonus, and the basic salary is \$1,200. They can increase that until they get to \$2,240, and there is not a single teacher in the high school who can survive unless he or she continues to go to college to some special summer school during the time of vacation when climbing from a salary of \$1,400 to a salary of \$2,240 a year. In class B the minimum salary is \$2,200 and the maximum \$2,500. Let us take the office of the principal, whether man or woman. The salary ranges from \$2,500 to \$3,500. In other words, they get a basic teacher's pay plus \$30 per added teacher under their jurisdiction. The superintendent of the big high schools starts in at \$3,500, and by effort, by constantly spending money to go to school, by supervising over 100 people, by supervising over 3,500 boys and girls, may attain the magnificent sum of \$5,000 a year; but down here in some Government department they are willing to pay \$7,200 a year, and men there may not be in charge of more than 5 or 6 or 7 or 10 men or women.

Let us go now to the subprofessional departments. My figures would not be so bad in contrast probably if that was the single item. What is the subprofessional department? When I read through it means these people who are playground directors, recreation activity people, different jurisdictional people in minor positions, as, for instance, a subordinate draftsman or something of that kind. Their salaries range from \$1,080 to \$5,200 a year, or within \$800 as much as the superintendent of your fifty or sixty thousand boys and girls in this city gets. When we put this over let us either pay a decent wage to the men and women who have charge of the direction of education in the city or else let us cut down these to a par with brains. Why, there is provided in here for the man who is responsible for bringing the children to school—the truant officer—a salary of \$2,340 under this classification, which is more than the woman gets who teaches 40 or 50 boys all day. We find another man or woman who sweeps out at the morgue, who cleans up the garbage around the market place, who is classified higher than your school-teacher in the city of Washington. Either cut down the one or raise the other.

Mr. LEHLBACH. Mr. Chairman, the gentleman desires to be fair?

Mr. BEGG. Certainly; I do.

Mr. LEHLBACH. Those people do not get any more than \$1,080. The gentleman knows that the minimum of the school-teacher is \$1,200. I suggest the gentleman look at the top of page 21.

Mr. BEGG. There it is, from \$1,040 to \$1,260. I was not far wrong.

Mr. LEHLBACH. If the gentleman has read the bill, he knows that these grades are subdivided, and that the street sweeper would never get such a maximum, that he would be kept at \$1,080 until he did something else. The grades are susceptible of being divided into subdivisions by the Budget Bureau.

Mr. STAFFORD rose.

Mr. BEGG. I can not yield any further. I simply wanted to forcibly impress on this House that these salaries we are recom-



mending for Government employees are out of all comparison with the salaries we are paying to our school-teachers.

I want now to call attention to something else. The leader of the House rather resented the question that I put to him. I put it in all seriousness. He said it was smart to ask the question, but that it did not mean anything. I want to ask the leader now, seriously, is there a Government departmental vacancy in Washington now because you can not find a man qualified to fill it at the price you are paying, which is 25 per cent more than one can get on the outside for similar work? Are there vacancies in the governmental departments, or are there two applicants for every position? It is all tommyrot to say the Government can not get help because it does not pay salaries big enough. There is a young lady in the telephone service downtown in commercial life who gets \$75 a month. She asked me if there was any chance to get on the Government pay roll. I asked her why she wanted to get in on the Government pay roll and she said it was because we paid \$35 a month more than she could get in the city of Washington. I can hire a stenographer as good as any on the Government pay roll for \$6 a week less than the Government pays. The same is true of the typists or most any employee of the Government save the technically trained.

Mr. CONNALLY of Texas. Mr. Chairman, will the gentleman yield?

Mr. BEGG. Yes.

The CHAIRMAN. The time of the gentleman from Ohio has expired.

Mr. BLACK. I yield the gentleman two minutes more.

Mr. CONNALLY of Texas. I want to call the gentleman's attention, in connection with his remarks about the vacancies in the Government service, to an interview which appeared in one of the daily newspapers, in which a member of another body ascribed the late election returns to the fact that the dominant party had not been making any places for the faithful.

Mr. BEGG. When I spoke on the platform I said that if I had the power I would fire 25 per cent of the people on the Government pay roll, and it always was applauded, and I say to you now that if I ever get a chance to vote for that I will do it. I or anyone can run any business of the Government with 25 per cent less help than we now have if it were private business. [Applause.] I shall not increase the salaries until we can not get competent men and women to fill them properly at the present pay, especially when that pay is higher than those in outside life get for doing the same work.

I want to say in fairness to the gentleman in charge of this bill that I am going to make an effort to cut these schedules, and I am going to vote for the bill if I can cut them within any kind of basis where I can at all sanction them, because I believe the plan is in the right direction. I do not know what attitude the committee will take on cutting any of these schedules. I will go further than that and say to the chairman of the committee that if he can produce any figures here to convince me that it will not increase the salaries unreasonably, I would be willing to vote for the bill. Where will we stand if we raise salaries when the railroad employees are threatening a strike? Nearly every one of us were in sympathy with the cut of 12 per cent in wages for the railroad man, but I say to you I would rather pay a railroad conductor or a railroad engineer \$3,000 a year than some of the people who are getting it under these schedules in the Government service. These people under Government pay roll get 365 days of salary. They work with 30 days' vacation and their sick leave. They have a permanent position, while the man out in daily life must take his leave when the shop closes down, and if he gets sick he loses his place. He also has governmental retirement insurance. To work for the Government is a preferred job, and the man who does that ought to be willing to work for a little less salary, to pay for the privilege, instead of expecting more. He has the best job of any class of employees in this country.

Mr. LEHLBACH. Mr. Chairman, I yield five minutes to the gentleman from Kansas [Mr. LITTLE].

Mr. LITTLE. Mr. Chairman, we have just heard a very eloquent oration from the gentleman who says he was sent here to represent "Old Man People" and to explain his wishes. I have a certificate myself from him, too, and shall make a little talk for him. Turning to page 18 I find a list of employees working for \$420, \$480 per annum, and so on. So far as one can judge they are getting little enough so they can not be included in the list of high salaries. That is where they begin, \$420. All this talk on this bill about high salaries is sheer talk. There is comparatively a small number of these people who get high salaries. The distinguished member of the Committee on Appropriations who spoke here so eloquently a moment ago some years ago wanted us to increase the salary of the District

Commissioners to \$6,000. I objected to it at the time, because it was to raise the salary of a man who was then receiving \$5,000. That was not a reclassification; that was a pure raise of salary. He was just as earnest for that then as he is now against reclassification. Except in the Post Office Department we have no method of practically comparing work accomplished by various employees, of fixing their comparative value. There is no such thing; there is no classification. Salaries are not founded upon any principle of equity, common sense, or economy. This bill is not an attempt to raise salaries; it is an attempt, after a long and careful study, to classify clerks so their rewards will be in keeping with the results achieved, governed by common sense, which means economy in the long run. They say there are salaries here going to be raised. What salary is this going to raise? The gentlemen have not fixed one instance in which there will be an increase. You can get a \$10,000 Shipping Board salary raised here without batting an eye, for a smart man, and you know he is able, because he can draw down \$10,000 a year without accomplishing anything else. But when you wish to raise a small salary you turn loose the high tide of oratory and parsimony.

The gentlemen gravely say that they can not understand the bill and that therefore they must not vote for it; that it is the safe thing to vote "no" whenever you do not just comprehend what has been done by the committee. If that were the proper rule, the Appropriations Committee never would get a bill through in the world. The fact is that the department and field service of the United States is such an absolute babel of confusion that careful men have spent months in devising this plan to systematize the work and coordinate the industry, and they have submitted this bill to you because it is absolutely essential that something be done in the matter.

Mr. GRAHAM of Illinois. Will the gentleman yield?

Mr. LITTLE. I regret to say that I only have five minutes. These good sensible men have prepared this tendered system of classification. If the gentlemen can not give us a better one, they should vote for this. It has cost considerable money to formulate this method. The gentlemen could not prepare and submit another one to take its place without months of work, and yet they want to throw all that has been done so far into the discard. They suggest no flaw in it except the possibility that some men of small salaries may get larger salaries. That is not the purpose of the bill, and there is no plan like that in it. On the contrary, if you turn to page 6 you will see that reductions in pay and discharges must be made by the heads of departments whenever a clerk's efficiency ratings indicate that he is not earning his salary. You can not get that done now with any degree of equity or fairness or reason, and this is a tremendous step forward. It will remedy one of the greatest evils of our present system. I could find instances where heads of bureaus cut down the wages of clerks, but it is not done with any application of any rule, but simply by the feeling of the head of the bureau or the chief clerk. An instance like that was called to my attention just the other day. If this bill becomes a law, hereafter efficiency will govern the salaries, and there will be equal pay for equal work, and the chiefs of the work become personally responsible for getting all that the taxpayers pay for. If there are to be some occasional slight increases of salaries here and there because of efficiency, much more will be saved by the coordination accomplished, by the duplication disposed of, by the substitution of united and logical labor toward a definite end, for a continual jumble of useless clerks tramping over each other in order to get in enough hours a day to be remembered at the end of the month.

Gentlemen on this floor actually advance it as an argument against this bill that other people would like to have these jobs. Yes; the army of the unemployed treads forever on the heels of the workers. The cohorts of the ambitious seek to climb on the shoulders of their brothers in the great strife for a foothold in the world. There is somebody ready to fill every job in the world whenever it becomes vacant. No lawyer ever took a suit in court but some other attorney craved the opportunity to do so. No doctor ever rode to a patient but some other physician wished he had been called. No groceryman ever sold a pound of sugar but his rival was seeking to divert the customer to his place of business. That is the way the world is made, gentlemen, and it does seem to me that a man must be lacking in love for his fellow man who taunts the poor struggler with the fact that somebody else would like to have his job. There is somebody ready to take your job, gentlemen, each one of you. But a man's rewards do not depend upon that condition but upon his efficiency in securing results by his labors, and this bill makes that the test for these people hereafter, the test of efficiency.

Are these people paid too much? Two-thirds of them ride forever on the ragged edge of want. Not 5 per cent of them

ever accumulate a competence. Which of them ever amassed a fortune? That is no argument, gentlemen, against classifying these people. This is not an occasion for eloquence, but simply an opportunity for the exercise of good, sound common sense in the treatment of our fellow citizens that are bound for life to this particular business as soon as they get into it. These people do not draw the salaries given officers in the Army, where you have thousands of commissioned officers more than you need. The committee's report shows that assigning the clerks to their proper grades is done subject to the careful supervision by the Budget Bureau itself, which is given ample latitude to make necessary adjustments and to protect the interests of the taxpayers.

"Old Man People," my friends, is not so stingy as some people seem to think he is. These employees who work down here for \$420 a year and up are his sons and his daughters and they are entitled to have a definite understanding as to what service they are in, where they belong, and what their salary is to be, and that they have some chance to rise higher in the service by hard work. This idea is founded upon a principle. The committee has figured it out. These people after long service and hard work have presented a direct plan under which we can not only bring out the best work but secure economy of effort and expenditure. Others say that they do not understand it, and so they will vote against it. If gentlemen do not like it, give us a better plan, show us some other way to do it. It is time, gentlemen, that we have some specifications and plans upon which to work. The Post Office Department has. They know what they are doing there. What if our citizens do like to work for their Government? The United States Government ought to be the best employer of labor in the United States. The United States should give to its workers the best treatment and the best pay that is given anywhere in the world for the same labor. This Government must set an example to all those great corporations who do business merely for profit. Those of our citizens who enter its employ in our civil service waive every other opportunity in life and each of them should have absolute assurance that by industry he secures better employment and that by efficiency he gets higher pay. [Applause.]

The CHAIRMAN. The time of the gentleman has expired.

Mr. BLACK. Mr. Chairman, I yield 10 minutes to the gentleman from New York [Mr. LONDON].

Mr. LONDON. Mr. Chairman and gentlemen, I hope my support of the bill will not defeat it. [Laughter and applause.] The gentleman from Mississippi [Mr. Sisson], imitating the German statesman Bismarck, left the floor after he had delivered his address. Of course, nobody had anything to say after Bismarck would get through, and nobody can question anything after the gentleman from Mississippi has poured forth his wisdom. [Laughter.] I have a great deal of admiration for many Democratic Members coming from the South. They are splendid men; personally they are likable men. I think it was James G. Blaine who said, "They are the true defenders of real economy; they are always for economy," but altogether too many of them believe in the economy of the corner grocer.

That is as far as their mental flight takes them. They have no conception of modern needs or modern demands or modern conditions. In politics they live in Jefferson's day. He was undoubtedly a great man, but the trouble with Jefferson is that he is dead. [Laughter.] And the man who always relies on what is in the brain of Jefferson is likely to find himself in the position which a great French philosopher referred to when he said, "Many people who live with the brains of the past ages are nothing but worms living in old skulls."

We are dealing here with a great subject. Some of the attacks that have been made on the bill are extremely unfair. The gentleman from Indiana [Mr. Wood] has a similar bill, except that it is worse. The problem of classifying the service, of presenting some plan, some method, by which one should be in a position to estimate the character and value and to determine the compensation of the thousands of employees of the Government, has been annoying the best minds employed in the study of governmental science, in the study of the attitude of the Government as an employer. It is an extremely difficult relation.

In industry wages are supposed to be governed by the law of supply and demand. Our professors of political economy, ignoramuses that they are, teach that it is very simple—the law of supply and demand. A large supply of potatoes, and potatoes are cheap; a large supply of cabbage and cabbage is cheap; a large supply of labor, and labor is cheap. That is the political economy of our colleges. There are 800 jobs and a thousand men ask for them, and you reduce wages to the minimum. But

no Government can conduct itself as an employer on that ethical basis. No Government is worthy of support if it conducts its business on that brutal theory. We must repudiate that heartless, that cruel, unscrupulous doctrine, that doctrine of the dismal science, which is no science—the political economy of the conservatives. We repudiate that. And so it is not a proper question to ask whether there are men outside of the Government service, men who would be willing because of the presence of 5,000,000 unemployed, to take the position of a Government employee. That is not a proper question. If the gentleman from Ohio had asked me, I would have told him that although there might be a number of ward heelers in his district willing to take positions, there are many positions in Washington to-day that are not filled, particularly in the higher professional and scientific departments, because of low salaries. The gentleman from Indiana [Mr. Wood] contended that we do not draw a proper distinction in this bill between scientific service and the service subsidiary and auxiliary to the scientific service. He is entirely incorrect.

The bill divides the professional service into three grades. And then we have a subprofessional service with the minimum grade extremely low. You will find, for instance, on page 12 the provision:

The annual rates of compensation for classes of positions in this grade shall be \$240, \$300, and \$360, with maintenance or the cash value of such maintenance.

Here is the lowest grade of the subprofessional service. How much lower can anybody go? One can not sink below the bottom of the sea. They are at the bottom and could not be very much lower. I want to say that those who have made a study of the subject, the committee that you appointed in 1919, and that has given faithful, loyal, and intelligent service to the study of the subject, a committee that consisted of Members of the House of Representatives and of the Senate, have reached definite conclusions, and their conclusions are now before us in printed form and in intelligent form. The difficulty with the great majority of the Members of the House is that they have not the time to read and study the things that have been prepared for them. I wish they would read that report of the committee. It appears to be a voluminous work, but it is not. It has something like 900 pages, but the first 187 pages give a summary of their findings and their conclusions. The rest is statistical data. It requires only a day or a day and a half of reading to get the full meaning of their work and study. Now, let us see. We have had hearings on this bill before a joint committee of the House and the Senate. No one appeared in opposition to it, except that the gentleman from Indiana [Mr. Wood] appeared before the committee, and he proposed his own bill as a better one. But his bill in its structure is the same, except that it offers a larger number of classes and subdivisions. While we have in this bill 7 or 8 subdivisions of the service, he has 18 subdivisions, and I do not know whether his bill is an improvement.

I am inclined to think that the more the subdivisions the more confusion there is likely to be and the smaller the classification, the smaller the number of subdivisions, the safer is the legislation. But he did not oppose the legislation in principle. He brought his own remedy. And then there was another distinction between his bill and this one. While the bill as reported by the Committee on Reform in the Civil Service suggests the Civil Service Commission and the Bureau of the Budget as the two committees of the Government which are to initiate the work of classification and establish it on a suitable basis, the gentleman from Indiana suggests the Bureau of Efficiency.

There seems to be a quarrel between the Bureau of Efficiency and the Civil Service Commission. I am not interested in this controversy at all. Otherwise, there is no substantial difference between the bills. But the gentleman from Indiana [Mr. Wood] attacks it as if we had before us—

The CHAIRMAN. The time of the gentleman from New York has expired.

Mr. LONDON. Can the gentleman from Texas [Mr. BLACK] or the gentleman from New Jersey [Mr. LEHLBACH] give me some more time?

Mr. LEHLBACH. I will give the gentleman five minutes more.

The CHAIRMAN. The gentleman from New York is recognized for five minutes more.

Mr. LONDON. That may be enough.

I say, the gentleman from Indiana attacks us as if we had brought before the House a most absurd proposition, and he urges that we should do with this bill what has been done with a number of bills of late, namely, strike out the enacting clause.



By that method you would be throwing out something, and then you would think you have performed your full duty as legislators.

Read the testimony of the gentleman from Indiana before our committee. He points out here and there a defect, but he does not attack the bill in the merciless manner in which he indulged here on the floor.

Now, then, we have disposed of Mr. Wood's attack. So far as the gentleman from Wisconsin [Mr. STAFFORD] is concerned, the difficulty with him is that he has spent too much of his intellectual power in studying parliamentary practice. [Laughter.]

He makes his old speech in favor of economy. What is economy? Anybody who has had any business experience knows—and if there is any consolation in the fact that a large number of Members of the House are lawyers it is that they have had some contact with practical business affairs and know that true economy does not necessarily involve a reduction of expenses—when you pay larger salaries to more competent men and have established a better system of compensation and a higher efficiency, when you have inspired among employees a desire to work, when you have inspired among them faith and zeal for their work and a belief that they are getting a square deal, then you have obtained real economy and real efficiency. [Applause.] That is what this bill aims at.

We have found during a number of years in various bureaus that many men perform similar services and receive salaries widely divergent. It is the object of the bill to prevent that. We have found in some branches of the public service duplication of work. It is the object of the bill to prevent that.

Mr. J. M. NELSON. Mr. Chairman, will the gentleman yield?

Mr. LONDON. Yes.

Mr. J. M. NELSON. There is one point I would like the gentleman to throw light on. The gentleman has evidently studied the bill carefully. What rule have you followed so that we may be sure you are not increasing the general wage too much?

Mr. LONDON. I shall come to that presently. We have had some 800 pages of hearings. No one has appeared in opposition. That is the thing that annoys me most. This bill has been before the country for months. Everybody with a suggestion was welcome.

Mr. BLACK. Mr. Chairman, will the gentleman yield?

Mr. LONDON. Yes.

Mr. BLACK. If the gentleman will allow me an interruption, I will ask for further time for him.

Mr. LONDON. I yield to the gentleman.

Mr. BLACK. I suppose the most prominent business organization from the business standpoint in the country is the United States Chamber of Commerce, but they have not only indorsed this bill, this plan, but have taken a referendum on it and indorsed it.

Mr. LONDON. I am glad the gentleman brought out that fact. I found out only this morning that the gentleman from New Jersey [Mr. LEHLBACH] was going to take up this bill today. I wanted to see the show in the Conference on the Limitation of Armament this morning and I did not get a chance to collect the material on the bill. Now, the Chamber of Commerce has supported this bill. The Civil Service Commission, both the Democratic members and the Republican members, have spoken of the necessity of it. Here is a Democratic commissioner, Mr. Morrison, who says:

The commission has long favored a reclassification, because it regards it as a necessity in the performance of our duty.

You have thus the Civil Service Commission approving the bill, as well as the United States Chamber of Commerce, and an almost unanimous report from the committee. Now, as to the possible increase of the cost to the Government, in dollars and cents; I have heard all sorts of estimates, varying from 1½ per cent to 8 per cent by one of the efficiency experts who testified in support of the bill; from 1½ to 8 per cent. But I have no data; I have not the items upon which these calculations are based.

Mr. J. M. NELSON. Mr. Chairman, will the gentleman yield?

Mr. LONDON. Yes.

Mr. J. M. NELSON. It is said that this is merely an employees' bill, and that we are simply passing something that the employees themselves have prepared for us.

Mr. LONDON. I know; but here is something that the Civil Service Commission has supported. Here is something that is supported by the United States Chamber of Commerce, which is an organization not particularly looking out for the interests of the employees. Here are the efficiency experts, who have received their training as agents of the employers, the so-called efficiency engineers, whose work is designed to save their employers as much as possible, and, if necessary, at the expense

of employees. These efficiency experts have indorsed the bill and urged the necessity of it. The opposition comes from men who are unduly conservative, including among them myself. I am more conservative than I should be. Men who are too conservative live too much in the past; they do not want to depart from their fixed habits of thought.

There are nearly 1,800 terms used in appropriation laws to describe the various forms of service.

This bill purports to classify the various branches of the service, such as professional service, subprofessional, clerical, institutional, custodial, inspectional, police and criminal investigation, and fire service.

Now, in these classes you must allow some latitude for the various grades and subgrades and subdivisions. In my opinion, the only other thing the bill does is to fix minimum salaries. You are dealing with minimum salaries in eight branches, and it should be the easiest thing in the world to amend the bill on the floor if anybody has a reasonable amendment to offer.

Mr. KING. Will the gentleman yield?

Mr. LONDON. I will.

Mr. KING. The gentleman seems to be very well posted on the bill, and I would like to propound an interrogatory and get some information. I made a great mistake in my congressional career and voted for the budget bill. I do not propose, if I can help it, to extend the power of the budget any further. I would like to know if in the final disposition of a man's salary Congress or the Budget Commission will have the control of it?

Mr. LONDON. The final disposition will lie with that omnipotent Committee on Appropriations. Others have only the power to suggest, recommend, and advise, but the final power lies with the Congress and the Committee on Appropriations.

The CHAIRMAN. The time of the gentleman from New York has expired.

Mr. BLACK. Mr. Chairman, how much time have I remaining?

The CHAIRMAN. The gentleman from Texas has seven minutes and the gentleman from New Jersey six minutes.

Mr. BLACK. I yield five minutes more to the gentleman from New York [Mr. LONDON].

Mr. REED of West Virginia. Will the gentleman yield?

Mr. LONDON. I will.

Mr. REED of West Virginia. Will the bureau accomplish this? We have heard it said that in some of the Government service there are places where 15 men are accomplishing a certain amount of work where 8 men with a different system might get better salaries and better results. Will the bill accomplish that?

Mr. LONDON. The bill if honestly carried out ought to accomplish it. It should remove the dead wood and inefficiency. I might say that in every institution there is some dead wood.

Mr. CHINDBLOM. Will the gentleman yield?

Mr. LONDON. Yes.

Mr. CHINDBLOM. Does the gentleman believe that there is any dead wood in private enterprises?

Mr. LONDON. Undoubtedly there is.

Mr. CHINDBLOM. You can not eliminate that.

Mr. LONDON. It is the duty of the supervisors to eliminate as much as possible. That goes without saying.

Mr. J. M. NELSON. Will the gentleman yield?

Mr. LONDON. Yes.

Mr. J. M. NELSON. Is there no way of reducing the salary of an inefficient clerk?

Mr. LONDON. I think there is.

Mr. J. M. NELSON. Will the gentleman point that out—I mean at the present time—and if this bill goes into effect will that be permitted or rectified?

Mr. LONDON. Under the bill he is to be placed in the grade where he properly belongs, and that is what allocation means.

Mr. BLACK. Will the gentleman yield?

Mr. LONDON. Yes.

Mr. BLACK. If he is now drawing a salary considerably higher than the grade in which he is placed, the law provides that he shall only receive the compensation of the grade in which he is placed, and therefore he loses the remainder of the salary in excess.

Mr. LONDON. Gentlemen, I am sorry that neither the chairman nor the gentleman from Texas [Mr. BLACK] has enough time left for me to go into the details of the bill. I should have liked particularly to demonstrate that the salaries are not only not excessive, but are hardly adequate. I do not want you to be misled by the false cry of economy. There is too much of that false economy. We should do the sensible thing. The country is rich enough and big enough and strong enough to

increase the budget by 3, 4, or 5 per cent if that will improve the service, eliminate inefficiency, introduce system into the work, if it will make a Government employee feel that he is getting a square deal and is not, as in private industry, working under duress.

Mr. J. M. NELSON. Do I understand that the three parties are all in agreement about the bill—Republicans, Democrats, and Socialists?

Mr. LONDON. Yes; and then I am a sort of a superior Democrat-Republican. [Laughter and applause.]

Mr. LEHLBACH. Mr. Chairman, in the very few minutes remaining I want to correct some of the amazing and misleading statements made in the course of the debate. It has been stated here that this creates additional bureaus, additional governmental agencies. Nothing of the sort. It does not create any additional agencies of the Government. In the first instance, a tentative allocation is made by the respective department heads. The Bureau of the Budget to-day has as its function the power to reduce, collate, compare, and submit, with its recommendations to the President to be transmitted to Congress, the various pay rolls of the departments, and in that way has the information to revise and approve the allocations. It not only provides for no additional governmental agency but it does not provide for any additional work or for any information that the Budget Bureau has not got. If it has not the information and the Bureau of Efficiency has it, they can put it at the disposal of the Bureau of the Budget. That is what it is for.

As to unifying the efficiency systems and supervising their application to individual cases, the Civil Service Commission is the commission that now studies qualifications of men who fill these jobs, and is, of course, possessed of the information which enables it to determine whether the job is being carried on properly and efficiently. They have already that information, and therefore we not only have no other Government agency but we have no Government agency that is to seek new information in order properly to function under this bill.

Mr. KINKAID. Mr. Chairman, will the gentleman yield?

Mr. LEHLBACH. I yield for a question.

Mr. KINKAID. Is it correct that while the bill which the gentleman from New Jersey introduced and had pending about a year ago covering this same subject matter, which mentioned specifically the classes of employees that that bill covered, that this bill, while it does not specifically mention those same classes, does in its general terms cover and is intended to cover the same classes and to affect their salaries in the same way?

Mr. LEHLBACH. That is correct.

Mr. LOWREY. Mr. Chairman, will the gentleman yield?

Mr. LEHLBACH. I have only two or three minutes to answer some of these things, and I wish the gentleman would excuse me.

Mr. LOWREY. I wanted to ask a question to bring out something to help us vote on this bill.

Mr. LEHLBACH. It has been stated here that it is not possible to reduce the salary of an employee who, for some reason, favoritism or otherwise, is getting more pay than the character of work he does justifies. The bill provides that everyone must be allocated within his grade, and that means that he can not get more or less salary than his grade is entitled to, and it is superfluous to write any rule in section 6 which specifically says that when he is allocated to a grade he is allocated to that grade and to no other. That is as far as is necessary to go in any specific provision that a man must be reduced if he is getting a salary greater than his work entitles him to.

So far as the surrender of power by Congress is concerned, instead of the lump-sum appropriations, where the heads of the departments fix the salaries, instead of letting the Bureau of Efficiency classify the people and adjust their salaries, Congress proposes to do that itself and to retain control under this bill. That is the object of it.

Mr. BLACK. Mr. Chairman, will the gentleman yield—and I will yield him my time?

Mr. LEHLBACH. Yes.

Mr. BLACK. One of the complaints that we had with the Shipping Board was that in the expenditure of the lump-sum appropriations they fixed salary schedules that were entirely too high. Under this bill every employee is provided for. He is classified and put into one of these respective grades.

Mr. LEHLBACH. Certainly.

Mr. LINTHICUM. Mr. Chairman, will the gentleman yield?

Mr. LEHLBACH. I will ask the gentleman to excuse me. With regard to these increases of 20 per cent and 100 per cent and 50 per cent that have been spoken of, I have this to say: It was said that the salaries of private secretaries were increased \$2,500 to \$5,000 under this bill. What is the fact? Private secretaries get from \$2,500 under this bill to \$2,540, an

increase of \$40, with the exception only of the private secretaries to the members of the Cabinet, who receive \$3,300. With respect to the improbable and the incredible raises that we have heard about, all I can say is that Members should not believe that, or else they should read the bill and find out for themselves.

The gentleman from Mississippi [Mr. Sisson] criticizes the bill and says that no such animal is grown as a bureau chief who will reduce salaries, who will not endeavor to magnify the importance of his bureau by swelling the pay roll. The gentleman is describing present conditions, while the purpose of this bill is to end them. The very purpose of the bill is to say to them that if they have employees doing a certain grade of work they can not be paid more than that work is worth. The purpose of the bill is to say to them that if they have in their employ anyone who, through favoritism, is getting more money than the work he is doing entitles him to, the pay must be reduced. The bill provides that if a man does not maintain a certain standard of efficiency, it is mandatory on the bureau chief to get rid of him, or if his efficiency standing is of such a grade as to retain him but not sufficient to dismiss him, he then must be paid the minimum pay. It is not necessary to go to the Committee on Appropriations, but it is mandatory upon the bureau chief. The man must be demoted. We want some efficiency, and we will have economy. The bill is not a salary increase bill; it is not for that purpose at all. Such increases as are trifling are overbalanced by the good that will follow as a result of the reduction in the working forces of the Government. It is a bill to put order and organization into the civil service instead of the miserable hodgepodge which we have now. [Applause.]

Mr. LITTLE. Mr. Chairman, I ask unanimous consent to extend my remarks in the Record.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. LEHLBACH. Mr. Chairman, I ask that the Clerk read the bill.

The Clerk read as follows:

*Be it enacted, etc., That this act may be cited as "The classification act of 1922."*

Mr. BLACK. Mr. Chairman, I move to strike out the last word. I suggest that the committee should now rise.

Mr. LEHLBACH. Mr. Chairman, I move that the committee do now rise.

The motion was agreed to.

Accordingly the committee rose; and Mr. WALSH having resumed the chair as Speaker pro tempore, Mr. SANDERS of Indiana, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill H. R. 8928, and had come to no resolution thereon.

#### CHANGE OF REFERENCE—CHIPPEWA INDIANS.

Mr. DAVIS of Minnesota. Mr. Speaker, some time ago I introduced the bill H. R. 6872, which has reference to matters pertaining to the Chippewa Indians in Minnesota. It was erroneously referred to the Committee on Appropriations, and I ask unanimous consent that it be referred now to the Committee on Indian Affairs.

The SPEAKER pro tempore. The gentleman from Minnesota asks unanimous consent that the bill H. R. 6872 may be referred from the Committee on Appropriations to the Committee on Indian Affairs. Is there objection?

There was no objection.

#### EXTENSION OF REMARKS.

Mr. BYRNES of South Carolina. Mr. Speaker, I ask unanimous consent to extend my remarks in the Record by inserting therein a story of Theodore Tiller, Washington correspondent of the Baltimore Sun, relating to the burial of the unknown soldier.

The SPEAKER pro tempore. Is there objection?

Mr. STAFFORD. Mr. Speaker, I think it would be a very bad practice to incorporate in the Record these newspaper articles. Therefore I object.

Mr. APPLEBY. Mr. Speaker, I ask unanimous consent to extend my remarks in the Record with respect to the Conference on Limitation of Armament.

The SPEAKER pro tempore. Is there objection?

There was no objection.

#### ADJOURNMENT.

Mr. LEHLBACH. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to, and accordingly (at 5 o'clock and 6 minutes p. m.) the House adjourned until to-morrow, Wednesday, November 16, 1921, at 12 o'clock noon.



## REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII,

Mr. STEENERSON, from the Committee on the Post Office and Post Roads, to which was referred the bill (H. R. 8441) relating to special delivery of mail matter, reported the same without amendment, accompanied by a report (No. 468), which said bill and report were referred to the House Calendar.

## REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII,

Mr. BOIES, from the Committee on the Judiciary, to which was referred the bill (S. 2649) to extend the benefits of section 260 of the Judicial Code to Walter I. Smith, United States circuit judge, reported the same without amendment, accompanied by a report (No. 469), which said bill and report were referred to the Private Calendar.

## CHANGE OF REFERENCE.

Under clause 2 of Rule XXII, the Committee on Appropriations was discharged from the consideration of the bill (H. R. 6872) to defray the expenses of litigation and proceedings instituted by direction of the General Council of the Chippewa Indians of Minnesota, and for other purposes, and the same was referred to the Committee on Indian Affairs.

## PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. FULLER: A bill (H. R. 9135) to amend an act entitled "An act to revise and equalize rates of pensions to certain soldiers, sailors, and marines of the Civil War and the War with Mexico; to certain widows, including widows of the War of 1812, former widows, dependent parents, and children of such soldiers, sailors, and marines, and to certain Army nurses, and granting pensions and increase of pensions in certain cases," approved May 1, 1920; to the Committee on Invalid Pensions.

By Mr. GENSMAN: A bill (H. R. 9136) to authorize the leasing for mining purposes of unallotted lands on the Wichita game reserve, Oklahoma; to the Committee on Agriculture.

By Mr. OLDFIELD: A bill (H. R. 9137) to extend the time for the construction of a bridge across the White River; to the Committee on Interstate and Foreign Commerce.

By Mr. PRINGEY: A bill (H. R. 9138) for the purchase of a site and the erection of a public building at Sapulpa, Okla.; to the Committee on Public Buildings and Grounds.

By Mr. BRITTEN: Joint resolution (H. J. Res. 223) directing the Secretary of the Navy to stop the construction of certain battleships of the United States Navy; to the Committee on Naval Affairs.

By the SPEAKER: Memorial of the Legislature of the State of Louisiana, urging the passage of the Bankhead bill (H. R. 6048) providing for Government aid in the reclamation of arid and swamp lands throughout the United States, and for other purposes; to the Committee on Irrigation of Arid Lands.

## PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. APPLEBY: A bill (H. R. 9139) granting a pension to Joseph S. Hetherington; to the Committee on Invalid Pensions.

By Mr. FOCHT: A bill (H. R. 9140) for the relief of Joseph Beck; to the Committee on Military Affairs.

Also, a bill (H. R. 9141) granting a pension to Sarah E. Hood; to the Committee on Invalid Pensions.

By Mr. GENSMAN: A bill (H. R. 9142) granting a pension to Edmund Willis; to the Committee on Pensions.

Also, a bill (H. R. 9143) granting a pension to James M. Gilliam; to the Committee on Pensions.

By Mr. HAUGEN: A bill (H. R. 9144) granting a pension to Leander W. Springer; to the Committee on Pensions.

Also, a bill (H. R. 9145) granting a pension to Lionel R. Morrison; to the Committee on Pensions.

By Mr. HICKEY: A bill (H. R. 9146) granting a pension to Abner Lehman; to the Committee on Pensions.

Also, a bill (H. R. 9147) granting a pension to William Lehman; to the Committee on Pensions.

By Mr. LOGAN: A bill (H. R. 9148) for the relief of the G. R. Stokes Lumber Co.; to the Committee on Claims.

By Mr. McSWAIN: A bill (H. R. 9149) granting an increase of pension to James W. Gray; to the Committee on Pensions.

By Mr. MacGREGOR: A bill (H. R. 9150) granting a pension to George Netcher; to the Committee on Pensions.

By Mr. MAPES: A bill (H. R. 9151) granting a pension to Matthew Henry Udell; to the Committee on Invalid Pensions.

By Mr. MILLSPAUGH: A bill (H. R. 9152) granting an increase of pension to Caroline H. Vincent; to the Committee on Invalid Pensions.

By Mr. RANKIN: A bill (H. R. 9153) granting an increase of pension to Annie Estelle Moore; to the Committee on Pensions.

By Mr. ROBSION: A bill (H. R. 9154) granting a pension to Lelia May Cooper; to the Committee on Pensions.

By Mr. SMITH of Michigan: A bill (H. R. 9155) granting an increase of pension to Mary C. Triplett; to the Committee on Invalid Pensions.

## PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

3041. By the SPEAKER (by request): Copy of excerpt from the minutes of the Convention of the Municipal Presidents of Abra, held at Bangued, Abra, on Wednesday, October 5, 1921, expressing their sympathies toward Maj. Gen. Leonard Wood for his determination in accepting the Governor Generalship of the Philippine Islands, and forwarding their sincere and cordial congratulation to the President and Congress of the United States for the selection of Maj. Gen. Leonard Wood as chief executive of the islands; to the Committee on Insular Affairs.

3042. By Mr. APPLEBY: Resolutions adopted by Unity Council, No. 3, Sons and Daughters of Liberty, of New Brunswick, N. J., urging Congress to reduce appropriations for military work and to pledge its active support to the disarmament movement; to the Committee on Foreign Affairs.

3043. By Mr. BRENNAN: Petition of Marr School Parent-Teachers' Association of Detroit, Mich., advocating that the Conference on Limitation of Armament be open to public knowledge and public criticism and concern itself chiefly with the question of disarmament; to the Committee on Foreign Affairs.

3044. Also, petition of Catholic Study Club of Detroit, Mich., advocating that the Conference on Limitation of Armament be open to public knowledge and public criticism and concern itself chiefly with the question of disarmament; to the Committee on Foreign Affairs.

3045. By Mr. CURRY: Petition of the faculty of economics, University of California, for the enactment of legislation authorizing the continuation of the publication of the Monthly Labor Review; to the Committee on Labor.

3046. By Mr. FLOOD: Resolution of the members of Hebron Baptist Church, Spout Spring, Va., indorsing a constitutional amendment to prohibit sectarian appropriations; to the Committee on the Judiciary.

3047. By Mr. FULLER: Petition of the Private Soldiers' and Sailors' Legion of the United States of America, favoring enactment of the Focht bill (H. R. 6309) to regulate the business of pawnbrokers in the District of Columbia; to the Committee on the District of Columbia.

3048. Also, petition of the Haddorff Piano Co., of Rockford, Ill., opposing a tax on pianos and other musical instruments; to the Committee on Ways and Means.

3049. Also, petition of the Western Clock Co., of La Salle, Ill., favoring Senate bill (S. 2267) for the metric system of weights and measures; to the Committee on Coinage, Weights, and Measures.

3050. Also, petition of the Davis Sewing Machine Co., of Dayton, Ohio, for a tariff on sewing machines; to the Committee on Ways and Means.

3051. By Mr. JACOWAY: Petition of Bethlehem Baptist Church, Little Rock, Ark., indorsing House joint resolution 159, proposing a constitutional amendment prohibiting sectarian appropriations; to the Committee on the Judiciary.

3052. By Mr. KIESS: Petition of Enterprise Council, No. 136, Sons and Daughters of Liberty, of Muncy, Pa., relative to disarmament; to the Committee on Foreign Affairs.

3053. By Mr. KISSEL: Petition of Crane Export Corporation, New York City; to the Committee on Ways and Means.

3054. Also, telegram of the Superheater Co., New York City; to the Committee on Ways and Means.

3055. Also, petition of F. & J. Meyer, New York City; to the Committee on Ways and Means.

3056. Also, petition of R. E. Brooks Co., New York City; to the Committee on Ways and Means.

3057. By Mr. MACGREGOR: Resolution adopted at the eighteenth annual convention of the New York State Association of Real Estate Boards, Syracuse, favoring the so-called sales tax as being the fairest, simplest, and most easily collectible of any tax scheme so far proposed; to the Committee on Ways and Means.

3058. By Mr. MORIN: Petition of Local No. 66, Federal Employees of Western Pennsylvania, in support of the Lehlbach reclassification bill; to the Committee on Reform in the Civil Service.

3059. By Mr. RAKER: Petition of California State Federation of Labor, protesting against the bringing of Mexicans into this country as laborers; to the Committee on Immigration and Naturalization.

3060. By Mr. STRONG of Kansas: Resolution adopted by the First Baptist Church of Salina, Kans., urging the passage of House joint resolution 159, to prohibit sectarian appropriations; to the Committee on the Judiciary.

3061. By Mr. TEMPLE: Resolution of the Charleroi Turn Verein, Charleroi, Pa., in support of the Fess-Capper bill for physical education; to the Committee on Education.

3062. By Mr. WOODYARD: Petition of committee of the West Virginia University Branch of the American Professors, protesting against tariff on foreign books imported into this country; to the Committee on Ways and Means.

## SENATE.

WEDNESDAY, November 16, 1921.

The Chaplain, Rev. J. J. Muir, D. D., offered the following prayer:

Our Father, day after day Thou dost give unto us the evidences of Thy goodness, and as the recipients of that goodness we bow reverently before Thee this morning, seeking from Thee aid in the duties of the day. May we be loyal to the highest principles and noblest obligations of patriotism and, in connection therewith, in our duties to Thee, our Father. We ask in Jesus Christ's name. Amen.

The reading clerk proceeded to read the Journal of yesterday's proceedings, when, on request of Mr. CURTIS and by unanimous consent, the further reading was dispensed with and the Journal was approved.

### CALL OF THE ROLL.

Mr. CURTIS. Mr. President, I suggest the absence of a quorum.

The VICE PRESIDENT. The Secretary will call the roll.

The reading clerk called the roll, and the following Senators answered to their names:

Ashurst	France	McCumber	Ransdell
Ball	Frelinghuysen	McKellar	Robinson
Borah	Gerry	McKinley	Sheppard
Broussard	Gooding	McLean	Smith
Bursum	Hale	McNary	Smoot
Calder	Harrison	Myers	Spencer
Cameron	Heflin	Nelson	Stanley
Capper	Hitchcock	Nicholson	Sterling
Caraway	Johnson	Norbeck	Swanson
Culberson	Jones, Wash.	Norris	Townsend
Cummins	Kendrick	Oddie	Trammell
Curtis	Kenyon	Overman	Wadsworth
Dial	Keyes	Owen	Walsh, Mass.
Elkins	King	Page	Walsh, Mont.
Ernst	Ladd	Phipps	Watson, Ga.
Fernald	La Follette	Poindexter	Watson, Ind.
Fletcher	McCormick	Pomerene	Willis

Mr. CURTIS. I wish to announce that the Senator from Pennsylvania [Mr. PENROSE] is absent on official business.

I also wish to announce that the Senator from Indiana [Mr. New] and the Senator from Georgia [Mr. HARRIS] are detained at a committee hearing.

The VICE PRESIDENT. Sixty-eight Senators having answered to their names, a quorum is present.

### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. Overhue, its enrolling clerk, announced that the House agreed to the amendment of the Senate to the bill (H. R. 2232) in reference to a national military park on the plains of Chalmette, below the city of New Orleans.

The message also announced that the House agreed to the amendment of the Senate to the bill (H. R. 7108) authorizing a per capita payment to the Chippewa Indians of Minnesota from their tribal funds held in trust by the United States.

### ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House had signed the following enrolled bills, and they were thereupon signed by the Vice President:

H. R. 2232. An act in reference to a national military park on the plains of Chalmette, below the city of New Orleans;

H. R. 7051. An act to authorize the Secretary of the Interior to execute deeds of reconveyance for certain lands in the city of Mount Pleasant, Isabella County, Mich.;

H. R. 7108. An act authorizing a per capita payment to the Chippewa Indians of Minnesota from their tribal funds held in trust by the United States;

H. R. 8298. An act to amend section 1044 of the Revised Statutes of the United States, relating to limitations in criminal cases; and

H. R. 8442. An act to amend an act entitled "An act to authorize the President of the United States to locate, construct, and operate railroads in the Territory of Alaska, and for other purposes," approved March 12, 1914, as amended.

### SPEECH BY JAMES M. BECK.

Mr. BORAH. Mr. President, I submit a speech made some time ago before the American Bar Association by Mr. James M. Beck, and ask that it be referred to the Committee on Printing with a request that it be printed as a Senate document, if the committee so approve.

The VICE PRESIDENT. It will be so referred.

### PETITIONS AND MEMORIALS.

The VICE PRESIDENT laid before the Senate resolutions adopted by the convention of municipal presidents of Abra, held at Bangued, Abra, Philippine Islands, Wednesday, October 5, 1921, indorsing the appointment of Maj. Gen. Leonard Wood as Governor General of the Philippine Islands, which were referred to the Committee on Territories and Insular Possessions.

He also laid before the Senate cablegrams from J. S. Suris Cardona, presidente, on behalf of majority members of the municipal assembly and council of administration of Carborojo; H. Lopez, presidente, on behalf of the municipal council of administration of Fajardo; and Angel A. Vazquez, presidente of the assembly, and Juan Rullan, presidente board of aldermen of the city of Mayaguez, all in Porto Rico, protesting against alleged acts and statements of Gov. Reilly, of Porto Rico, as being derogatory to the rights and dignity of Porto Ricans, which were referred to the Committee on Territories and Insular Possessions.

Mr. SHEPPARD. I present 65 petitions signed by over 2,000 citizens residing at various points in Texas in favor of the conference report on the antibeer bill and against the Stanley amendment, which matter is pending before the Senate.

The VICE PRESIDENT. The petitions will lie on the table.

Mr. KEYES presented a resolution adopted at the annual meeting of the Grafton-Orange Association of Congregational Churches and Ministers, at West Lebanon, N. H., October 26, 1921, favoring the enactment of the so-called Willis-Campbell antibeer bill, which was ordered to lie on the table.

Mr. BALL presented a memorial of sundry citizens of Washington, D. C., remonstrating against the enactment of Senate bill 1948, providing for compulsory Sunday observance in the District of Columbia, which was referred to the Committee on the District of Columbia.

Mr. NICHOLSON presented a resolution adopted by the Central Presbyterian Church of Denver, Colo., favoring the American delegates to the Conference on Limitation of Armament taking a positive stand in furthering the aspirations of the people so as to promote lasting peace, which was referred to the Committee on Foreign Relations.

Mr. CAPPER presented resolutions adopted by the Church of the Brethren, of Topeka; the Methodist Episcopal Church of Westmoreland; sundry citizens of Arcadia; the students and faculty of McPherson College, of McPherson; the students and faculty of the Fort Hays Normal School, of Hays; the students and faculty of the College of Emporia; the students and faculty of Central College, of McPherson; the students and faculty of the Southwestern College, of Winfield; the students and faculty of Baker University, of Baldwin; the Commercial Club of Wellington; the students and faculty of Friends University, of Wichita, all in the State of Kansas, indorsing the Conference on Limitation of Armament and favoring open sessions of the conference and the promotion of peace among the nations, which were referred to the Committee on Foreign Relations.

Mr. SUTHERLAND presented resolutions adopted at a mass meeting of sundry citizens of Upshur County; the Women's Club of Charles Town; members of the First Christian Church of Hollidays Cove, Hancock County; a meeting of the Keyser Auxiliary of the Women's Home Missionary Society, Methodist Episcopal Church (Frederick District), Baltimore Conference; the Central Christian Church of Clarksburg; the Kiwanis Club of Williamston; the Knights of Pythias and Pythian Sisters of Parkersburg; and the congregation of the Methodist Episcopal



Church of Parsons, all in the State of West Virginia, favoring the limitation of armament and the fostering of world peace, which were referred to the Committee on Foreign Relations.

#### AMERICAN MEMORIAL HIGHWAY.

Mr. POMERENE. Mr. President, I present a resolution in the nature of a petition which was adopted by the Ohio State Archaeological and Historical Society, of which former Gov. James E. Campbell is president, inviting the President of the United States to appoint an American memorial highway commission, to include the American ambassador to France and the American ambassador to Belgium, together with nine American citizens distinguished in civil or public life, to cooperate with the appropriate authorities in France and Belgium in laying out a memorial highway leading from Paris over the existing French and Belgian highways nearest to the positions held by American divisions in the various sectors along the battle line. I ask that, without reading, it may be incorporated in the RECORD and referred to the appropriate committee.

There being no objection, the petition was referred to the Committee on Foreign Relations and ordered to be printed in the RECORD, as follows:

The trustees of the Ohio State Archaeological and Historical Society at the annual meeting of the society held at Columbus, October 12, 1921, adopted the following resolution:

"Resolved, That the President of the United States be requested to appoint an American Memorial Highway Commission to include the American Ambassador to France and the American Ambassador to Belgium, together with nine American citizens distinguished in civil or public life to cooperate with the appropriate authorities in France and Belgium in laying out a memorial highway leading from Paris over the existing French and Belgian highways nearest to the positions held by American divisions in the different sectors during the World War and passing the American military cemeteries in France and Belgium, one on the French highways nearest to the battle fronts between Paris, Chateau-Thierry, and Montfaucon, with an extension around the San Mihiel salient, and thence through Luxemburg on the route pursued to the Coblentz bridgehead by the American Army of Occupation under the terms of the armistice, and the other from Paris to Chateau-Thierry and thence northerly on the French and Belgian highways nearest to the positions held by the Twenty-seventh and Thirtieth American Divisions in the British sectors, and thence northerly past the American Cemetery at Boni to the positions held by the Thirty-seventh and Ninety-first American Divisions in Belgium, and thence on the line of advance with the Belgian Army under King Albert into Brussels after the armistice. Along these memorial highways simple roster and historical tablets to be erected giving the names of American and allied divisions engaged at the designated points and other simple memorial tablets indicative of the sacrifices and triumphs of the allied forces in the World War, to make the memorial highway interesting and instructive to the 2,000,000 American soldiers and their relatives and descendants who will visit the battle fields in increasing numbers annually to the end of time.

Yours, very truly,

THE OHIO STATE ARCHAEOLOGICAL AND HISTORICAL SOCIETY,  
By JAMES E. CAMPBELL, President.

#### ENROLLED BILLS PRESENTED.

Mr. SUTHERLAND, from the Committee on Enrolled Bills, reported that on the 14th instant they had presented to the President of the United States enrolled bills of the following titles:

S. 513. An act granting a deed of quitclaim and release to J. L. Holmes of certain land in the town of Whitefield, Okla.;

S. 904. An act for the relief of Elijah C. Putman;

S. 1283. An act for the relief of the Chicago, Milwaukee & St. Paul Railway Co.; the Chicago, St. Paul, Minneapolis & Omaha Railway Co.; and the St. Louis, Iron Mountain & Southern Railway Co.;

S. 1408. An act authorizing the Rolph Navigation & Coal Co. to sue the United States to recover damages resulting from collisions;

S. 1894. An act to amend section 26 of an act entitled "An act making appropriations for the current and contingent expenses of the Bureau of Indian Affairs," etc.; and

S. 2153. An act authorizing the owners of the steamship *Texas* to bring suit against the United States of America.

#### BILLS AND JOINT RESOLUTIONS INTRODUCED.

Bills and joint resolutions were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. STERLING:

A bill (S. 2729) granting an increase of pension to Alma L. Bruce (with accompanying papers); to the Committee on Pensions.

By Mr. WILLIS:

A bill (S. 2730) for the relief of Capt. Guy E. Manning (with accompanying papers); to the Committee on Claims.

By Mr. MYERS:

A bill (S. 2731) for the relief of entrymen of lands within the former Fort Peck Indian Reservation, in Montana;

A bill (S. 2732) to reclassify lands of the former Fort Peck Indian Reservation, in Montana; and

A bill (S. 2733) extending the time of payment by entrymen of lands within the former Fort Peck Indian Reservation, in Montana; to the Committee on Public Lands and Surveys.

By Mr. CURTIS (for Mr. LODGE):

A bill (S. 2734) providing for the conveyance to the city of Salem, in the State of Massachusetts, of Fort Lee Military Reservation for public use;

A bill (S. 2735) providing for the conveyance to the city of Salem, in the State of Massachusetts, of Fort Pickering Military Reservation for public use; and

A bill (S. 2736) providing for the conveyance to the town of Marblehead, in the State of Massachusetts, of Fort Sewall Military Reservation for public use; to the Committee on Military Affairs.

By Mr. JONES of Washington:

A bill (S. 2737) enabling the Secretary of the Interior to purchase for the United States all the interest and rights of John Arvid Petterson under his application for patent for an improvement in envelope printing attachment for adding machines; to the Committee on Patents.

A bill (S. 2738) granting an increase of pension to Richard Burnside; to the Committee on Pensions.

A bill (S. 2739) for the relief of Jack Heavers (with accompanying papers); to the Committee on Claims.

By Mr. KING:

A bill (S. 2740) to repeal the act of Congress approved February 1, 1905, and to transfer national forests from the Department of Agriculture to the Department of the Interior, and for other purposes; to the Committee on Public Lands and Surveys.

A bill (S. 2741) to fix the standard of work and duty for common carriers and to establish uniform car rates and class rates for the transportation of freight by common carriers in commerce between the States; to the Committee on Interstate Commerce.

By Mr. FRELINGHUYSEN:

A bill (S. 2742) to provide for payment of moneys to the city of Hoboken, N. J., in lieu of taxes on certain property the title to which was acquired by the United States of America through proclamation of the President, and for other purposes; to the Committee on Commerce.

By Mr. KING:

A joint resolution (S. J. Res. 135) providing for the suspension of construction work on battleships and battle cruisers, and for other purposes; to the Committee on Naval Affairs.

A joint resolution (S. J. Res. 136) requesting the President to call a conference of representatives of the Federal and State Governments to consider certain questions relative to Federal and State taxation; to the Committee on Finance.

#### MICHIGAN SENATORIAL ELECTION.

The VICE PRESIDENT. If there are no concurrent or other resolutions, the Chair lays before the Senate a resolution coming over from the previous day.

The Assistant Secretary read Senate resolution 172, submitted yesterday by Mr. SPENCER, as follows:

Resolved, (1) That the contest of Henry Ford against Truman H. Newberry be, and it is hereby, dismissed.

(2) That Truman H. Newberry is hereby declared to be a duly elected Senator from the State of Michigan for the term of six years commencing on the 4th day of March, 1919.

(3) That his qualification for a seat in the Senate of the United States, to which he has been elected, has been conclusively established, and the charges made against him in this proceeding, both as to his election and qualification, are not sustained.

The report of the Committee on Privileges and Elections and the views of the minority were subsequently ordered to be printed in the RECORD at this point, and they are as follows:

SEPTEMBER 26 (CALENDAR DAY, SEPTEMBER 29), 1921.

Mr. SPENCER, from the Committee on Privileges and Elections, submitted the following report. [Pursuant to S. Res. 11].

The Committee on Privileges and Elections of the Senate of the United States on the election contest brought by Henry Ford, contestant, against Truman H. Newberry, United States Senator from the State of Michigan, contestee, and on the investigation of the primary and general election of 1918 in the State of Michigan for United States Senator from Michigan report as follows:

The resolution adopted by the Senate on December 3, 1919, under which this investigation has proceeded, reads as follows:

"Whereas charges and countercharges of excessive and illegal expenditures of money and of unlawful practices have been made in connection with the primary nomination and election of a Senator from the State of Michigan, which election was held on the 5th day of November, 1918: Therefore be it

"Resolved, That the Committee on Privileges and Elections, or any subcommittee thereof, be, and it is hereby, authorized and directed to investigate the said charges and countercharges of excessive and illegal expenditures of money and of unlawful practices in connection with the said election of a Senator from the State of Michigan, including the proceedings for the nomination of candidates at the primary theretofore held, and to take possession of the ballots, poll books, tally sheets, and all other documents and records relating to the said primary nomination and election; and the Sergeant at Arms of the Senate, and his deputies

and assistants, be, and they are hereby, instructed to carry out the directions of the said Committee on Privileges and Elections, or any subcommittee thereof, in that behalf; and that the said Committee on Privileges and Elections, or any subcommittee thereof, be, and it is hereby, directed to proceed with all convenient speed to take all necessary steps for the preservation of the said ballots, poll books, tally sheets, and other documents, and to recount the said ballots, and to take and preserve all evidence as to the various matters alleged in the said charges and countercharges and any answers hereafter filed, and of any alleged fraud, irregularity, and excessive or illegal expenditures of money, and of any unlawful practices in the said election and primary, and as to the intimidation of voters, or other facts affecting the result of said election.

"Resolved further, That the Committee on Privileges and Elections, or any subcommittee thereof, be authorized to sit during the sessions of the Senate and during any recess of the Senate or of the Congress, and to hold its sessions at such place or places as it shall deem most convenient for the purposes of the investigation; and to have full power to subpoena parties and witnesses, and to require the production of all papers, books, and documents, and other evidence relating to the said investigation, and to employ clerks and other necessary assistants and stenographers at a cost not to exceed \$1 per printed page, to take and make a record of all evidence taken and received by the committee, and to keep a record of its proceedings; and to have such evidence, records, and other matter required by the committee printed.

"Resolved further, That the Sergeant at Arms of the Senate and his deputies and assistants are hereby required to attend the said Committee on Privileges and Elections, or any subcommittee thereof, and to execute its directions; that the chairman or any member of the committee be, and is hereby, empowered to administer oaths; that each of the parties to the said contest be entitled to representatives and attorneys at the recount and the taking of evidence; that all disputed ballots and records be preserved so that final action may be had thereon by the full committee and the Senate; that the committee may appoint subcommittees of one or more members to represent the committee at the various places in the making of the recount and the taking of evidence, and the committee may appoint such supervisors of the recount as it may deem best; and that the committee may adopt and enforce such rules and regulations for the conduct of the recount and the taking of evidence as it may deem wise not inconsistent with this resolution; and that the committee shall report to the Senate as early as may be, and from time to time, if it deems best, submit all the testimony and the result of the recount and of the investigation.

"Resolved further, That the expenses incurred in the carrying out of these resolutions shall be paid from the contingent fund of the Senate upon vouchers ordered by the committee, or any subcommittee thereof, and approved by the chairman of the committee."

The investigation was conducted by a subcommittee consisting of Senators WATSON (chairman), SPENCER (acting chairman), ENCE, POMERENE, and Wolcott. After the resignation of Senator Wolcott from the Senate, and after the hearings were ended, Senator ASHurst was appointed to the Committee on Privileges and Elections and became also a member of the subcommittee.

The findings and recommendations of the subcommittee were approved by the committee and constitute this report.

#### CHRONOLOGY.

On August 27, 1918, Truman H. Newberry was a candidate on the Republican ticket in the primary election to select a Republican candidate for United States Senator from the State of Michigan.

Henry Ford was a candidate on the Republican ticket at this primary election for the Republican nomination, and at the same time he was a candidate on the Democratic ticket for the Democratic nomination as candidate for United States Senator.

The primary election resulted in the selection of Truman H. Newberry as the Republican nominee for United States Senator and Henry Ford as the Democratic nominee.

At the general election held on November 5, 1918, Truman H. Newberry was declared elected United States Senator from the State of Michigan. He presented his credentials in due form to the Senate, took the oath of office as a Senator on May 19, 1919, and entered immediately upon the discharge of the duties of the office to which he had been declared elected.

On January 6, 1919, and again on May 20, 1919, there was filed in the Senate of the United States and referred to the Committee on Privileges and Elections, the petition of Henry Ford, contesting the election of Truman H. Newberry as a Senator from the State of Michigan, asking—

"For a recount of the ballots for the office of United States Senator cast at the election in Michigan held November 5, 1918, and for other relief."

The contestant asked:

(a) For a recount of the ballots.

(b) For—

"An investigation of the unlawful uses by said Truman H. Newberry, and in his behalf by his agents and representatives, of large sums of money to influence the primary and election."

Alleged undue influence and intimidation of voters at the said election, and further asked:

"That said Truman H. Newberry be declared not elected, and also disqualified, and not entitled to a seat, because of the aforesaid violations of law; and that petitioner (Henry Ford) may be declared elected and entitled to said seat."

Under this action of the Senate, above set out, the committee had to do with—

(a) The general election of November 5, 1918.

(b) The primary election of August 27, 1918, and the expenditure of money incident thereto.

(c) The qualifications of Truman H. Newberry to retain his seat in the Senate.

No countercharges were presented against the contestant for the consideration of your committee.

#### GENERAL ELECTION.

The contestant (Henry Ford) alleged in regard to the election—

"(a) That there are about 2,200 election precincts or districts in Michigan, and that nearly all of the election boards were composed wholly of Republicans, and great numbers of them were wholly composed of intense partisans of Mr. Newberry, and that only in a comparatively few of them were there at the said election any challengers or others acting in behalf of the Democratic candidates, and that every opportunity existed for election officials who were so inclined to miscount the ballots in favor of Mr. Newberry.

"(b) That a large number of ballots were unlawfully counted for said Newberry which in fact and in truth were cast for Henry Ford, namely, at least 10,000.

"(c) That large numbers of ballots lawfully cast for petitioner were not counted for him, but were unlawfully rejected by the various precinct election boards when making the counts, and they were not returned for petitioner, as in truth they ought to have been, namely, at least 10,000.

"(d) That in many election precincts or districts the count by the election officers and boards was illegal, in favor of Newberry, false and fraudulent, and in violation of the election laws governing the count.

"(e) Many of the ballots marked and cast for petitioner were counted and returned for the said Truman H. Newberry.

"(f) In many precincts (particularly in the Upper Peninsula of Michigan) the provisions of law enacted to protect the sanctity and secrecy of the ballots and to promote a true and honest vote and count were flagrantly violated, and many important and vital irregularities and departures from such provision occurred, thus vitiating under the law the vote of such precincts—as, for instance, the marking of ballots for voters by an unauthorized third person, the exposure of ballots by the voters, the overseeing of the voting by mine bosses and superintendents and the like, all of which were conducted in the interests of said Truman H. Newberry, and the votes of such precincts should be rejected and thrown out.

"(g) That many ballots in many precincts duly marked and cast for petitioner were rejected by the respective election boards and not counted at all.

"(h) That many ballots bearing unlawful distinguishing marks were illegally and unlawfully counted for the said Truman H. Newberry.

"(i) Many ballots duly marked and cast for your petitioner were wholly rejected and thrown out by many election boards on the unlawful and fraudulent pretext that they were not duly and properly marked for the petitioner, whereas in fact they were so marked and cast.

"(j) Many ballots duly and properly marked and cast for the petitioner were rejected and thrown out by many election boards on the unlawful and fraudulent pretext that they bore distinguishing marks, whereas in fact they did not bear any unlawful distinguishing marks and ought to have been counted for your petitioner.

"(k) Many ballots duly and lawfully marked and cast for petitioner were erroneously thrown out and not counted for petitioner by many of the said election boards under erroneous interpretations of their duties.

"(l) Many ballots for said Truman H. Newberry were corruptly and unlawfully procured to be cast and counted for him by the unlawful use of money on his behalf.

"(m) Large sums of money were unlawfully expended by and in behalf of said Truman H. Newberry to influence said election and cause votes to be cast for him that otherwise would not have been so cast.

"(n) Large numbers of lawful voters were intimidated and prevented from voting at the said election by partisans and supporters of said Newberry who otherwise would have voted at the election and cast their votes for the petitioner, to wit, 5,000 of such voters.

"(o) Large numbers of lawful voters, employers of certain large corporations, were intimidated and unlawfully coerced by employers and their representatives into voting for said Newberry against their wills and preferences who otherwise would have cast their ballots for the petitioner.

"(p) In a number of the counties the respective boards of county canvassers made and reported their canvasses without having or examining the poll books and tally sheets nor in any way verifying the number of original votes as cast or the number of voters voting at the respective precincts.

"(q) That careful investigation by petitioner's direction has been made by reliable men since the election to ascertain, as far as may be, the detailed facts pertaining to the above statements and as to the conduct of counting in said election and from such investigations and from other information reaching the petitioner and his representatives he avers the foregoing statements to be true, and he particularly specifies the following counties and election districts therein as the counties and districts where such irregularities, miscounting, and frauds were more flagrantly committed, namely:

"Kent, Bay, Kalamazoo, Wayne, Saginaw, Allegan, Antrim, Baraga, Barry, Benzie, Berrien, Calhoun, Cass, Charlevoix, Chippewa, Clare, Dickinson, Eaton, Emmet, Genesee, Gladwin, Gogebic, Gratiot, Hillsdale, Houghton, Huron, Ingham, Ionia, Isosco, Iron, Isabella, Jackson, Kalamazoo, Keweenaw, Lapeer, Lenawee, Macomb, Marquette, Mason, Mecosta, Midland, Monroe, Montcalm, Montmorency, Muskegon, Newaygo, Oakland, Oceana, Oscoda, Ottawa, Sanilac, St. Clair, St. Joseph, Tuscola, Van Buren, Washtenaw, Wexford,

"and that such irregularities and miscounts occurred in a more modified degree in nearly all the other counties of the State, and that mistakes, unfavorable to petitioner and in favor of the said Truman H. Newberry, occurred in all of the counties.

"(r) That upon a fair and lawful recount of the ballots cast at said election your petitioner would be decided to be duly and lawfully elected Senator from Michigan.

"(s) That upon such a fair and lawful recount, and due allowances being made for such frauds, intimidations, and prevention of votes, petitioner would be decided and declared by your honorable body to have been duly and lawfully elected Senator from Michigan."

#### RECOUNT OF THE BALLOTS.

The subcommittee caused the ballots cast at the said general election (with the exception of a few precincts where the ballots had been destroyed, in all of which cases by agreement of counsel the State official count was accepted as correct) to be gathered together and brought to Washington, where they were recounted in accordance with the rules agreed upon by counsel, and with the result fully set out in part 7 of the printed hearings had before the subcommittee.

The recount was commenced on January 4, 1921, and was concluded on February 2, 1921.

The total vote cast for the contestee (Truman H. Newberry) and for the contestant (Henry Ford), according to the official returns of the State of Michigan, was 432,541, of which Truman H. Newberry received 220,054 and Henry Ford received 212,487. This gave to Mr. Newberry a plurality of 7,567 votes.

Upon the recount a total of 429,836 ballots were examined, and the result of the recount (including the returns in the few precincts where the ballots were not available, and where, by agreement of counsel, the official count was accepted) gave to Mr. Newberry 217,085 and to Mr. Ford 212,751. Mr. Newberry's plurality was 4,334.

There were in Michigan at the said general election, 2,320 voting districts or precincts. In one of these (Turin, No. 2, Marquette County) no election was held.

The result of the recount shows conclusively that Truman H. Newberry was legally elected United States Senator, and there is no evi-



dence to sustain any of the charges of the contestant with regard to the general election, as hereinbefore set out.

These charges were definitely made under oath and were vigorously insisted upon by contestant through his counsel before the recount of the ballots, and were all capable of specific proof if they were true.

All the submitted evidence was carefully examined, and at great expense of time and money all the ballots (429,836 in number) were reexamined, and with the result that every such charge of illegal voting or counting, or of fraudulent returns or bribery or intimidation was not alone unproven in fact but was so manifestly unsupported by evidence as to produce the irresistible conclusion that these charges were the result of a reckless attempt to make some impression by the seriousness of the charges when it must have been known that they were entirely unfounded.

In fact, so totally failing is the proof to sustain any of the said charges of the contestant with regard to the general election that there is not to be found even a reference to such charges in the briefs filed by the contestant.

No claim is made in the briefs of contestant that Henry Ford is entitled to a seat in the United States Senate.

No claim has ever been made at any time that an excessive amount of money was used at the general election, or that there was any improper use of money at the general election. The evidence does not give any support to sustain any charge of fraud or illegality, bribery or intimidation of voters in connection with the general election.

#### PRIMARY ELECTION.

The charge is made that there was an unlawful use by Truman H. Newberry, "and in his behalf by his supporters, agents, and representatives," of large sums of money to influence the primary and the election.

An investigation of both the primary and the general election has been made with a detail and perseverance and to an extent almost inconceivable. In the Federal court of the United States at Grand Rapids, Mich., at the instance of the Department of Justice of the United States, Truman H. Newberry and 134 other men were, in the fall of 1919, indicted on a charge of conspiring to have Truman H. Newberry pay and expend, or cause to be paid and expended, more than \$3,750, the charge itself being a charge of conspiracy in violation of section 8 of the act of Congress approved June 25, 1910 (ch. 392, 36 Stat., 822-824), as amended by act of Congress of August 19, 1911 (ch. 33, 37 Stat., 25-29).

As a result of this trial Truman H. Newberry and 16 others were convicted of conspiracy. On appeal to the Supreme Court of the United States the conviction was set aside and the case was reversed.

The record of this trial at Grand Rapids shows that every detail of expenditure, of conduct, and of plan in the campaign, and every activity in behalf of Mr. Truman H. Newberry in connection with both the primary and the general election was most minutely inquired into and carefully examined.

More than 4,800 pages of typewritten testimony were taken at the Grand Rapids trial. This testimony was all before your committee in the present hearings, and so much of this testimony as either side desired has been incorporated in the printed hearings of the committee. At the request of contestant the testimony and statements of 75 witnesses examined at Grand Rapids were inserted, and at the request of contestee the testimony and statements of 5 witnesses examined at Grand Rapids were inserted.

In addition the bill of exceptions presented to the Supreme Court of the United States in the Grand Rapids case, consisting of 956 printed pages, and which contains a summary of the testimony of over 300 witnesses who were heard at the Grand Rapids trial, has been printed and made a part of the testimony in the present investigation.

Forty-four witnesses were examined under oath by the committee in this hearing.

The inevitable conclusion of all the testimony is that there is no evidence whatever to sustain the charge of improper use of money at the primary or the general election.

There was expended in the primary election in the interest of Truman H. Newberry approximately \$195,000, which was largely contributed by John S. Newberry, a brother, and other relatives and friends of Truman H. Newberry. Such contributions were not solicited by Truman H. Newberry, nor was the fact that they were given, or were to be given or used, known to him.

Truman H. Newberry was absent from the State of Michigan continuously during the entire campaign and until long after the election had been held. He took no part whatever either in the financial or other features of the primary campaign or its direction or control. Nor did he take any part in the general election.

Mr. Newberry was during all that time actively engaged in the service of the United States as a naval officer in New York.

He was kept fully informed from time to time as to the progress of the campaign in Michigan, but he had no knowledge of the financial management of the campaign; he did not know the amount of money being expended, nor by whom contributions were made, nor the purposes for which the money was used.

From his general knowledge of the character of the campaign that was being conducted in Michigan, and the extent of publicity given to his candidacy through the newspapers, it is presumed that he had a general idea that a large sum of money was necessarily being spent.

The evidence shows conclusively that the financial cost of the campaign was voluntarily borne by relatives and friends of Truman H. Newberry and was entirely without solicitation or knowledge upon his part.

The amount of money spent at the primary was large—too large—but there was no concealment whatever with regard to it, and it was spent entirely for legal and proper purposes. On September 6, and within the time prescribed by the laws of the State of Michigan, a full report, so far as it was then known, of the contributions and expenditures was filed and made public. It showed contributions of \$178,856, and expenditures, \$176,568.08, divided as follows:

For advertising and other publicity	\$147,800.16
Office expenses, including rent, furniture, light, and clerk hire	9,070.13
Telephone, telegraph, and other charges	1,514.14
Traveling expenses	9,104.52
Copying of election registers and canvassing the voters	4,875.38
Salaries and compensation not otherwise charged	4,142.75
Total	176,568.08

Later on some bills, which had been delayed in presentation, mainly for advertising, amounting to between \$10,000 and \$15,000, were presented and were paid by the Newberry campaign committee, but the fact that approximately \$195,000 was used in the primary was frankly

and freely admitted and nothing in the testimony has materially changed this admission.

Whether the amount was approximately \$195,000, as was fully reported or openly acknowledged, or whether there were some few thousand dollars in excess of that amount, as contestant alleges, is immaterial. It is, in either event, a larger sum than ought to have been expended.

It is significant that though under the law of Michigan it is expressly provided that any "voter" is empowered to "make complaint in writing that a statement does not conform to law or to the truth," and upon such a complaint being made the officer authorized to issue a certificate of nomination is required to at once act in the matter (sec. 3834), no such complaint was ever made by any voter in the State of Michigan complaining in any way of the statement as filed by the Newberry campaign committee, nor were the provisions of Michigan law which severely regulated every step of the primary campaign, including the report of receipts and expenditures in such campaign, ever invoked in the courts of the State of Michigan.

Your committee condemns the use of such a large sum of money in any primary campaign, but in the instant case there is not the slightest foundation upon which to connect Truman H. Newberry with its solicitation, its acquisition, or its use, nor to condemn him because of the amount. While the aggregate was large, it was not spent for any purposes that were in themselves illegal or improper, and its use was wholly managed by a campaign committee entirely free both in its selection and its action from Truman H. Newberry.

It is but fair to state that the evidence discloses a situation in regard to this primary which perhaps has no parallel in American history.

Henry Ford, who is the contestant here, and who was the opponent of Truman H. Newberry at the primary as well as the general election, was running at the primary election on the Democratic ticket for nomination for United States Senator on that ticket, and at the same time, in the same primary, he was running as a Republican on the Republican ticket for the Republican nomination for United States Senator.

Mr. Ford had back of him and his candidacy the tremendous power of the expressed approval of the then President of the United States, and according to Mr. Ford's own statement (record, pp. 637, 640) he had been drafted, and "he ran at the suggestion of the President."

The name of Henry Ford, because of his industrial relationship in connection with the automobile industry, was a familiar household name throughout the State of Michigan. Practically every hamlet in the State of Michigan had an agency of the corporation which bears his name and which in the public mind was identified with himself.

The name of Truman H. Newberry was practically unknown throughout the State, although he had been Assistant Secretary of the Navy, and for a very short time, the Secretary of the Navy of the United States.

The evidence shows that Mr. Newberry was himself out of the State of Michigan during the entire primary campaign. He was unable, therefore, to personally address or meet with the people. His constant service during this time in the Navy of the United States was not of such public interest as of itself to be either widely or constantly commented upon in the public press, particularly when so much more important war news was filling the columns of the daily press and eagerly read by the American people.

In these circumstances the friends of Truman H. Newberry regarded it as imperatively necessary to conduct a campaign of publicity and advertising of the very widest character, in order to present as fully as possible to every voter in the State of Michigan the claims of Truman H. Newberry to the office for which he was a candidate.

The evidence discloses that a most comprehensive and far-reaching campaign of publicity was vigorously conducted in a thorough and systematic manner through the newspapers of the State of Michigan. (Record, p. 639.)

That, with the exception of a few Democratic newspapers, advertising was placed in practically every newspaper, daily, weekly, and monthly, published in the State of Michigan. (Record, pp. 350, 356.)

That a series of 13 advertising announcements, covering the entire 13 weeks of the primary campaign, were carried in upward of 500 papers and publications, going into every portion of the State. (Record, pp. 422, 639.)

In addition to this, a very general and systematic plan of publicity was carried on through correspondence; thousands and thousands of form letters being sent into every county in the State; the names of persons to whom sent being alphabetically arranged and card indexed. (Record, p. 644.) This work necessitated the assistance of a large corps of clerks and helpers. The evidence discloses that at one time more than 50 stenographers alone were employed in the Newberry headquarters. (Record, p. 639.)

This program of publicity necessitated the expenditure of a large amount of money. More than 80 per cent of the money spent in the primary campaign was, according to the evidence, spent for advertising and other publicity.

The record discloses the fact that all these expenditures of money at the primary, of which complaint is so vigorously made here, were well known to the voters of the State of Michigan and to the people of that State even before the primary election took place. This was made an issue at the primary, precisely as it was made an issue at the general election. (Record, p. 645.)

The record shows that statements showing the amount of money spent in the primary were placarded "all over almost every fence and billboard in the State," and this expenditure was used generally as one of the reasons why Truman H. Newberry should not be elected. (Record, p. 645.) The majority of Mr. Newberry over Mr. Ford at the primary was 43,163.

#### QUALIFICATIONS OF TRUMAN H. NEWBERRY.

The Senate is jealous of its constitutional right to be "the judge of the elections, returns, and qualifications of its own Members."

No man, however qualified, can be admitted to a seat in the Senate who has not been legally elected in the State which he seeks to represent, and no man, on the other hand, however great his electoral majority may have been, can be either admitted or continued as a Member of the Senate whose conduct, either during the primary or general election or subsequent thereto, is such as to show him unworthy to assume the high office to which, by virtue of his election, he has been chosen.

The interest of the State which he seeks to represent and the welfare of the Nation alike demand that each Senator shall be one concerning whom there is no proven charge of disloyalty, dishonesty, or of conduct which would reasonably make his presence in the United States Senate a menace to the country, either because of the example

which his conduct has produced or because it is reasonable to assume from established facts that he is unworthy of that trust and confidence which of necessity must be reposed in every Member of the United States Senate.

Your committee has therefore given particular and careful consideration to the charges which were made by the contestant here against the Junior Senator from the State of Michigan.

Two facts which are decisive of the present case stand out clearly in the record as entirely established:

First. That none of the money spent in the primary election, large as was the amount, was spent for corrupt, illegal, or improper purposes. It was spent without the knowledge or consent of Truman H. Newberry for publicity and for ordinary campaign purposes and expenditures which are perfectly familiar to every man who has ever been a candidate for office, and which are generally regarded as both necessary and proper.

Second. That Truman H. Newberry had no part whatever in the solicitation of the campaign fund, or in its acquisition, or in the expenditure of it. It came from sources entirely voluntary, and it was spent by a voluntary committee which was in no sense the agent of Mr. Newberry and which had complete control of it and entire responsibility for its use.

The contributions were all those of "the citizen," as Chief Justice White expressed it, and were not the contributions of Mr. Truman H. Newberry, "the candidate."

The Chief Justice well declared that—  
"There can be no doubt when the limitations as to expenditures which the statute imposed are considered in the light of its context and its genesis that its prohibitions were intended, not to restrict the right of the citizen to contribute to a campaign, but to prohibit the candidate from contributing and expending, or causing to be contributed and expended, to secure his nomination and election a larger amount than the sum limited as provided in the statute."

The charge is made that—  
"Hundreds and hundreds of workers hired all over the State, directly in violation of law, both the written statutes of Michigan and the common law."

The evidence entirely fails to sustain this charge, for it is clearly shown that those employed by the Newberry campaign committee—that is to say, clerks, stenographers, field men, and publicity men—are not in any sense within the prohibition of the Michigan statute prohibiting the hiring of workers on primary day and prior thereto to induce persons to support or oppose any candidate. The statute expressly indicates its intent to prohibit either the bribery of the voter himself or the hiring of men to induce voters either on primary day or prior thereto to vote for a certain candidate or to refrain from voting.

This statute can not be tortured into a construction that would prohibit an orderly, public, extensive program of publicity as was exhibited by the Newberry senatorial committee, and it is significant that with all the attempts to subject Mr. Newberry to every conceivable criminal prosecution there was not even an attempt, so far as the record shows, to invoke this State law which itself provides severe punishments for its violation against him.

Charges were made that—  
"The entire press was subsidized by huge advertising;  
"Payments to these workers concealed and never reported;  
"False returns by county agents, under instructions from the managers, showing but a small part of their expenditures of the moneys handed by them;  
"False books of account, manufactured after the conclusion of the primary;

"A doctored treasurer's report;  
"The books of the Newberry estate and of the individual accounts stolen or disappearing when needed;

"The frightfully false oaths submitted to the Senate and the country by Mr. Newberry—  
and are illustrations of the bitter and exaggerated and baseless allegations found throughout this record. The evidence does not in any sense support them.

The situation can not be more clearly and properly described than in the words of Mr. Justice Pitney in his opinion when the Grand Rapids case came for final decision before the Supreme Court of the United States. Speaking of Mr. Newberry's alleged connection with the fund, he says:

"His mere participation in the activities of the campaign, even with knowledge that moneys spontaneously contributed and expended by others, without his agency, procurement, or assistance, were to be or were being expended, would not of itself amount to his causing such excessive expenditure."

Justice Pitney continued:  
"A candidate can not be made a principal offender unless he directly commits the offense denounced. Spontaneous expenditures by others being without the scope of the prohibition, neither he nor anybody else can be held criminally responsible for merely abetting such expenditures.

"His remaining in the field and participating in the ordinary activities of the campaign, with knowledge that such activities furnish in a general sense the 'occasion' for the expenditure, is not to be regarded as a 'causing' by the candidate of such expenditure within the meaning of the statute."

The record of Truman H. Newberry during the primary campaign and during the campaign for the general election is one that merits commendation and approval. He was, himself, during the whole period devoting his time and energy to the service of his country. His campaign for United States Senator from Michigan was in the hands of his friends and supporters, who financed and conducted it according to their own plans out of their own money. His only connection with the campaign was such information as to its progress as was constantly transmitted to him by those having the matter in charge and such infrequent conferences as were possible with him while he was in the performance of his duty as commander in the United States Navy.

No man can read the record in this case and fairly come to any other conclusion.

The charges which have been bitterly made and vehemently urged are wholly unsubstantiated.

We are asked to brand practically every witness who appeared, and all of them on the summons of the contestant, as either a willful perjurer or a man unworthy of belief.

Every witness produced was called by the contestant, who, under the usual rules of procedure, is presumed to vouch for the credibility of the witnesses he produces.

Some of the witnesses were men of the highest standing and character in the industrial world and in official life.

There was nothing in their conduct or in their appearance or in their testimony to indicate that they were not fully and frankly telling the truth, the whole truth, and nothing but the truth precisely as they remembered it to be.

The conclusions at which the contestant would have your committee arrive are those which the contestant bases entirely upon unwarranted inferences and upon the merest conjectures, and are without the testimony of a single witness to sustain them.

We are urged to disregard practically the entire testimony as produced by the witnesses of the contestant himself as being utterly lacking in credibility, if not willfully false, and to substitute for such testimony the baseless suspicions and unfounded charges which the contestant is pleased to make.

We are asked to arrive at false conclusions and to sustain intemperate charges which have nothing except their mere allegation to support them.

It is difficult to imagine a case more severely charged and more completely unsubstantiated than is presented in this proceeding.

Your committee recommends that the action of the Senate be as follows:

(1) That the contest of Henry Ford against Truman H. Newberry be, and it is hereby, dismissed.

(2) That Truman H. Newberry is hereby declared to be a duly elected Senator from the State of Michigan for the term of six years commencing on the 4th day of March, 1919.

(3) That his qualification for a seat in the Senate of the United States, to which he has been elected, has been conclusively established, and the charges made against him in this proceeding, both as to his election and qualification, are not sustained.

SEPTEMBER 26 (CALENDAR DAY, SEPTEMBER 29), 1921.

MR. POMERENE, from the Committee on Privileges and Elections, submitted the following views of the minority (pursuant to S. Res. 11):  
The undersigned members of the committee dissent from the report of the majority for the following reasons:

In 1918 there were 83 counties in Michigan, containing 2,320 voting districts or precincts.

The primaries were held on August 27. Mr. Truman H. Newberry was nominated by the Republicans, Mr. Henry Ford by the Democrats.

At the November election, according to the official returns, 432,541 votes were cast. Of these Truman H. Newberry received 220,054 and Henry Ford 212,487. Mr. Newberry's plurality, according to the official returns, was 7,567.

Upon the recount a total of 429,836 ballots were examined, with the result (including the returns in the few precincts where the ballots were not available and where the official count was accepted) that Newberry received 217,085 votes and Mr. Ford 212,751 votes. Mr. Newberry's plurality being 4,334.

#### PRIMARY ELECTION.

The record shows the charges in detail, and it is not necessary to repeat them here. We desire to call attention specifically to the following assertions set forth in the report of the majority:

"First. The clear result of all the testimony is that there is no evidence whatever to sustain the charge of improper use of money at the primary or general election.

"Second. There was expended in the primary election in the interest of Truman H. Newberry approximately \$195,000, which was largely contributed by John S. Newberry, a brother, and other relatives and friends of Truman H. Newberry. Such contributions were not solicited by Truman H. Newberry, nor was the fact that they were given or were to be given or used known to him.

"Third. Truman H. Newberry was absent from the State of Michigan continuously during the entire time from the early spring of 1918 until late in the fall of 1918, and long after the primary election had been held. He took no part whatever either in the financial or other features of the primary campaign or its direction or control.

"Fourth. He was kept fully informed from time to time as to the progress of the campaign in Michigan, but he had no knowledge of the financial management of the campaign. He did not know the amount of money being expended, nor by whom contributions were made, nor the purposes for which the money was used.

"Fifth. From his general knowledge of the character of the campaign that was being conducted in Michigan and the extent of publicity given to his candidacy through the newspapers, it is presumed that he had a general idea that a large sum of money was necessarily being spent.

"Sixth. The evidence shows conclusively that the financial cost of the campaign was voluntarily borne by relatives and friends of Truman H. Newberry, and was entirely without solicitation or knowledge upon his part.

"Seventh. The amount of money spent at the primary was large—too large—but there was no concealment whatever with regard to it."

The report filed by the Newberry senatorial committee showed contributions aggregating \$178,856 and expenditures \$176,568.08.

"Eighth. Later on some bills which had been delayed in presentation, mainly for advertising, amounting to between ten and fifteen thousand dollars, were presented and were paid by the Newberry campaign committee. But the fact that approximately \$195,000 was used in the primary was frankly and freely admitted, and nothing in the testimony has materially changed this admission."

On the contrary, it is claimed by the contestant's attorneys, and we think with very great force, that the proved expenses totaled very much more, the exact amount of which can not be ascertained from the record because of the indefiniteness of much of the testimony and the incompleteness of the records kept by the Newberry campaign committee. The amount of proven expenditures as claimed by the attorneys for the contestant amount to \$263,060.67. The various items embraced in this amount will be found on page 7 of the shorter brief filed on behalf of contestant.

"Ninth. Your committee (majority) condemns the use of such a large sum of money in any primary campaign, but there is not the slightest foundation to connect Truman H. Newberry with its solicitation, its acquisition, or its use, or to condemn him because of the amount. While the aggregate was large, it was not spent for any purposes that were in themselves illegal or improper, and its use was wholly managed by a campaign committee entirely free either in its selection or control from Truman H. Newberry.

"Tenth. That with the exception of a few Democratic newspapers advertising was placed in practically every newspaper—daily, weekly, and monthly—published in the State of Michigan. (Record, pp. 350, 356.) That a series of 13 advertising announcements covering the en-



tire 13 weeks of the primary campaign were carried in upward of 500 papers and publications and going into every portion of the State. (Record, pp. 422, 639.)

"Eleventh. In addition to this a very general and systematic plan of publicity was carried on through correspondence, thousands and thousands of form letters being sent into every county in the State, the names of the persons to whom sent being alphabetically arranged in card indexes. (Record, p. 644.)

"Twelfth. More than 80 per cent of the money spent in the primary campaign was, according to the evidence, spent for advertising and other publicity."

The majority report further declares:

"Thirteenth. Two facts which are decisive of the present case stand out clearly in the record as entirely established:

"First. That none of the money spent in the primary election, large as was the amount, was spent for corrupt, illegal, or improper purposes. It was spent for publicity and for ordinary campaign purposes, and expenditures which are perfectly familiar to every man who has ever been a candidate for office, and which are generally regarded as necessary and proper.

"Second. That Truman H. Newberry had no part whatever in the solicitation of the campaign fund or in the expenditure of it."

If the testimony contained in the record sustained the facts as stated by the report of the majority we would be compelled to come to their conclusion touching the merits of this case.

#### CLAIMS OF MINORITY.

We affirm, however, that the conclusion of facts as stated by the majority is not sustained by the record.

On the contrary, it shows clearly:

First. That Mr. Truman H. Newberry participated in, if he did not dictate, the organization of his campaign committee.

Second. He knew in advance that this campaign would cost "his friends" at least \$50,000.

Third. Reports almost daily were made to him by his campaign manager, Mr. Paul King, and others.

Fourth. Almost daily reports were made to him by his attorney in fact, Fred P. Smith, as to the business and financial affairs of himself, his brother, John S. Newberry, the chief contributor to the campaign fund, and of 10 other Newberry interests. He knew that Fred P. Smith, who was acting under his power of attorney, was checking money out of the bank accounts of Truman H. Newberry and other Newberry interests and depositing them to the credit of John S. Newberry, and then issuing checks on this fund payable to the Newberry campaign fund committee as its demands might require.

Fifth. He aided in the preparation of the publicity material, received constant reports concerning it, and regarded himself responsible to Mr. Templeton, Mr. King, and Mr. Oakman "for actual travel and publicity costs." (B. E., 652.)

Sixth. He knew for weeks in advance of the primary that the extravagant expenditure of money had gone to such an extent as to be a common scandal in the State, and that he was the beneficiary thereof.

Seventh. This extravagant expenditure of money was called to his attention not only by the public press of his State, but by letters written to him personally by some of Michigan's most honored citizens.

Eighth. A careful study of this record will show that the campaign committee was composed of his close personal and business friends, and that they were in fact his very "alter ego," or at least they were so closely allied with him, and he was in such close touch with every phase of the campaign that it does not lie in his mouth to claim the usufruct of their work and deny the responsibility for the way in which it was brought to his door.

Ninth. With all of this knowledge brought to him in the way disclosed by this record, we fail to see how Mr. Newberry could honorably say as he did in his affidavit of August 14, 1918, filed with the Secretary of the Senate:

"The campaign for my nomination for United States Senator has been voluntarily conducted by friends in Michigan. I have taken no part in it whatever, and no contributions or expenditures have been made with my knowledge or consent."

Tenth. Nor do we understand how in his further affidavit filed with the Secretary of the Senate on August 29, 1918, he could honorably say:

"The following is a true and itemized account of all moneys and things of value given, contributed, expended, used, or promised by me, or by my agent, representative, or other person for or in my behalf with my knowledge or consent."

"None with my knowledge or consent."

"I have read the general published statement of Paul H. King concerning expenditures by a volunteer committee of my friends, but these were made without my knowledge or consent."

Twelfth. Neither is the minority able to understand, when Mr. Newberry's title to a seat in the United States Senate is challenged and this challenge is supported by the evidence contained in this record, why he should fail to come before the committee of his colleagues to give them the knowledge which he possesses bearing upon this subject, but content himself with a general denial.

Thirteenth. After it was announced that Senator Newberry would not appear to testify the minority moved that he be invited to appear, and they are not able to understand why the majority of the committee refuse to honor this request and call him before it so that the Senate might have the benefit of any explanations he might see fit to make concerning his relations to his campaign.

Fourteenth. A careful reading of this record will convince fair-minded men that the Newberry senatorial committee was the agency through which Mr. Newberry conducted the campaign, sometimes directing, sometimes vetoing, but nearly always participating in and approving its acts. The acts of this committee were his acts, and for them he is responsible at the bar of the Senate.

#### MICHIGAN STATUTES.

We shall discuss the evidence more in detail in order to shed full light upon the findings of the majority of the committee and for the purpose of sustaining the conclusions reached by the minority. But before so doing and in order that Senators may be able to understand the relevancy of the testimony, permit us to cite the Michigan Statutes governing primary elections:

Under the Michigan Statutes all of the provisions of law relating to the nomination and election of a governor, so far as the same are applicable, control the nomination and election of United States Senators. (Michigan Stats., 228.)

Under section 3828 the limit to be expended is 50 per cent of one year's salary.

So far as is pertinent at the present moment, section 3828 reads:

"No sums of money shall be paid and no expenses authorized or incurred by or on behalf of any candidate to be paid by him in order to secure or aid in securing his nomination, etc." (Record, p. 932.)

Section 3829 requires that:

"Every political committee shall appoint a treasurer, who shall receive, keep, and disburse all sums of money which may be collected or received by such committee, or by any of its members, for election expenses."

Section 3830 reads:

"No candidate and no treasurer of any political committee shall pay, give, or lend, or agree to pay, give, or lend, either directly or indirectly, any money or other valuable thing for any nomination or election expenses whatever, except for the following purposes:

"First. For traveling expenses and personal expenses incident thereto, for printing, stationery, advertising, postage, expressage, freight, telegraph, telephone, and public messenger services.

"Second. For dissemination of printed information to the public.

"Third. For political meetings, demonstrations, and conventions.

"Fourth. For the rent, maintenance, and furnishing of offices.

"Fifth. For the payment of clerks, typewriters, stenographers, janitors, and messengers actually employed.

"Sixth. For the employment of challengers at primaries and elections to the number allowed by law as such.

"Seventh. For the payment of public speakers and musicians at public meetings, and their necessary traveling expenses.

"Eighth. For copying and classifying of election registers or poll lists and investigating the right to vote of the persons listed or registered therein, and conducting proceedings to purge the registers and lists and prevent improper or unlawful registration or voting.

"Ninth. For making canvasses of voters.

"Tenth. For conveying infirm or disabled voters to and from the polls.

"Eleventh. For employing as counsel attorneys licensed to practice in accordance with the laws of the State, and for the necessary expenses of such counsel.

"None of the provisions of this act shall be construed as relating to the rendering of services by speakers, writers, publishers, or others, for which no compensation is asked or given."

Section 3831 provides:

"Every candidate and every treasurer of a political committee shall, within 10 days after any primary election, caucus, or convention, and again within 20 days after any general election, \* \* \* in or concerning which he shall have received or disbursed any money, prepare and file in the office of the county clerk of the county in which such candidate or treasurer resides a full, true, and detailed account and statement, subscribed and sworn to by him before an officer authorized to administer oaths, setting forth each and every sum of money received or disbursed by him for nomination or election expenses, the date of each receipt, the name of the person from whom received, or to whom paid, and the person to whom and object or purpose for which disbursed. Such statements shall also set forth the unpaid debts and obligations, if any, of such candidate or committee incurred for the purposes set forth in section 3 of this act, with the nature and amount of each, and to whom owing, in detail, and if there are no such unpaid debts or obligations of such candidate or committee, such statement shall state such fact."

Section 3832 reads:

"It shall be unlawful to administer the oath of office or to issue a commission or certificate of nomination or election to any person nominated or elected to any public office until he has filed an account as required by this act, which account shall upon its face be complete and show a lawful compliance with this act, etc."

Section 3834 reads:

"And if upon examination of the official ballot it appears that any person has failed to file a statement as required by law, or if it appears to any such officer that the statement filed with him does not conform to law, or upon complaint in writing by a candidate or by a voter that a statement filed does not conform to law or to the truth, or that any person has failed to file a statement which he is by law required to file, said officer shall forthwith in writing notify the delinquent person to comply with this act."

(Also see sec. 3835.)

Section 3838 reads:

"No person who is not a candidate, or the treasurer of a political committee, shall pay, give, or lend, or agree to pay, give, or lend, any money, whether contributed by himself or by any other person, for any election expenses whatever, except to a candidate or to a political committee."

To give the proper legal effect to the foregoing sections of the Michigan statutes, we must keep in mind the following provisions of the primary act in Michigan:

"Sec. 45. Every person who, directly or indirectly, by himself or by any other person in his behalf, gives, lends, or agrees to give or lend, or offers or promises any money or valuable consideration, or promises or endeavors to procure any money or valuable consideration or office, place, or employment, to or for any voter, or to or for any person on behalf of any voter, or to or for any person in order to induce or have such person induce any voter to vote for or refrain from voting for, or support or oppose any candidate, or on account of such voter having voted or refrained from voting at any primary election in this State; every person who by any means receives, agrees, or contracts for any money, gift, \* \* \* or for inducing, or undertaking to induce any other person to vote in a particular manner, or to do or perform any of the acts or things forbidden by this act, or on account of agreeing to do, or having done any campaign work, electioneering, soliciting votes for such candidate on primary day or prior thereto, or who after any primary election in this State, directly or indirectly, by himself or by any other person in his behalf, gives or receives any money or valuable consideration or place, position, or employment on account of any person having voted or refrained from voting, or having induced any other person to vote or refrain from voting at any such primary election; or having induced or undertaken to induce any other person to vote in a particular manner or for any particular candidate at any such primary election, or on account of any person having done or been a party to doing anything forbidden by this act, it being the intent of this clause to prohibit the prevailing practice of candidates hiring with money and promises of positions, etc., workers on primary day and prior thereto, \* \* \* shall be deemed guilty of a misdemeanor, etc." (Hearings, p. 939.)

Section 48 of said primary act, so far as it is pertinent to the issue here involved, reads:

" \* \* \* It shall be unlawful for any other person to do or perform for or on behalf of any such candidate, or to help or injure the candidacy of any candidate, any of the acts or things which it is by this act made unlawful for such candidate to do."

#### CONSTRUCTION OF MICHIGAN STATUTES.

We deduce from the Michigan statutes just quoted:

(a) That Mr. Newberry could not spend, or authorize, or incur obligations to be paid by him in excess of \$3,750.

(b) That no candidate and no treasurer of any political committee can pay, give, or lend, or agree to pay, give, or lend, directly or indirectly, any money or thing of value in order to secure a nomination, except for the 11 purposes set out in section 3830.

(c) While the statute places no express limitation on the amount which a committee may expend for the 11 defined purposes, no candidate can under this law create or use a committee as his agency and thereby defeat the express limitation prescribed for the candidate.

(d) Every candidate and every treasurer of a political committee must file a sworn, full, true, and detailed account and statement setting forth each and every sum of money received or disbursed by him for nomination expenses, the date of each receipt, the name of the person from whom received or to whom paid, and the person to whom and object or purpose for which disbursed. It must also set forth "the unpaid debts and obligations, with the nature and amount of each and to whom owing in detail."

(e) No candidate can excuse himself for not filing such account because the treasurer of the committee may have filed one.

(f) If moneys for election purposes were paid to county chairmen or secretaries or to hired workers, the law has not been complied with, because the treasurer may have charged the sums to some one connected with the committee who acted as a disbursing officer. The law requires the naming of the ultimate payee and not the intermediate agent.

(g) No candidate can loan money to a brother or business associate in order to enable him to meet the extraordinary demands of a moneyed campaign, and thereby defeat the purpose of the law.

(h) The intent of section 45 is—  
"to prohibit the prevailing practice of candidates hiring with money and promises of positions, etc., workers on primary day and prior thereto."

(i) And section 48, in part, declares:  
"It shall be unlawful for any other person to do or perform for or on behalf of any such candidate, or to help or injure the candidacy of any candidate, any of the acts or things which it is by this act made unlawful for such candidates to do."

#### SENATOR NEWBERRY ORGANIZED THE CAMPAIGN COMMITTEE.

Senator Newberry and his attorneys throughout these hearings have vigorously contended that the Newberry senatorial committee was a voluntary organization of his friends who managed and financed this campaign without his participation in it, and that he was in no sense responsible for their acts. Is this true? Let the record speak.

Jay G. Hayden (B. E., 58-68) testifies that Mr. Frederick Cody called on him in Washington early in 1918 and discussed Newberry's candidacy for the Senate. He told Mr. Hayden that he came representing Newberry (B. E., 58). He offered Hayden a large salary to take up the work of managing Newberry's campaign. This is doubly proved by the undisputed fact that Mr. Cody finally induced Mr. Hayden to go to New York.

He there met Mr. Newberry and conversed with him on the subject of taking the management of the campaign. Mr. Newberry renewed the offer which Mr. Cody had made, and Mr. Hayden declined to take the job, and personally advised Mr. Newberry against running a barrel campaign. Mr. Newberry said to him that if he could not get the Senatorship without a large expenditure of money, he did not want it. (B. E., 58-61.)

Cody was Mr. Newberry's representative in all his work in organizing for the campaign as shown by this record. (B. E., 640, 641, 658-661, 673, 674, 666-669.) (B. E., 73-74-58-59-219-373-527-557-558-560.) (B. E., 365-413.)

#### ALLAN TEMPLETON, GENERAL CHAIRMAN.

Later Mr. Newberry had a talk with Mr. Allan Templeton, his business associate. They were interested in a large corporation of which Mr. Templeton was president. Mr. Templeton swears that Mr. Newberry solicited him to be active in the campaign, and that he went into it because Mr. Newberry wished it. Mr. Templeton said (R., 414):

"I had been going to New York every few weeks to see Mr. Newberry in connection with our business. We were the two largest stockholders, and we were doing a great deal of Government work at that time, and it was customary for me to go at least once a week to New York. In the winter or spring of 1917-18 Newberry said to me: 'A number of my friends have asked me to run for the United States Senate.'"

That was the first Mr. Templeton had heard of it. Mr. Newberry said, "If I should decide to go I hope you will interest yourself in my candidacy." Mr. Templeton asked in what way he could be of assistance. He said he was very anxious if he should run to have a business man's campaign, and that perhaps I (Templeton) "would be willing to have a business man's committee in Detroit."

He later became the general chairman of the committee, and he was more or less active during the campaign. Every check from John S. Newberry was drawn to Allan Templeton, chairman, except a few made to cash to take care of emergencies. (R., 754-767.) He solicited funds toward the latter part of the primary campaign. (R., 416-417.) He was in constant communication with Mr. King and Mr. Newberry, and from time to time he was in the headquarters about the work. (R., 758; B. E., 132, 690, 695, 697.)

#### PAUL KING, EXECUTIVE CHAIRMAN.

Mr. Paul King was next to Mr. Templeton in the organization. He was known as chairman of the executive committee or executive manager. He was not a volunteer, although he claims that when he was asked to name his figure for running the campaign, by Mr. Cody and Mr. Templeton, he said he would not accept any direct remuneration. On this subject he said he was a young lawyer, opening offices in Detroit, and he would hope for business to come to his office from Mr. Newberry's companies, arising out of his doing this work. (B. E., 63.)

Templeton sent the following telegram to Mr. Newberry (B. E., 556):

DETROIT, MICH., 13.

TRUMAN H. NEWBERRY,  
Hotel Gotham, New York, N. Y.:

Have spent past two days in conference with Cody men from out in the State and city. Every one thinks, including Frank Blair, that Paul King quite necessary. King will be in New York Saturday and Sunday this week, Mr. Blair next week. Report satisfactory progress.

A. A. TEMPLETON.

Mr. Templeton and Mr. Cody solicited Mr. Paul King, and Mr. Paul King, in pursuance thereof, went to New York to see the principal, and Mr. Newberry there repeated the invitation and they talked over the campaign and what it was to be and what it would cost. Mr. King states that he went to New York by the arrangement of Mr. Newberry personally. (R., 467.) Mr. King shortly thereafter accepted the job and went to work. (B. E., 665.)

Mr. Francis W. Blair was treasurer of the committee. He was president of the Union Trust Co., of Detroit, and he states that Mr. Newberry was a large stockholder in that company, and that he was requested by Allan Templeton to become the treasurer of the Newberry senatorial committee, and that he did become the treasurer. (R., 388.)

Mr. James Swinehart, representing the Detroit News, who during the campaign was running the New York office of the Detroit News, testified in Grand Rapids that he saw a great deal of Mr. Newberry and Mr. Cody in Mr. Newberry's office and in the Biltmore and in his own office during this period, and among other things he said:

"Mr. Cody came to my office one day about the 1st of February and he told me that they were hoping to get Mr. Paul King as manager of the campaign, and they hoped to have Mr. Allan Templeton head what they were going to call a representative citizens' committee that would sort of give a prestige to the campaign, and then they also hoped to get Mr. Frank W. Blair as the treasurer; and I should say it was about a week, possibly two weeks later than that, that he was at my office again, and he told me definitely that these men had been secured, Mr. King as manager, Mr. Blair as the treasurer, and Mr. Templeton as the executive, or as the head, of this representative committee, and that these men had been specifically appointed by Mr. Newberry; that is, that they had been secured at his personal request." (B. E., 69.)

Mr. Charles A. Floyd, secretary of the committee, was chosen by Mr. Paul King. He claims he was not under direct pay. This selection was reported to Mr. Newberry and approved by him. (B. E., 686; R., 514.)

All the other members of this committee were subordinate to Templeton and King, and were selected by Mr. King and paid salaries out of the senatorial funds. There was not a volunteer on the entire committee from top to bottom. King's acts in employing them, of course, were the acts of Mr. Newberry, who selected and appointed King executive chairman, as before stated.

Do not the above facts gleaned from the record indicate clearly that the names of the members of this committee were submitted to Mr. Newberry for his approval, if he did not in fact select the most of them? And we shall later see how intimately in touch with the activities of the campaign he kept. Aye, even with the financing of the campaign, notwithstanding the fact that those who were directly connected with the campaign committee deny giving him any information. Their purpose is patent. The campaign expenditures by a candidate were limited to \$3,750, and it would not do to have it appear that Mr. Newberry had actual knowledge of the extravagant expenditures which were being made in his behalf by a committee of his selection, with whose activities, except the financing, he was kept well informed.

#### SENATOR NEWBERRY'S INTIMATE ACTIVITIES WITH THE COMMITTEE.

He laid out his plan of campaign with his managers, King and Cody and Templeton. On March 7 Mr. Newberry wrote to Mr. King:

"If not too much trouble I should be glad to have a letter from you as often as you find time and inclination to write, and I hope you will be able to come down occasionally to go over matters in general, or one thing in particular, that needs immediate attention." (R., 469; B. E., 664, 669, 684, 695, 740.)

Throughout the campaign the managers at various times went to New York to meet Mr. Newberry and to revise their plans and to adopt new plans covering all important matters. (R., 469; B. E., 669, 684, 695, 706, 777.)

He was in constant communication almost daily with Mr. King or with other members of the committee. Their activities were reported to him by writing, by telephone, and by telegraph. (R., 469; B. E., 684, 902.)

True, Mr. King, the skilled, experienced political manager, says: "I consulted with Commander Newberry from time to time upon various matters connected with the campaign, but I did as my judgment dictated." (R., 536.)

Under their plan of campaign the committee prepared thousands and thousands of personal letters for Mr. Newberry to individual voters and workers throughout the State, and these were sent to New York and signed by Mr. Newberry and mailed. (R., 518, 519; B. E., 671.)

No man appears to have performed any service in the campaign, even to the extent of signing the petition for Mr. Newberry's nomination, without a personal letter from Mr. Newberry, signed by him. These letters were prepared by the committee, forwarded to Mr. Newberry, signed and mailed by him. (R., 518, 519; B. E., 671.)

Mr. King takes to himself the credit for the success of the campaign. "I ran that campaign," he says. (R., 536.)

When asked if he did not run it under Mr. Newberry's advice and direction, Mr. King replied:

"I did not. I consulted with Commander Newberry from time to time upon various matters connected with the campaign, but I did as my judgment dictated." (R., 536.)

Again, on page 634:

"Q. What was the reason why you should talk with him and confer with him and report to him about everything except the financing?—A. Because, as I say, the money was forthcoming from Detroit. There was never any question about it. There was simply a question, Senator, when anything came up to be done—the question in my mind was whether it was a good thing to do, and if it was a good thing to do, I did it. The question of expenses did not come into my mind at all. It was a question of whether it was a good thing to do or not, whether it would help the campaign along or not. If it were a good thing to do, I did it regardless of the expense. If it were not a good thing to do, I did not do it." (R., 634.)

King may have originated, but Newberry approved, the plan of publicity, covering the entire State and including paid advertisement in nearly 500 papers. This was done by a committee of which Templeton was general chairman and King was executive chairman, and while their names may have been recommended to Mr. Newberry, he chose them, or at least approved their choice. No one can come to any other conclusion who has read this record, and there is no evidence to the contrary.

That is was Newberry's publicity is proven by a letter which Mr. Newberry wrote to Mr. King on April 13, 1918, about the candidacy of Gov. Warner for the Senate. Gov. Warner had been three times elected governor of Michigan—the only man in the history of the State thus honored. Mr. Newberry wrote to Mr. King, his manager:

"I am glad Mr. Warner is scared out for the present, and as long as we keep up our publicity work at full pressure it will be harder and



harder for any new man to get any kind of a start that will make it seem worth while for him to be a serious candidate." (B. E., 704.)

Mr. Newberry did not say "your publicity" or "the publicity of my friends" who are voluntarily conducting this campaign, but it is "our publicity."

King was not the candidate for Senator. The committee was supporting no other candidate than Newberry. He was to be the beneficiary of their work and of the money which they expended, and, as we will demonstrate as we go along, a part of this money was Mr. Newberry's money.

The sum of \$147,860.16 is proven to have been expended in "our publicity," as is shown by the account of expenses which was filed by Mr. Blair, the nominal treasurer of the committee.

Again (B. E., 741), under date of May 23, 1918, he wrote to Mr. King:

"MY DEAR PAUL: I return herewith the draft letters with a few notations. Please be assured that these were made with no intent to criticize, and only as a suggestion.

"When you finally settle on the forms, please send me an index descriptive of the people to whom the various letters are intended to be sent, together with clean copies of the forms you finally decide to use.

"If in your opinion I should, by the use of these letters, now declare myself to be a candidate under the primary law, would it not terminate our present plan of publicity?"

Whose plan of publicity was this? Why does Mr. Newberry call it our plan? Why does he say that if these letters are used, and he should now declare himself "to be a candidate under the primary law, would it not terminate our present plan of publicity?"

Is it not a just inference from this language that he had in mind the restrictions on expenditures for the primary, and that he wanted the advantage of this publicity before his candidacy was declared, so that he might not have to account for it?

Mr. Thomas Phillips managed the publicity end at a salary of \$100 a week. He got his information from Senator Newberry from which he prepared the advertisements. He spent a day or two with Mr. Newberry in New York securing the necessary data.

A plan for advertising in the moving-picture shows was devised. A photograph of Mr. Newberry was taken as if he was inspecting battleships in the midst of the great activities of the Navy. Mr. Newberry posed personally on a wooden imitation battleship in one of the parks in New York for this movie film, and it was exhibited throughout Michigan under the auspices of the committee. (R., 351, 355.)

The amount paid the Dunn Master Plate Co. for this film was \$3,788. The making of the film and its circulation through Michigan cost over \$5,000. Nowhere is there anything in the filed account showing where the money came from with which to pay this sum, and it is nowhere charged to the expenses of the campaign. That the money was raised and expended goes without saying. It was intended for Mr. Newberry's benefit and he received it. Mr. Newberry knows whether he furnished this money in whole or in part, but because he failed to appear before the committee and the majority declined to ask him to come, we are without further light upon this subject.

Again, the correspondence (particularly B. E., 688, 701, 722, and generally B. E., 684-902) shows Mr. Newberry in constant touch with the committee's work, repeatedly he was urging them on by praise and congratulations, and by declaring again and again that under no circumstances would he abandon the campaign, but that they and their friends might be assured that he would continue in the race to the end, notwithstanding the prospects of a number of other candidates, such as Gov. Warner, Gov. Osborn, Senator William Alden Smith, and Mr. Ford either had or would announce their candidacy.

Again, in the northeastern peninsula was one O. C. Davidson, an ardent supporter of Gov. Osborn. Little headway could be made if Davidson was to continue actively in support of Gov. Osborn. Mr. King and Mr. Newberry planned together to win Davidson from Gov. Osborn or to neutralize his influence, and finally Mr. Newberry wrote to Mr. King under date of May 2, 1918:

"I think it necessary that I should have more detailed information concerning Mr. Davidson and his exact connection with the United States Steel Co. before I undertake to talk to any of my friends here who are in intimate touch with that organization. You may be sure that I shall leave nothing undone to accomplish the desired result in this matter." (B. E., 709.)

Again, on May 18, Mr. King wrote to Mr. Newberry:

"I presume that we ought to get together again soon and settle some of the pending questions, notably that of the platform." (B. E., 740.)

On May 20, 1918, Mr. Truman H. Newberry wrote Mr. King, in part, as follows:

"Replying to your letter of May 18, I have to look over the proposed forms of letters, and if there are any minor changes that will make them seem more like the letters I would write myself, I will make them in pencil."

No important step was taken without his direction and without his knowledge. Reports were made to him practically every day. (R., 469; B. E., 684 to 902.)

While Mr. King and Mr. Newberry were ordinarily in accord in the management of the campaign, there were notable instances in which Mr. Newberry disapproved, and be that said to his credit.

When Mr. William Mickel sought to induce Mr. James Helme to run in the Democratic primaries and manage Helme's campaign for him, Mr. Newberry expressed the hope that his friends would have nothing to do with it. (B. E., 625.)

Again, when it was thought in May that Mr. Henry Ford might be a candidate, he wrote to Mr. King under date of May 6:

"I do not want to have anybody associated with me in this matter begin any attack on Henry Ford of any kind. I hope you will see that this particular feature of the senatorial primary campaign is entirely omitted from the work you are doing, and I think the letters written from your office should carefully avoid any reference to this matter."

"I will be interested to have your report after you have been home and looked matters over in your office. I suppose you will soon have your monthly meeting again, and the result of that I await with much interest." (B. E., 715, 716.)

These two instances prove conclusively that Mr. Newberry exercised his right to veto, as well as other sections of the record show his constant approval. It was his committee and it was his campaign they were conducting.

On June 15, Mr. Newberry again wrote to Mr. King relative to Mr. Ford entering the contest on June 14:

"The unheeded developments in Mr. Ford's case really require pages of comment, and I am going to hope that after 10 days or more you will come down alone or with Allan [Templeton] when we can

give some time to a thorough review of the situation as it then exists and plan for the future." (B. E., 777.)

Whose campaign was this? Who should plan together? None except the members of the so-called volunteer committee and Mr. Newberry and the general chairman and the executive chairman, under whose auspices the money was being collected, and part of which was Senator Newberry's money, and all of which was being expended for the promotion of his senatorial campaign.

When this letter was written they were in the thick of the fight. It was necessary to complete their plans. There was work to do. Newberry was interested in knowing what was being done and directing how it should be done. He made no speeches. He was not in Michigan during the campaign to shake hands. The committee had the entrée to the advertising columns of nearly every newspaper in Michigan. Hired workers were busy in every county in the State. It was costing immense sums of money, and, as the majority report says, page 7—

"The name of Truman H. Newberry was practically unknown throughout the State."

But did that give him or his friends the right to expend vast sums of money in order to sway public opinion to favor an unknown man in the State?

Mr. Newberry was dealing with influential elements in New York. He was interesting Mr. John Mitchell, the great labor leader, in his campaign. (B. E., 689.) He conferred with the Steel Trust officers. (B. E., 709, 774.) He was dealing with the big mining company bosses (B. E., 698), and he was reporting all of his activities to the Newberry senatorial campaign committee, of which Mr. Templeton was the general chairman and Mr. King was the executive chairman. Strange, was it not, that all of their activities should so dovetail together?

So also every move made by the committee was daily reported to Mr. Newberry. A large number of these reports appear in the record. Mr. Newberry acknowledged them. This appears in many places in the record. (B. E., 684-902.) In one letter he says: "I devour your reports." Nothing, apparently, was done at the meetings of the committee or of the field men of which Mr. Newberry was not advised. (B. E., 684-902.)

DID MR. NEWBERRY AID IN WHOLE OR IN PART THE FINANCING OF HIS CAMPAIGN, AND PARTICULARLY THE ACTIVITIES OF THE NEWBERRY SENATORIAL COMMITTEE?

We submit that the evidence in this case is such that if the issue were presented to any court or to any jury in the country he would not be permitted to say, "It was not my committee; I am not responsible for their acts." He could not help but know what was going on, and yet after all of this extravagance it is claimed on his behalf that he had nothing to do with the financing of the campaign, that he spent none of his money, that he did not know what they were doing in a financial way.

We have already pointed out his part in the organization, his intimacy with everything that related to the campaign, excepting only knowledge of the financing, which Mr. King and his associates purposely, we think, kept away from him, because once it appears that he has participated in this financing his is the responsibility, and he could not have made this campaign and kept within the financial limitations which are placed upon him or upon any other candidate by the primary statutes of Michigan.

Let us again turn to the pages of the record.

Mr. Newberry was a very rich man. He was not unmindful of the probable cost of a campaign in a State where he was but little known. He had a conference with Mr. King, his astute political manager, who had, perhaps, as much political experience in campaigning as any other resident of the great State of Michigan. He asks Mr. King what the campaign would probably cost. Mr. King advises him that it would cost "his friends" at least \$50,000, dwelling upon the necessity of publicity. (B. E., 664.)

The campaign of publicity is organized; not without the knowledge of Mr. Newberry, but with it.

As early as August 8, 1918, Mr. H. A. Vandenberg, editor of the Grand Rapids Herald, wrote to Mr. Newberry. He quotes in his letter from the Escanaba Journal of August 2 from an editorial entitled, "An offense to political decency":

"It [referring to the Newberry campaign] is being made a money campaign, which outclasses the money-barrel campaigns of 20 and 30 years ago, and if the campaign is to continue unchallenged it will create a condition which must inevitably mean the debauchery of Michigan politics."

He quotes from the Charlotte Republican:

"The Newberry organization has seemingly dismissed all semblance of ethics and common sense in hiding the fact that theirs is a simon-pure and simple money campaign."

Further Mr. Vandenberg says:

"I direct your attention to these specific charges which have appeared in responsible newspapers. They are charges, furthermore, which find kinship in very general rumor and report. I fully realize that gossip is a deadly and a ruthless assassin. But gossip, in this instance, is too widespread to be longer ignored. It charges you and your associates with the expenditure of money running into six figures in the erection of your senatorial organization. Such a situation must be as intolerable for you, if these reports are false, as it is intolerable for the State if the reports are true."

The whole letter is informing, but I shall not quote further.

Under date of August 11, Mr. Newberry replies:

"I have not paid nor am I obligated to pay anything in connection with the senatorial primary nor have I any fiscal information thereof beyond the assurance of the Newberry committee that their accounts will be filed as required by law and all expenditures made only for such purposes as allowed by law."

But not one word is said with regard to the extravagance of the expenditures. (Record, p. 791.)

Messrs. Templeton and King also, at the request of Mr. Newberry, wrote Mr. Vandenberg:

"He (Mr. Newberry), they say, 'has not made any contributions nor expenditures himself, and we have never consulted with him about them. The committee has had entire charge of the whole campaign, including the raising of funds and their disbursements.'" (Record, p. 791.)

Again, they give him no information about the rumor that the expenditures are already "running up into the six figures."

That Newberry regarded himself in part responsible for the financing of the campaign clearly appears in a letter which was written April 6, 1918, by him to Mr. George E. Miller, the editor of the Detroit News. He says, in part:

"Neither Mr. Templeton, Mr. King, nor Mr. Oakman have ever or expect ever to receive one cent (except actual travel and publicity costs) from me. They have not suggested such a thing."

Why would these men expect "actual travel and publicity costs" unless there was some understanding about it, and unless there was some responsibility in that behalf by Mr. Newberry?

CONTRIBUTIONS IN THE NAME OF THE BROTHER, JOHN S. NEWBERRY.

John S. Newberry, the brother, is apparently the only contributor until August 16, when substantial sums were subscribed in the name of other relatives and friends, and it seems to be a fair inference that other subscribers were called for, because the extravagant outlay of money in this campaign became a public scandal shortly after, if not before, August 1.

Let us examine the testimony of Mr. John S. Newberry, the younger brother and business associate of Senator Newberry, which appears in the record, pages 302 to 319. This testimony is so important that we beg to quote from it in extenso.

While interpreting it let us remember that Frederick P. Smith was the attorney in fact of both Senator Truman H. Newberry and John S. Newberry.

"Senator TOWNSEND. And you do not check on one another's accounts?"

"Mr. NEWBERRY. No, sir."

"Mr. ALFRED LUCKING. Does the same man check on the accounts of each of you?"

"Mr. NEWBERRY. Mr. Smith?"

"Mr. ALFRED LUCKING. Yes."

"Mr. NEWBERRY. Yes; he has our power of attorney."

"Mr. ALFRED LUCKING. Does your brother act for you in a good many matters?"

"Mr. NEWBERRY. Yes, sir; always."

"Mr. ALFRED LUCKING. And you act for him?"

"Mr. NEWBERRY. Excepting when he is away or something like that."

"Mr. ALFRED LUCKING. He acts for you in investments and things of that kind?"

"Mr. NEWBERRY. Yes, sir. (R., 304.)"

"Mr. ALFRED LUCKING. You did contribute something, did you not?"

"Mr. NEWBERRY. Yes, sir."

"Mr. ALFRED LUCKING. How much?"

"Mr. NEWBERRY. Ninety-nine thousand dollars."

"Mr. ALFRED LUCKING. Ninety-nine thousand dollars exactly?"

"Mr. NEWBERRY. I think so, as near as I saw the reports."

"Mr. ALFRED LUCKING. As near as you saw the reports?"

"Mr. NEWBERRY. Yes, sir."

"Mr. ALFRED LUCKING. When did you contribute the \$99,000?"

"Mr. NEWBERRY. At different times during the campaign."

"Mr. ALFRED LUCKING. Did you personally draw the checks for it?"

"Mr. NEWBERRY. No, sir."

"Mr. ALFRED LUCKING. Did you see that they were made to any person in particular?"

"Mr. NEWBERRY. I did not see any checks."

"Mr. ALFRED LUCKING. Did you sign any checks?"

"Mr. NEWBERRY. No, sir."

"Mr. ALFRED LUCKING. Did you authorize anybody to sign any checks?"

"Mr. NEWBERRY. Mr. Smith had my power of attorney."

"Mr. ALFRED LUCKING. He had your power of attorney?"

"Mr. NEWBERRY. Yes, sir."

"Mr. ALFRED LUCKING. That is all the authority you gave him?"

"Mr. NEWBERRY. Yes, sir."

"Mr. ALFRED LUCKING. Did you talk to him about it, and tell him to make these contributions?"

"Mr. NEWBERRY. I told him when I was going away that Mr. Newberry expected to have a campaign, and that I wanted to finance the campaign."

"Mr. ALFRED LUCKING. You wanted to finance it?"

"Mr. NEWBERRY. Yes, sir."

"Mr. ALFRED LUCKING. And what?"

"Mr. NEWBERRY. And he signed the checks as they wanted the money. I suppose. I was not at home."

"Mr. ALFRED LUCKING. When was that talk with Mr. Smith?"

"Mr. NEWBERRY. Before I went away, some time the last end of March."

"Mr. ALFRED LUCKING. That is Mr. Fred P. Smith?"

"Mr. NEWBERRY. Yes, sir."

"Mr. ALFRED LUCKING. The man who keeps your account and your brother's account?"

"Mr. NEWBERRY. Yes, sir."

"Mr. ALFRED LUCKING. And keeps the office of both of you?"

"Mr. NEWBERRY. Yes, sir. (R., 307.)"

"Mr. ALFRED LUCKING. As I understand you, none of those persons whose names I have mentioned talked with you about doing this financing?"

"Mr. NEWBERRY. No, sir; I did not know them."

"Mr. ALFRED LUCKING. Or got you to do this financing?"

"Mr. NEWBERRY. Not one."

"Mr. ALFRED LUCKING. How did you know what it was going to cost?"

"Mr. NEWBERRY. I did not know."

"Mr. ALFRED LUCKING. You did not know how much it would cost?"

"Mr. NEWBERRY. No, sir."

"Mr. ALFRED LUCKING. Had nobody given you any estimate of what it would cost?"

"Mr. NEWBERRY. No, sir."

"Mr. ALFRED LUCKING. Had you talked to Mr. Truman H. Newberry about it?"

"Mr. NEWBERRY. No, sir."

"Mr. ALFRED LUCKING. Not a word?"

"Mr. NEWBERRY. No, sir."

"Mr. ALFRED LUCKING. You simply said to Fred Smith, your manager, or your office manager, 'I want to finance this campaign.' What did you tell him to do, then?"

"Mr. NEWBERRY. That was all I told him. They would need money from time to time, and he had my power of attorney. (R., 308.)"

"Mr. ALFRED LUCKING. And you have stated what you said to Mr. Smith?"

"Mr. NEWBERRY. Yes, sir."

"Mr. ALFRED LUCKING. That you said you wanted to finance it?"

"Mr. NEWBERRY. Yes, sir."

"Mr. ALFRED LUCKING. And he was authorized to pay out whatever was necessary?"

"Mr. NEWBERRY. Yes, sir."

"Mr. ALFRED LUCKING. Was there any limit to that at all?"

"Mr. NEWBERRY. No, sir. (R., 309.)"

"Mr. ALFRED LUCKING. Could Smith have gone to \$200,000 as well under your authority?"

"Mr. NEWBERRY. He could have if he had wanted to. His power of attorney gave it to him."

"Mr. ALFRED LUCKING. Did you tell Smith to supervise the expenditure of the money and see it was not wasted?"

"Mr. NEWBERRY. I did not tell him anything about it."

"Mr. ALFRED LUCKING. You did not tell him anything about it?"

"Mr. NEWBERRY. No, sir."

"Mr. ALFRED LUCKING. Did you take any precautions to see that it was not thrown away or wasted?"

"Mr. NEWBERRY. No, sir; I did not. (R., 311.)"

"Mr. ALFRED LUCKING. Then, as I understand you, during this period, commencing the 1st of April, when you went away, all during the time this \$99,000 was being expended on your behalf, you knew nothing about the amounts that were being drawn?"

"Mr. NEWBERRY. No, sir; I did not know anything about it."

"Mr. ALFRED LUCKING. Did you ask for statements at any time from Mr. Smith?"

"Mr. NEWBERRY. No, sir; I did not."

"Mr. ALFRED LUCKING. Did you get any from him?"

"Mr. NEWBERRY. No, sir."

"Mr. ALFRED LUCKING. Did you get any letters from him about what he was expending?"

"Mr. NEWBERRY. No, sir."

"Mr. ALFRED LUCKING. Or did you ask for any?"

"Mr. NEWBERRY. No, sir; I did not."

"Mr. ALFRED LUCKING. Now, Mr. Newberry, did you know that about the last of July of that year there was considerable public scandal about the amount of money that was being used in that campaign?"

"Mr. NEWBERRY. I was too busy at something else."

"Mr. ALFRED LUCKING. He could just as well have taken all the money they needed from your account, so far as your instructions were concerned?"

"Mr. NEWBERRY. Yes, sir."

"Mr. ALFRED LUCKING. Or the amount shown in this record as admitted, something like \$178,000?"

"Mr. NEWBERRY. Yes, sir."

"Mr. ALFRED LUCKING. Just as well as not?"

"Mr. NEWBERRY. They could have taken anything they wanted. (R., 312.)"

"Mr. ALFRED LUCKING. During that period from the 1st of April until September, when you came back to Detroit, did you see your brother?"

"Mr. NEWBERRY. No, sir."

"Mr. ALFRED LUCKING. Did you correspond with him?"

"Mr. NEWBERRY. Yes, sir; we had letters back and forth."

"Mr. ALFRED LUCKING. Was anything about this mentioned?"

"Mr. NEWBERRY. No, sir."

"Mr. ALFRED LUCKING. Anything about his campaign?"

"Mr. NEWBERRY. No, sir."

"Mr. ALFRED LUCKING. After that time did you talk with your brother about it?"

"Mr. NEWBERRY. After what time?"

"Mr. ALFRED LUCKING. After you got back to Detroit."

"Mr. NEWBERRY. I don't recollect anything just now."

"Mr. ALFRED LUCKING. Not anything about it at all?"

"Mr. NEWBERRY. I do not recollect anything about it. I do not think we did."

"Mr. ALFRED LUCKING. Did your brother know before you went away on the 1st of April that you were going to finance that campaign?"

"Mr. NEWBERRY. No, sir; he did not."

"Mr. ALFRED LUCKING. Who has possession of these canceled checks, do you know?"

"Mr. NEWBERRY. I presume they are around the office."

"Mr. ALFRED LUCKING. They have been in Mr. Smith's charge, have they not?"

"Mr. NEWBERRY. Yes, sir; he has charge of everything in the office."

"Mr. ALFRED LUCKING. Did Smith have authority to transfer funds or money from one fund to another?"

"Mr. NEWBERRY. Yes, sir."

"Mr. ALFRED LUCKING. How broad was his power of attorney as to handling your funds?"

"Mr. NEWBERRY. Well, as broad as any power of attorney is made, buying and selling, and contracts."

"Mr. ALFRED LUCKING. Did he have a similar power of attorney from your brother?"

"Mr. NEWBERRY. I imagine so."

"Mr. ALFRED LUCKING. To the best of your knowledge he did have?"

"Mr. NEWBERRY. To the best of my knowledge."

"Mr. ALFRED LUCKING. Did you ever check up your account on this?"

"Mr. NEWBERRY. No, sir."

"Mr. ALFRED LUCKING. You never checked it up?"

"Mr. NEWBERRY. No, sir."

"Mr. ALFRED LUCKING. You never went over it with Smith?"

"Mr. NEWBERRY. No, sir."

"Mr. ALFRED LUCKING. Then of your own personal knowledge you do not know that it came out of your funds at all, do you?"

"Mr. NEWBERRY. Except what I saw in the papers. That is all I know."

"Mr. ALFRED LUCKING. What you saw in the newspapers?"

"Mr. NEWBERRY. Yes, sir."

"Mr. ALFRED LUCKING. That is all you know about it?"

"Mr. NEWBERRY. That is all I know about it, what the reporter stated. That is all I know about it."

"Mr. ALFRED LUCKING. You have never taken the trouble to go to your bank and find out whether this money came from your funds or your brother's funds?"

"Mr. NEWBERRY. It couldn't have come out of my brother's funds."

"Mr. ALFRED LUCKING. How do you know that?"



"Mr. NEWBERRY. It would have to come out of my money if he signed the checks.

"Mr. ALFRED LUCKING. You think it did, but you never looked into your books to see?

"Mr. NEWBERRY. No, sir.

"Mr. ALFRED LUCKING. You never had your bank balance to see?

"Mr. NEWBERRY. I was not at home.

"Mr. ALFRED LUCKING. After you came home in September didn't you check it up with him?

"Mr. NEWBERRY. No, sir; I didn't check up anything.

"Mr. ALFRED LUCKING. Take the witness.

"Mr. MURFIN. I have no questions.

"Senator POMERENE. Mr. Newberry, you have spoken about this power of attorney which was given to Mr. Smith. Was that a joint power of attorney by yourself and your brother?

"Mr. NEWBERRY. No, sir; they were all separate powers of attorney.

"Senator POMERENE. Have you got a copy of that with you?

"Mr. NEWBERRY. No, sir; I didn't bring it down.

"Senator POMERENE. Is it a general power of attorney?

"Mr. NEWBERRY. It is a general power of attorney, as they are always made out.

"Senator POMERENE. Authorizing him to draw on your bank account at any time he may see fit?

"Mr. NEWBERRY. Yes, sir.

"Senator POMERENE. You said a moment ago in answer to a question by Mr. Lucking that he had the power to transfer money from one fund to another.

"Mr. NEWBERRY. Yes, sir.

"Senator POMERENE. What do you mean by that?

"Mr. NEWBERRY. Ever since we have been in business, my brother and I, we have borrowed money from one another. If I wanted money, I borrowed it from him; and if my brother wanted it I let him have it, and we would pay it back from time to time. (R., 315.)

"Senator POMERENE. If there was not money enough in your account to suit your demands, you would borrow from him?

"Mr. NEWBERRY. Yes, sir.

"Senator POMERENE. And if he wanted any money he would borrow from you?

"Mr. NEWBERRY. Yes, sir; if I had it in my funds. It was always that way.

"Senator POMERENE. Is that the way your business has been conducted?

"Mr. NEWBERRY. Yes, sir.

"Senator POMERENE. In family circles?

"Mr. NEWBERRY. Yes, sir; always in family circles.

"Senator POMERENE. It appears from the examination thus far that your first check was drawn some time the latter part of March, 1918.

"Mr. NEWBERRY. Yes, sir.

"Senator POMERENE. When before that day did you decide to finance this campaign?

"Mr. NEWBERRY. Well, I told Mr. Smith when I went away what I was going to do with it.

"Senator POMERENE. How long was that before that check was issued?

"Mr. NEWBERRY. I don't remember. That is the first I recollect of it.

"Senator POMERENE. Mr. Newberry, did you receive statements from Mr. Smith from time to time of the state of your bank account?

"Mr. NEWBERRY. I did not during the year 1918 receive anything. I was always moving around from one place to another, out on the Great Lakes.

"Senator POMERENE. Did you not give any personal attention to your financial matters?

"Mr. NEWBERRY. No, sir; I didn't bother myself about it. I left it all in Mr. Smith's hands when I went away.

"Senator POMERENE. Did you place any limit at all upon the amount he was to subscribe toward that fund?

"Mr. NEWBERRY. No, sir.

"Senator POMERENE. You knew that you had a corrupt practices act in Michigan, did you not?

"Mr. NEWBERRY. Yes, sir.

"Senator POMERENE. And you knew that limited the amount which could be expended by a candidate to \$3,750?

"Mr. NEWBERRY. Yes, sir.

"Senator POMERENE. Did that have anything to do with your financing the campaign instead of letting your brother do it?

"Mr. NEWBERRY. As I stated before, it was the love and loyalty and affection I had for my brother.

"Senator POMERENE. That does not answer my question.

"Mr. NEWBERRY. Then I did not get your question.

"Senator POMERENE. Did that have anything to do with your financing the campaign, instead of letting your brother do it? That is, did your knowledge that there was a corrupt practices act in Michigan have anything to do with your deciding to finance that campaign instead of letting your brother finance it?

"Mr. NEWBERRY. No, sir; I don't think it did. I didn't think anything about it.

"Senator POMERENE. Did you have it in mind?

"Mr. NEWBERRY. No, sir; I don't think I thought about it.

"Senator POMERENE. Did you know at that time there was a Federal corrupt practices act?

"Mr. NEWBERRY. I don't remember just now whether I did or not. I don't think I looked it up or had occasion to. (R., 316.)

"Senator POMERENE. And you want the committee to understand, do you, that you placed no limit upon the amount which Smith was to draw out of your account for the financing of that campaign?

"Mr. NEWBERRY. No, sir; I never thought about it. I just said, 'Go ahead and use what money you want.' (R., 317.)

"Senator WOLCOTT. And apparently that was a contribution made from your funds?

"Mr. NEWBERRY. Yes, sir. I don't know whose funds it was from.

"Senator POMERENE. Where did you keep your bank account?

"Mr. NEWBERRY. The National Bank of Commerce.

"Senator POMERENE. Where does your brother keep his account?

"Mr. NEWBERRY. I think he kept his at the People's State Bank.

"Senator POMERENE. Did you during the spring and summer and fall of 1918 get any statement from Mr. Smith or from your bank as to your balance at any time?

"Mr. NEWBERRY. No, sir.

"Senator POMERENE. Did you know what balance you had in the bank at any time?

"Mr. NEWBERRY. No, sir; I did not.

"Senator POMERENE. Was any money checked from your brother's account into yours?

"Mr. NEWBERRY. I don't know.

"Senator POMERENE. Or from your account into your brother's account?

"Mr. NEWBERRY. I don't know.

"Senator POMERENE. Do you mean to say you do not know whether any money was borrowed from one or the other?

"Mr. NEWBERRY. No, sir; I don't.

"Mr. ALFRED LUCKING. The fact is that since your father's death your brother has practically run your business affairs?

"Mr. NEWBERRY. Yes, sir.

"Mr. ALFRED LUCKING. And you have different bank accounts in different banks?

"Mr. NEWBERRY. Yes, sir." (R., 319.)

FREDERICK P. SMITH, CONFIDENTIAL AGENT AND ATTORNEY IN FACT FOR TRUMAN H. NEWBERRY AND JOHN S. NEWBERRY.

Later Mr. Frederick P. Smith appeared as a witness, and we deem it important to quote from his testimony somewhat at length. (R., 753, 775.)

"Mr. SMITH. No; I call myself agent.

"Mr. ALFRED LUCKING. You are their confidential financial man, are you not?

"Mr. SMITH. Yes.

"Mr. ALFRED LUCKING. You have, I think it has been said here, powers of attorney from both Mr. Truman and Mr. John Newberry?

"Mr. SMITH. Yes; practically all of the interests in the office. I carry their powers of attorney.

"Mr. ALFRED LUCKING. And there are others also interested?

"Mr. SMITH. Yes.

"Mr. ALFRED LUCKING. What others?

"Mr. SMITH. Mrs. Truman Newberry's individual interests and Mrs. John S. Newberry's individual interests, and their sons.

"Mr. ALFRED LUCKING. Did you make contributions to the campaign funds during the primary?

"Mr. SMITH. I gave contributions for Mr. John S. Newberry to Mr. Templeton.

"Mr. ALFRED LUCKING. Were they all made to Mr. Templeton?

"Mr. SMITH. Practically all of them. There were a very few made to cash to take care of emergencies.

"Mr. ALFRED LUCKING. Your first contribution was how much?

"Mr. SMITH. I do not remember. It would be a hard thing to say what it was.

"Mr. ALFRED LUCKING. A check to Mr. Templeton?

"Mr. SMITH. Yes; Mr. A. A. Templeton.

"Mr. ALFRED LUCKING. It appears here that certain checks were made to Mr. Templeton and by him indorsed to Mr. Paul King as chairman, about \$5,083. Were those the checks of John S. Newberry by yourself?

"Mr. SMITH. That might be.

"Mr. ALFRED LUCKING. Have you not a record of those?

"Mr. SMITH. I did not give any other checks except Mr. John S. Newberry's checks, so I conclude they must have been his checks.

"Mr. ALFRED LUCKING. The only checks you gave to anybody for that purpose were the checks of John S. Newberry?

"Mr. SMITH. John S. Newberry.

"Mr. ALFRED LUCKING. What I want to get at is about that \$5,000. Have you got your checks for that?

"Mr. SMITH. No; I have not.

"Mr. ALFRED LUCKING. Have not you your record with you of that?

"Mr. SMITH. No; I have not.

"Mr. ALFRED LUCKING. Have you got your record of the other deposits?

"Mr. SMITH. No; I have not.

"Mr. ALFRED LUCKING. Or of your other checks?

"Mr. SMITH. No. (R., 754, 755.)

"Mr. ALFRED LUCKING. This subpoena, if your honors please, was issued on the 1st of June by this committee, and is in the usual form and contains the following duces tecum:

"And to bring with you all records, books, papers, documents, letters, telegrams, etc., connected with or relating to the Truman H. Newberry campaign for Senator, and all payments and contributions connected therewith."

"You read that, Mr. Smith?

"Mr. SMITH. Yes, sir.

"Mr. ALFRED LUCKING. I may say that this was issued at the instance of the contestant. Just why have not you the records?

"Mr. SMITH. I made a search and could not find them. We have a storeroom that we have used for 25 or 30 years. It is up back of the old Newberry house on Jefferson Avenue. I went up there Saturday as soon as I could after I got this subpoena and gave the afternoon to it. I could not find a check since 1917 in the place.

"Mr. ALFRED LUCKING. You mean none of the checks since 1917?

"Mr. SMITH. None of the checks. I could not find any of the matter pertaining to this affair. I did find some campaign material. How it got there I do not know. It was there and I brought it along. That is all I could find.

"Mr. SMITH. When I got there the door was open. It has always been under lock and key. It has been broken open several times. Where they went I do not know. I certainly never saw them.

"Mr. ALFRED LUCKING. Where the records of the payments and contributions and all that are, you do not know anything about?

"Mr. SMITH. No.

"Senator WOLCOTT. Were they put in there?

"Mr. SMITH. Oh, yes; they were put in there.

"Senator WOLCOTT. Did you put them in there personally?

"Mr. SMITH. No; I did not. My cashier put them in there. I do not remember just what time. It seems to me it was either when we came back from the grand jury with the books and papers or it was after the close of the trial; I do not know which.

"Senator WATSON. Were these books and papers at the grand jury hearing and at the final trial in Grand Rapids?

"Mr. SMITH. I do not know. I was not subpoenaed. My cashier was subpoenaed.

"Mr. SOUTER. The books were before the grand jury.

"Senator WOLCOTT. Do you mean the books and records that this witness kept?

"Mr. MURFIN. Yes; that is right.

"Senator WATSON. Were the books and records kept by the Government or were they turned back?

"Mr. SMITH. They were turned back. (R., 755, 756.)

"Mr. ALFRED LUCKING. Is there any way we can definitely find out about this \$5,000 of checks that went to Paul H. King, chairman, or were indorsed to Paul H. King?"

"Mr. SMITH. I do not think there is any question about the fact that it was issued."

"Mr. ALFRED LUCKING. Were those in addition to the \$99,900?"

"Mr. SMITH. I do not know anything about the report."

"Mr. ALFRED LUCKING. You do not know anything about the report?"

"Mr. SMITH. No; I had absolutely nothing to do with it."

"Mr. ALFRED LUCKING. Well, do you know the total amount that you charged against John S. Newberry on the books?"

"Mr. SMITH. I do not know what was charged, but I know that the credits, taking credits for what came back, because there were moneys coming back along about the time that the report was made up. It made, as near as I recollect, either \$99,000 or \$99,900. There was a discrepancy of \$900."

"Mr. ALFRED LUCKING. What do you mean by a discrepancy?"

"Mr. SMITH. Well, the report showed after it was filed by this office \$99,000 and his books showed \$99,900."

"Mr. ALFRED LUCKING. I think my recollection is that the report shows \$99,900. I may be in error about that."

"Mr. SMITH. I do not think so. I think it is the other way about."

"Mr. ALFRED LUCKING. Did you advance moneys in cash to anybody?"

"Mr. SMITH. Probably half a dozen times; something like that."

"Mr. ALFRED LUCKING. To whom?"

"Mr. SMITH. When somebody would telephone in to meet their pay roll, and they would be out of town, they would ask me to protect their pay rolls, and Mr. Emery would come up, or Mr. Templeton, or Mr. Paul King, and I would give them the check there for cash."

"Mr. ALFRED LUCKING. For how much?"

"Mr. SMITH. Well, a thousand dollars; I don't remember particularly the amounts."

"Mr. ALFRED LUCKING. Have you any books showing those checks?"

"Mr. SMITH. No; I have not."

"Senator WATSON. Was that in addition to the \$199,000?"

"Mr. ALFRED LUCKING. We do not know, your honor. That is what we are investigating. Did you know, Mr. Smith, that they had a bank vault box for cash?"

"Mr. SMITH. No; I did not."

"Mr. ALFRED LUCKING. You did not know about that at all?"

"Mr. SMITH. No."

"The ACTING CHAIRMAN. What did you mean by 'some checks coming back'?"

"Mr. SMITH. Some money coming back. They sent back some money and a readjustment sometimes of checks; they brought me in a paper bag full of money."

"The ACTING CHAIRMAN. Who did?"

"Mr. SMITH. Mr. Emery."

"The ACTING CHAIRMAN. How much?"

"Mr. SMITH. As near as I can recollect, it was around \$21,000."

"The ACTING CHAIRMAN. When was that?"

"Mr. SMITH. It seems to me that was the first week in September. (R., 758.)"

"The ACTING CHAIRMAN. Was it supposed to be some readjustment on account of these late large contributions that they had?"

"Senator WOLCOTT. Does that mean that your office did not contribute \$99,900?"

"Mr. SMITH. No; that is the net amount. They contributed an amount which with this \$21,000 and the \$99,000 added must have come up to \$120,000, because when this came back, taking that credit out of the amount of checks given, it left this net amount of \$99,900."

"Mr. ALFRED LUCKING. Mr. Smith, you say that they did this and they did that. Do you mean yourself? You knew how much was being paid out by you, did you not?"

"Mr. SMITH. Oh, yes; I knew from time to time I gave them checks."

"Mr. ALFRED LUCKING. Well, you had a record of it, had you not?"

"Mr. SMITH. Yes; there was a record, but I did not keep the books."

"Mr. ALFRED LUCKING. Did you give it to them in currency at any time?"

"Mr. SMITH. I think there were probably half a dozen times, but not over that."

"Mr. ALFRED LUCKING. Small amounts, did you say?"

"Mr. SMITH. I do not remember now. It might have been \$3,000 and it might have been more."

"Mr. ALFRED LUCKING. You mean the few times taken all together, \$3,000? (R., 759.)"

"Mr. ALFRED LUCKING. You think you must have advanced \$120,000?"

"Mr. SMITH. I think it must have been."

"Mr. ALFRED LUCKING. Because you got some back?"

"Mr. SMITH. Yes, sir."

"Mr. ALFRED LUCKING. Have you ever mentioned to somebody before to-day that you got any money back in cash?"

"Mr. SMITH. I do not remember whether I have or not."

"Mr. ALFRED LUCKING. In connection with this investigation at any time in the last two and a half or three years has any person ever heard before that you got money back until to-day?"

"Mr. SMITH. I do not know whether they have or not."

"Mr. ALFRED LUCKING. Who handed you that cash back?"

"Mr. SMITH. Mr. B. F. Emery. He brought it in a paper bag about that high [indicating]."

"Mr. ALFRED LUCKING. Did you count it?"

"Mr. SMITH. I think I did."

"Mr. ALFRED LUCKING. And it was about \$21,000?"

"Mr. SMITH. It was about \$21,000, as I remember it."

"Senator WATSON. Can we find out there just when that was?"

"Mr. SMITH. I can not tell exactly, but I think it was the first week in September."

"Senator WOLCOTT. What was the date of Andrew Green's check?"

"Mr. ALFRED LUCKING. Do you mean the \$5,000 check or the \$15,000 check?"

"Senator WOLCOTT. The \$15,000 check."

"Mr. ALFRED LUCKING. He could not tell, but he thought it was several weeks after the primary. Mr. Smith, what did you do with the \$21,000 that you got?"

"Mr. SMITH. It was undoubtedly put in the bank."

"Mr. ALFRED LUCKING. What bank?"

"Mr. SMITH. In John S.'s."

"Mr. ALFRED LUCKING. In John S. Newberry's bank account in the National Bank of Commerce?"

"Mr. SMITH. I think it was. There is not any question about that."

"Mr. ALFRED LUCKING. Mr. Smith, was it just exactly \$21,000, or might it have been some odd dollars?"

"Mr. SMITH. It might have been odd dollars; I do not think it was even money."

"Mr. ALFRED LUCKING. Did he make any explanation as to why he was returning this money to you?"

"Mr. SMITH. I do not remember that he did, except on the large contributions that were coming in or readjustments or something."

"Mr. ALFRED LUCKING. It appears that the checks on which he got about \$35,000 at that time were dated the 5th day of September, and they were canceled on the 7th. It appears that they were deposited on the 6th. Between those two dates \$10,000 in currency. I mean from John S. Newberry. Did you give them that?"

"Mr. SMITH. No; I did not."

"Mr. ALFRED LUCKING. Do you know anything about it?"

"Mr. SMITH. No."

"Mr. ALFRED LUCKING. They are getting from you \$10,000 and handing you back the next day \$21,000. Do you know anything about it at all?"

"Mr. SMITH. No; I do not."

"Mr. ALFRED LUCKING. There are no books to enlighten you in connection with it?"

"Mr. SMITH. I do not believe there was any such thing. (R., 765, 766.)"

"Mr. ALFRED LUCKING. Did you give further checks later?"

"Mr. SMITH. Further checks?"

"Mr. ALFRED LUCKING. Further checks later?"

"Mr. SMITH. No."

"Mr. ALFRED LUCKING. You do not remember whether you did or not?"

"Mr. SMITH. No."

"Mr. ALFRED LUCKING. Have you any way of showing that?"

"Mr. SMITH. No; I have not."

"Mr. MURFIN. Do you mean after September?"

"Mr. ALFRED LUCKING. I mean after he got the \$21,000. That is as plain as anything in the world. You can not remember whether you paid out other moneys or not or gave other checks?"

"Mr. SMITH. No; I can not."

"Mr. ALFRED LUCKING. What did John Newberry say to you?"

"Mr. SMITH. He came to me, as near as I can remember it, the latter part of February or the first part of March—it was the late winter—and told me that if the committee made any demands for campaign funds, if his brother should be in the senatorial race, to give them the money. I do not remember whether he mentioned Mr. Templeton's name or not. I knew Mr. Templeton quite well. The first call was from him. The checks that were given after that were all given to Mr. Templeton the same as the first one."

"Mr. ALFRED LUCKING. You have given us, in substance, all that transpired, have you?"

"Mr. SMITH. Yes, sir."

"Mr. ALFRED LUCKING. No other discussion, except to direct you, if they wanted money and came and asked for it, to give it to them?"

"Mr. SMITH. Yes, sir."

"Mr. ALFRED LUCKING. No limits as to amounts placed on you?"

"Mr. SMITH. No, sir."

"Mr. ALFRED LUCKING. And no reports made to him as to the amounts you paid?"

"Mr. SMITH. No, sir."

"Mr. ALFRED LUCKING. And no inquiries made by him as to what it was used for?"

"Mr. SMITH. No."

"Mr. ALFRED LUCKING. Or as to how much was used?"

"Mr. SMITH. My power of attorney is a very broad one. (R., 767.)"

"Mr. ALFRED LUCKING. But you would not have paid out money without directions from somebody?"

"Mr. SMITH. Absolutely not."

"Mr. ALFRED LUCKING. And you have told us the only directions you had?"

"Mr. SMITH. Yes, sir."

"Mr. ALFRED LUCKING. You never rendered any statement or account to John Newberry for it?"

"Mr. SMITH. No, sir."

"Mr. ALFRED LUCKING. And he never asked for any?"

"Mr. SMITH. He never has."

"Mr. ALFRED LUCKING. And he made no inquiries about whether it was running to an excessive amount or anything of that kind?"

"Mr. SMITH. He never has."

"Mr. ALFRED LUCKING. He never has to this day?"

"Mr. SMITH. No, sir; not to my recollection."

"Mr. ALFRED LUCKING. Mr. Truman Newberry asked you about the expenses at times, did he not?"

"Mr. SMITH. I do not remember that he did."

"Mr. ALFRED LUCKING. You reported to him every day what was going on, did you not?"

"Mr. SMITH. No."

"Mr. ALFRED LUCKING. Did you not send him a telegram every night of what occurred during the day?"

"Mr. SMITH. I sent him a telegram generally at night regarding what the papers said."

"Mr. ALFRED LUCKING. About what the newspapers were saying?"

"Mr. SMITH. About what the newspapers were saying."

"Mr. ALFRED LUCKING. One witness here, a Miss Kilfoyle, testified that every night you sent a telegram to Mr. Newberry concerning the campaign."

"Mr. MURFIN. Fix the time when that happened, Mr. Lucking."

"Mr. ALFRED LUCKING. All right; perhaps you can for me. I suppose she was there in the office."

"Mr. MURFIN. I must not be a witness. I have a distinct recollection of what the record shows."

"Mr. ALFRED LUCKING. You mean the time. I suppose it was while she was in the office."

"Mr. MURFIN. I will whisper it to you."

"Mr. ALFRED LUCKING. Now, you had only to do with the finances, as I understand it, of the campaign, Mr. Smith?"

"Mr. SMITH. All I had to do was to furnish some money from Mr. John S. Newberry's account."

"Mr. ALFRED LUCKING. But I asked you if you had anything to do with the campaign except the finances, and you said no."

"Mr. SMITH. No; nothing whatever."

"Mr. ALFRED LUCKING. You got no reports from them or anything of that kind?"

"Mr. SMITH. No, sir."

"Mr. ALFRED LUCKING. She says: 'During the couple of months or more preceding the primary election in Michigan, in 1918, Mr. Smith sent telegrams to Mr. Newberry with reference to the campaign. It was his custom for three months to dictate a telegram each evening.'



By Mr. Smith I mean Mr. Fred T. Smith, the defendant in this case. Is that substantially correct? (R., 768.)

"Mr. SMITH. No; it is not. I telegraphed him every night after the articles began to appear in the papers.

"The ACTING CHAIRMAN. After what?

"Mr. SMITH. After the articles began to appear in the Evening News. I telegraphed him what the papers said.

"The ACTING CHAIRMAN. When was that?

"Mr. SMITH. It must have been along the last week of the primary.

"Mr. ALFRED LUCKING. I guess it started about the 10th of August. Mr. Vandenberg's letter, which has been put in here, was published on the 8th day of August—Mr. Vandenberg, of the Grand Rapids Herald. Do you remember Mr. Vandenberg wrote some open letters or something of that kind?

"Mr. SMITH. Yes.

"Mr. ALFRED LUCKING. You advised him about how long the heavy expenses were going to run, did you not?

"Mr. SMITH. No; he was talking to me about some other matters, and, as I recollect, he mentioned something about when the primary was, and I told him July 27. That is as much as I knew about it.

"Mr. ALFRED LUCKING. You mean August 27?

"Mr. SMITH. Yes; August 27. I meant August 27. Instead of that I told him July.

"Mr. MURFIN. You are some politician.

"Mr. ALFRED LUCKING. Are you quite sure about that?

"Mr. SMITH. Yes. So I wired him an explanatory telegram.

"Mr. ALFRED LUCKING. The trouble with that explanation—and it is evident you are just mistaken about dates—was that your telegram was not sent until July 28, so it could not be July 27 that the primary was going to be.

"Mr. SMITH. No; there is where I made my mistake. I told him on the telephone July 27. Then I got a wire right off to him.

"Mr. ALFRED LUCKING. You could not have told him it was the day before, because you would know that the primary had not been held the day before you were talking.

"Mr. SMITH. That is the gist of it.

"Mr. ALFRED LUCKING. But you could not on the 28th day of July tell him the primary would be July 27, the day before you were talking.

"Mr. MURFIN. Is not that a matter of argument?

"The ACTING CHAIRMAN. Yes.

"Mr. ALFRED LUCKING. I do not want anybody to accuse us of absolutely misleading the witness when it is plain he is mistaken. May I call your attention to page 219, to the following telegram:

"DETROIT, MICH., July 28, 1918.

"Lieut. TRUMAN H. NEWBERRY,  
"Third Naval District, 280 Broadway, New York.

"I misinformed you this morning the date of close of regular expenses. Should have said August 27. The circular work, advertising, clerical help, postage, and all regular overhead expenses will naturally continue until primary. Have written.

"FRED P. SMITH.

"(R., 769.)

"Did you send that telegram?

"Mr. SMITH. Yes; I did.

"Mr. ALFRED LUCKING. Then, it was not about when the primary was; it was when the expenses would cease that you were talking with him and writing him about. Is that right?

"Mr. SMITH. That is probably it. I do not know what the conversation was, but I had told him July 27. I misinformed him as to the month.

"Mr. ALFRED LUCKING. You had been talking to him. He wanted to know when these expenses were going to stop, did he not?

"Mr. SMITH. I do not believe so. I think the conversation was about the drain on the balances in the office, and he was complaining about the money that was being spent.

"Mr. ALFRED LUCKING. Complaining about the large amount of expenses being drawn?

"Mr. SMITH. Or the money that was being spent and drawn from the account all the time and put into his brother's account to keep from being overdrawn.

"Mr. ALFRED LUCKING. And his funds as well as his brother's were used?

"Mr. SMITH. And everybody else's.

"Mr. ALFRED LUCKING. To keep up the amounts that were on the books charged against John?

"Mr. SMITH. To keep his account from being overdrawn.

"Mr. ALFRED LUCKING. And he wanted to know when this thing was going to end. Is that the idea?

"Mr. SMITH. I think that is right.

"Mr. ALFRED LUCKING. You got the date wrong in your talk, and so you sent this telegram to him?

"Mr. SMITH. Yes, sir; that is right.

"Mr. ALFRED LUCKING. And you say:

"I misinformed you this morning the date of close of regular expenses. Should have said August 27."

"In other words, you should have said that the expenses would then be cut off?

"Mr. SMITH. Yes, sir.

"Mr. ALFRED LUCKING (reading):

"The circular work, advertising, clerical help, postage, and other regular overhead expenses will naturally continue until primary."

"Mr. SMITH. Yes, sir.

"Mr. ALFRED LUCKING. And that is what he had been talking with you about over the phone?

"Mr. SMITH. He was kicking about the balances.

"Mr. ALFRED LUCKING. Yes; the drain was pretty heavy, and he wanted to see it stop?

"Mr. SMITH. Yes, sir; that is true.

"Mr. ALFRED LUCKING. You say, 'Have written.'

"Mr. SMITH. Yes.

"Mr. ALFRED LUCKING. Have you got that letter or a copy of it?

"Mr. SMITH. No; I have not.

"Mr. ALFRED LUCKING. That is lost, too, is it, with the other things?

"Mr. SMITH. It is not in our office, however. (R., 770.)

"Senator WOLCOTT. Yes; I want to find out about the checking out of these funds by you, Mr. Smith, to the Newberry primary committee. Those checks were all drawn against what account in your office?

"Mr. SMITH. Against Mr. John S. Newberry's account.

"Senator WOLCOTT. Are you positive they were invariably drawn against that account and no other?

"Mr. SMITH. Absolutely.

"Senator WOLCOTT. You spoke of transferring funds from the other accounts into his.

"Mr. SMITH. Yes, sir. It is a procedure that has been current for years. When one account gets low it is fed from the others. We have 12 different accounts. Of course, we do not feed from the corporations, but the personal ones. I have done it this last week.

"Senator WOLCOTT. How many of those personal accounts were there?

"Mr. SMITH. There were 10 at that time.

"Senator WOLCOTT. Did you transfer funds from Truman H. Newberry's account over to John S. Newberry's?

"Mr. SMITH. Yes, sir; or Mr. Truman's to John S., or from Mrs. John S., around either way, and always have done it.

"Senator WOLCOTT. All these funds in those various accounts, barring the corporation accounts, went to supply ready money to John S. Newberry's account?

"Mr. SMITH. No; I do not think they all did in this case.

"Senator WOLCOTT. Then, the funds in their two accounts went to keep the John S. Newberry account up to a sufficient fund so as to enable you to have enough money out of that account to take care of these primary expenses?

"Mr. SMITH. In cases where there were overdrafts they would make up enough balance to cover the overdraft.

"Senator WOLCOTT. Were those funds advanced from Truman H. Newberry's account and Mrs. Truman H. Newberry's account to John S. Newberry returned in due course to those accounts from which they were originally taken?

"Mr. SMITH. Yes, sir.

"Senator WOLCOTT. Have you the books showing all these transactions?

"Mr. SMITH. No; I have not.

"Senator WOLCOTT. Were those books taken by the cashier down to Grand Rapids?

"Mr. SMITH. I do not remember about it. I did not pay any attention to what he took. He got his own stuff. He got a subpoena and went and saw the attorneys and got his material together and went over that night.

"Mr. HAL H. SMITH. But he was subpoenaed with the books?

"Mr. SMITH. Yes, sir.

"Mr. HAL H. SMITH. The books, records, checks, and letters.

"Senator WOLCOTT. Was he subpoenaed by the Government?

"Mr. SMITH. Yes, sir. (R., 772, 773.)

"Senator WOLCOTT. What is the last you recall of seeing these books and checks that had to do with these transactions about which I have inquired?

"Mr. SMITH. I do not remember whether it was after the grand jury or after the trial.

"Senator WOLCOTT. You were aware of the fact that there was considerable notoriety concerning the expenditure of money in that campaign?

"Mr. SMITH. Oh, yes.

"Senator WOLCOTT. You were aware of the fact, were you not, that it was charged by prominent men in Michigan that this extravagant expenditure of money was either by, or occasioned by, Mr. Newberry?

"Mr. SMITH. Yes, sir.

"Senator WOLCOTT. Was there talk of investigation of that business? In the newspapers, I mean, was there talk of investigation of that statement?

"Mr. SMITH. Well, there has been all along.

"Senator WOLCOTT. I mean back there at the time we are now speaking of, about contemporaneous with the happening of all these events; we will say in August, 1918?

"Mr. SMITH. I do not remember that.

"Senator WOLCOTT. You do not recall any demands for an investigation or demands that there should be an investigation of the thing?

"Mr. SMITH. There was a lot of notoriety in the newspapers about expenditures, but I could not say now whether I remember when it was or not.

"Senator WOLCOTT. Mr. Smith, I am at a loss to understand, and I want you to explain to me why it is, that in view of that talk and more or less of a scandal about the expenditure of Newberry funds, that you, the man who had the written evidence of the expenditures and to whom disbursed and how the accounts were kept, should be so much at a loss to tell this committee anything about the whereabouts of those books and checks and that you were apparently so indifferent about their safe-keeping.

"Mr. SMITH. We must have had them a considerable period in our files down there at the office.

"Senator WOLCOTT. Well, you do know that yourself?

"Mr. SMITH. I can not tell what time they went up.

"Senator WOLCOTT. What do you mean—went up to the barn?

"Mr. SMITH. Up to the barn. At Grand Rapids they were tied in a sack.

"Senator WOLCOTT. You took no special precaution to take care of them?

"Mr. SMITH. I put them where we have always put all our checks, under lock and key; and not only that, there is a man and his wife living right in the place.

"Senator WOLCOTT. Yes; but there was a grand-jury investigation of this business when these books and checks came back into your possession.

"Mr. SMITH. Yes, sir.

"Senator WOLCOTT. The subject matter was being investigated, and yet you allowed these evidences, written evidences, of the entire business of this whole transaction to get from under your sight. That is correct, is it not? (R., 774.)

"Mr. SMITH. We only have a limited space there in our offices. Every so often we have to clean them out, with the enormous amount of business that comes through that office every year.

"Senator WOLCOTT. Yes; but this was only a period of about two or three months of financing. How did you keep your books—in loose leaves or bound books?

"Mr. SMITH. In bound books.

"Senator WOLCOTT. Did you ever inquire of this cashier what he did with the books and checks?

"Mr. SMITH. No, sir.

"Senator WOLCOTT. Did you ever make any investigation about their whereabouts after they came back from Grand Rapids?

"Mr. SMITH. No; I did not.

"Senator WOLCOTT. They were not destroyed, were they, to your knowledge?

"Mr. SMITH. Not to my knowledge.

"The ACTING CHAIRMAN. Were they all before the grand jury?

"Mr. SMITH. I do not know whether he got them from the office or whether he got them up there.

"Senator WATSON. You were not subpoenaed?

"Mr. SMITH. No; I was not subpoenaed.

"The ACTING CHAIRMAN. Mr. Steel took all the books they asked for?

"Mr. SMITH. Yes, sir.

"Senator WOLCOTT. Do you know that?

"Mr. SMITH. What is that?

"Senator WOLCOTT. You just answered Senator SPENCER and said—

"Mr. SMITH. Yes, sir.

"Senator WOLCOTT. Do you know that?

"Mr. SMITH. I presume he did.

"Senator WOLCOTT. Well, presumption is different from knowledge.

"Mr. SMITH. Well, I can not say.

"Mr. MURFIN. He did tell you he took all that was asked for?

"Mr. SMITH. He said he took what was required and he went up there. He went over to see Mr. Murfin, and I suppose he explained what was there.

"Senator WOLCOTT. Do you know anything about where they are?

"Mr. MURFIN. Mr. Steel showed me a subpoena, and I told him to respond to it and to go with it before the grand jury and not to open his packages before he got to the grand jury. He got back, and I said, 'What happened?' He said, 'Everything that happened before the grand jury is a secret.' What he took I do not know. I know what I told him to take.

"The ACTING CHAIRMAN. That is all, Mr. Smith." (R., 775.)

A careful reading of this testimony shows that there were 12 different personal and business accounts which might be described as the Newberry interests. Two of them were corporations. Ten of them were personal accounts belonging to Senator Newberry, his brother, John S. Newberry, the father's and mother's estates, their wives, and their sons. Frederick P. Smith was the attorney in fact representing all of these interests and had general powers of attorney, especially from Truman H. Newberry and John S. Newberry, which were as broad in the powers conferred as language could make them.

Mr. Smith had acted under these powers of attorney for a number of years. Under them, and perhaps like powers of attorney from the other interests, he would draw checks upon one or the other of these accounts and pay them into other accounts which might from time to time become depleted.

Some time, perhaps in March, 1918, John S. Newberry told Mr. Smith, who was his as well as Truman H. Newberry's attorney in fact, that "Mr. Newberry expected to have a campaign for Senator, and that 'I wanted to finance the campaign.' No other instructions were given. Mr. Smith had the power to draw on Mr. John S. Newberry's account without limit to defray the expenses of this campaign. He never rendered any account to Mr. John S. Newberry, and John S. Newberry never asked for any statement. He did not know the amount of money to his credit. He was apparently not concerned as to its state. In fact, for John S. Newberry he contributed \$120,000, of which about \$21,000 was returned to Mr. Smith in currency in a paper sack after the campaign was closed. The net amount contributed in the name of John S. Newberry by this attorney in fact was \$99,900. Newberry himself says that Smith might have drawn, if he had so desired, \$200,000." (R., 311.)

John S. Newberry paid no attention whatsoever to this subject except to give the authority to Mr. Smith to draw checks at libitum. Truman H. Newberry, the older brother, was in fact the business executive of the Newberry interests, and it was he alone who apparently gave attention to the business of the Newberry interests while he was in New York. According to John S. Newberry, Truman H. Newberry did not even know that John was going to finance his campaign. (R., 313.)

Not so indifferent was Mr. Truman H. Newberry. Apparently he was keeping his finger on the financial pulse of the Newberry interests.

One of the stenographers in the Newberry business offices testifies (R., 768) that during a couple of months preceding the primary election Mr. Frederick P. Smith sent telegrams to Mr. Newberry with reference to the campaign. It was his custom for three months to dictate a telegram each evening. This is in part denied by Mr. Frederick P. Smith, but on July 25, 1918, he sent to Truman H. Newberry a telegram:

"I misinformed you this morning the date of close of regular expenses. Should have said August 27. The circular work, advertising, clerical help, postage, and all regular overhead expenses will naturally continue until primary. Have written."

The letter seems to have mysteriously disappeared.

But Mr. Smith says, on page 769 of the record, that Mr. Newberry never talked to him about the campaign. The record shows that there was a conversation by telephone between Newberry in New York and Smith in Detroit. A mistake was made in this talk as to the date of the primary. The telegram is sent to correct it, and then when asked further about this telephonic conversation he says, "I think it was about the drain on the balances in the office" and Senator Newberry was complaining about the money that was being spent.

Frederick P. Smith, the confidential attorney in fact of these brothers, tells us that Truman H. Newberry's funds as well as his brother's and everybody else's were used to keep up the amounts that were on the books charged against John, and to keep his accounts from being overdrawn.

Truman H. Newberry "was kicking about the balances."

"Mr. ALFRED LUCKING. Yes; the drain was pretty heavy and he wanted to see it stopped?"

"Mr. SMITH. Yes, sir; that is true.

"Senator WOLCOTT. Did you transfer funds from Truman H. Newberry's account over to John Newberry's?"

"Mr. SMITH. Yes, sir; or Mr. Truman's to John S., or from Mrs. John S., around either way, and always have done it."

True, this witness says that these moneys were repaid, but every book belonging to the Newberry interests which would shed any light upon this subject has mysteriously disappeared. At least they are not forthcoming upon subpoena.

Now, when we remember that \$99,900, the net amount furnished by John S. Newberry, came from the Newberry interests through Frederick P. Smith, the attorney in fact of the two brothers, that John S. Newberry gave no attention to the subject more than to authorize the drawing of the checks—that he did not know whether this money would come from his account direct or from his account after it had been replenished from drafts upon other accounts, including Senator Newberry's account, who says that Truman H. Newberry did not furnish a substantial part at least of this sum? And how can he say, after complaining about the money that was being spent and "kicking about the balances," that his campaign was

"voluntarily conducted by his friends," and that he took "no part in it whatever and no contributions or expenditures have been made with my knowledge or consent."

Again, Frederick P. Smith, the attorney in fact, for these two brothers, took out Truman H. Newberry's account Truman H. Newberry's money, and deposited it to John S. Newberry's account, and thereby aided in securing the nomination for United States Senator for Truman H. Newberry. Under the testimony here submitted can Truman be presumed to have no knowledge that he was loaning his money to help finance his campaign when he was complaining all the while about the drain on his balances.

Did not Truman H. Newberry's money aid in paying the expenses of his nomination? Was not the money paid out of his bank account by his attorney in fact? What difference does it make that it went the roundabout way through John S. Newberry's account?

Again, section 3830 provides that "no candidate shall pay, give, or lend, or agree to pay, give, or lend, either directly or indirectly, any money or other valuable thing for any nomination or election expenses whatsoever," except for the 11 purposes designated in section 3830 above referred to.

While it is plain that there is no express limitation on the amount which may be expended by a political committee, there is the limitation of \$3,750 upon the amount which may be expended by or on behalf of any candidate to be paid by him, and he is obligated to file his account. The minority members of this committee are not able to say how much money was taken from Truman H. Newberry's account and placed in John S. Newberry's account for this campaign, but whatever it was it was his duty to have filed an account thereof, and the presumption is that it was a very substantial amount, otherwise he would not have been "kicking" about the balances.

And strange as it may seem, the majority members of the committee after they found that the Newberry books were destroyed, or at least not forthcoming, they denied the minority members their motion to require the banks to produce their books which would show at least the amount which was taken from these several accounts. Aye, more, when we asked that Senator Newberry, himself, should come before the committee so that he might enlighten us as to his financial activities, he refuses to come, and the majority of the committee refuse the request of the minority members to ask him to come.

The record in this case includes the bill of exceptions filed in the Supreme Court in Truman H. Newberry et al. v. United States. Including this bill of exceptions, the record contains 1,906 pages.

WORKERS WERE HIRED IN VIOLATION OF THE MICHIGAN STATUTE AND NO LEGAL REPORT OF MOST OF THIS EXPENSE WAS MADE.

The majority report declares:

"While the aggregate of the moneys expended 'was large, it was not spent for any purposes that were in themselves illegal or improper.'"

Again it says:

"The clear result of all the testimony is that there is no evidence whatever to sustain the charge of improper use of money at the primary or general election."

Further on, again, the majority report recites:

"The charge is made that hundreds and hundreds of workers were hired all over the State, directly in violation of law, both the written statutes of Michigan and the common law. The evidence entirely fails to sustain this charge, for it is clearly shown that those employed by the Newberry committee—that is to say, clerks, stenographers, field men, and publicity men—are not in any sense within the prohibition of the Michigan statute prohibiting the hiring of workers on primary day and prior thereto to induce persons to support or oppose any candidate. The statute expressly indicates its intent to prohibit the prevailing practice of candidates hiring with money and promises of positions, etc., workers on primary day and prior thereto. This statute can not be contorted into a construction that would prohibit an orderly public extensive program of publicity."

The minority of this committee contend that however careful the managers of the campaign may have been to observe the law, in their eagerness to nominate Mr. Newberry at whatever cost they did not comply with it. They violated it and sought to cover up their tracks.

In order to sustain this charge the minority beg to refer the Senate to certain portions of the record and to quote somewhat extensively therefrom. And while so doing let us keep in mind the provisions of section 45 of the Michigan primary statute, which provides:

"It being the intent of this clause to prohibit the prevailing practice of candidates hiring with money and promises of positions, etc., workers on primary day and prior thereto."

RAYMOND GLOCHESKI.

This witness was a Polish lawyer of prominence at Grand Rapids, Mich. He was hired to work all over the State, organizing the Polish voters. He received \$600 in salary and \$400 for traveling expenses. (R., 501.) With respect to this man Glocheski, Paul King, the general manager, stated, after describing that his "field men" traveled all over the State, organizing the counties:

"Then I assigned other men whom I did not consider field men in the same sections, men like Mr. Glocheski, to work with certain nationalities of people or certain classes of people. Mr. Glocheski did work among the Polish people of the State. He visited the Polish settlements around the State, especially in Presque Isle County and Manistee County, and there are a good many Polish citizens in Kent County (Grand Rapids)."

"Q. Were they all under pay?—A. Yes, sir.

"Q. Did you have a man or men to work with the fraternal societies?—A. Yes, sir.

"Q. Under pay?—A. Yes, sir." (R., 516.)

Glocheski himself testified that he went to Detroit on a telegram from King and met King at his private office. "King said William Alden Smith was not going to be a candidate and wanted to know what he (Glocheski) thought of Newberry as a candidate." Glocheski said he would be glad to do what he could, and "King told him he wanted him to travel through the State, finding out what the sentiment was regarding Newberry among the Polish people and not let it be known that he was there for that purpose only. That he would give him \$150 a month and all expenses." (The above was from Glocheski's testimony before the grand jury.) (R., 501.)

He was sworn again before the committee, and he testified, among other things, as follows:

"The first of each month Mr. King would send me a check for my expenses in the amount agreed upon.

"Q. What was the amount agreed upon?—A. \$150 a month and expenses.

"Q. For work in Grand Rapids?—A. For work in the entire State of Michigan.



"Q. What kind of work did you do?—A. I organized the Polish voters in Michigan for Mr. Newberry.

"Q. And went from city to city?—A. Yes, sir.

"Q. And that was your part of the work?—A. Yes, sir." (R., 504.)  
The moneys paid to Glocheski by King are not to be found anywhere entered in the books or records.

#### CHARLES TUFTS.

Charles Tufts, of Scottsville, Mich., was hired by Paul King and Charles Floyd to work for Newberry, and received \$1,600, \$200 a month for services and also in addition his expenses. Tufts was a State senator of Michigan. He stated that he went to Detroit on a summons from Paul King, and proceeds:

"He told me he (Paul King) was anxious to see Mr. Newberry win out and requested that I work for him, and I discussed with him plans for my work in behalf of Mr. Newberry, and suggested that I travel over a part of the State, going from county to county, and attempt to line up the various county officers; that at the conclusion of my conference with Mr. King he told me to go ahead with the work and to send to headquarters for expenses as needed, and when I had finished my entire work for Newberry to send in a bill for my expenses. That in accordance with plans made in my conversation with King I worked the following counties: Mason, Newago, Iosco, Alpena, Cheboygan, Presque Isle, Grand Traverse, Manistee, Lake, and Montmorency. That I went to see the county officers of each of said counties, and if they were not lined up with anyone, tried to get them to work for Mr. Newberry, but made no financial agreement, because I had no authority for making such agreements. That in Alpena County A. A. Wentz traveled with me and assisted me in my work for Mr. Newberry; I paid his expenses, but later he told me he was paid so much a week for his services; Wentz and I went together about 10 days or 2 weeks. That E. O. McLean, of Ludington, Mich., a newspaper man, was employed by the Newberry organization to line up the marines, fishermen, life-savers, etc., and write a number of articles for Newberry for publication; that McLean and I traveled the coast towns together for the purpose of lining up the vote and talked Newberry to the men we met. \* \* \* That my expenses in doing my work for Newberry were heavy at times, for when I would run into a place where things were right I would buy meals, cigars, etc., for parties of men, and in accordance with my agreement with King I was not limited in my expense, and I spent freely. \* \* \* That in lining up the various county officers I was not always furnished with the names of the Newberry managers by Floyd, but frequently after I would return from a trip he would ask whether I had called on certain Newberry workers. \* \* \* Further, that after I had entered upon my work in behalf of Mr. Newberry I received two or three personal and complimentary letters from Mr. Newberry thanking me for the work that I was doing." (R., 557, 558.)

Tufts's name nowhere appears in the books or records of the committee, nor do the amounts of money paid him. It would be interesting to see the explanation of the author of the majority report of why Tufts and Glocheski were not hired workers under the Michigan primary act. But there are many more of them. Many of the county officers that were lined up in every county of the State but one were in exactly the same class.

#### ROLLO E. PRESCOTT.

Mr. Prescott was a printer by occupation, living at the time at Lincoln, Alcona County. He received \$750 in salary and about \$600 expense money, his work lying chiefly in his own county; but he also organized two or three adjoining counties by procuring the chairmen and secretaries and putting them in touch with Mr. King. He testified he was called upon early in April by one B. F. Reed (this was a field manager of the committee) to come to Harrisville to talk over the Newberry proposition.

"He wanted me to organize Alcona County for Newberry and requested that I get in touch with Paul King in Detroit. I went to Detroit and talked with King. King outlined the plans and requested me to take care of Alcona County. \* \* \* King asked what I would take to do the work outlined and suggested \$150 per month salary and an unlimited expense account. \* \* \* He further agreed to leave the matter of organization entirely to me. \* \* \* In accordance with the agreement, I began upon my work immediately and drew five months' salary at \$150 a month, in addition to expenses. \* \* \* That in my work in behalf of Newberry I organized Alcona County. I saw George W. Burt, probate judge, and obtained his consent to act as chairman. I acted as secretary, and as part of my work I attempted, so far as possible, to get the supervisors to take charge of the work in each township and told them that if they would put in a day's work now and then I would make it right with them. However, neither Burt nor the supervisors were paid any money by me, and their only activity was to circulate literature which I furnished them."

He then tells of organizing other counties, selecting managers, etc., and furnishing some of them moneys.

He further said:  
"That my active work in behalf of Mr. Newberry was confined principally to Alcona County during the primary, and that I made trips over the entire county, calling upon the voters personally and distributing literature broadcast." (Record, pp. 537, 538.)

Mr. Prescott's name does not appear in the books, nor do the moneys paid him.

#### EDWARD O. McLEAN.

Mr. McLean, an advertising man, residing at Ludington, testified that King wrote him to come to Detroit, and that King asked him if he was not affiliated with any other candidate, and that—

"If I could work for them in the Newberry campaign, and I told him that I could work. \* \* \* Mr. King asked me what my time would be worth, and I told him \$200 per month, and he agreed to pay that and all expenses."

Witness said his first work was a preliminary survey of Mason County, where he talked to the political leaders. In Lake County he recommended for secretary Herbert Davis. He said he had a talk with Davis and told Mr. Davis whatever his charges would be they would be taken care of, and that there would be about \$200 in it, but that he would have to see Mr. Floyd (secretary of the committee) to complete the arrangement. He said he took up work among the marine voters urging them to support Newberry. That he worked at this until primary election, about three and a half months. \* \* \*

"My total expense was between \$500 and \$1,200, and my salary amounted to \$800, and that he quit work primary day. He said that Paul King wrote him in June that thereafter he was to deal with Charles Floyd, and that he did so and was paid by Floyd. He said that he came to Grand Rapids to report every two or three weeks

to Floyd, or whenever he sent for him. Floyd would then ask him what he had been doing and would also give him names of people to see. \* \* \* He went to Detroit once after the first visit and submitted to Mr. King his plan to work among the marine men, which Mr. King indorsed. He visited Mason County, Emmet, Charlevoix, Benzie, Manistee, Oceana, Muskegon, and all the way down to St. Joseph. These were Lake Michigan coast counties. \* \* \* He received a letter from Mr. Newberry after the campaign was over thanking him for his work. \* \* \* He met Capt. Tufts, who introduced him to Mr. A. K. Moore, who said he was doing the same work among railroad men that I was doing among marine men. \* \* \* (Record, pp. 654, 655.)

#### J. SCOTT HUNTER.

Furniture salesman of Detroit, Mich., member of the common council of the city of Detroit, testified that in the spring of 1918 he attended a smoker at the home of Milton Oakman (Detroit and Wayne County manager of the Newberry forces).

"At that time Mr. Oakman asked the boys there to do what they could for Mr. Newberry."

He went to Newberry headquarters and met Mr. B. Frank Emery. "He asked me at that time to assist in the campaign, but there was no transaction between us. I returned to headquarters a few days afterwards by appointment. At that time he gave me \$300 in currency. He requested me to work for Mr. Newberry's interest with the \$300, and he gave me a lot of literature, buttons, etc., to distribute. I took the literature and buttons and I expended this \$300. I spent it around advertising Mr. Newberry from one place to another, buying drinks and cigars. I spent the entire \$300 that way. \* \* \* After the \$300 was gone I paid more visits to the headquarters. \* \* \* Mr. Emery delivered a second \$300 to me in cash. I did not give him a receipt. It was given to me for the same purpose. There was nothing mentioned in regard to it. I supposed it was meant for services. I spent it the same way as the other; that is, for liquor and cigars and treating through the city." (B. E., 484, 485.)

#### ZALIE CLAGO.

Zalie Clago, a deputy sheriff of Wayne County (Detroit), testified that Milton Oakman, the sheriff, employed him at \$300 per month, and that he received his pay from the Newberry senatorial committee:

"He said that when the matter first came up Mr. Oakman asked him if he would like to take a vacation for three or four months with pay and take charge of the Wayne County office of the Newberry campaign, and said that his duty, his first duty at least, was to look after the organization of the factory employees. That Milton Oakman had charge of all Wayne County, and meetings were held in the county clerk's office on some occasions. That all precinct leaders and ward men were in Oakman's office at times. \* \* \* Among his first duties was the perfection of the organization in factories. He said he took out petitions and visited each factory himself. \* \* \* He also had 20 cases of beer, which he paid for himself, and the meeting was held on April 22, 1918, the Newberry meeting. He said he went to work March 6, 1918, and worked until August 28, 1918, and then went to the State central committee. \* \* \* (R., 369.)

#### WILLIAM M. CONNELLY.

William Connelly was a State senator, living at Spring Lake, Ottawa County. Senator Connelly testified:

"Charles Floyd asked him if he would take on the Newberry campaign in Ottawa County. He said he considered it for a while and finally made up his mind that he would take it along with his own; he was running for senator. \* \* \* He said he received \$1,200 from Floyd. He said that he hired some men to distribute literature and he made speeches; at one time he hired a man and made a speech in Nunica. He said later he saw Charles Floyd and Floyd told him to make up an expense account of something less than \$200. Mr. Connelly said he knew it was not right and he wouldn't do it again." (R., 509.)

The above is from his grand jury testimony. Mr. Connelly appeared before the committee and desired to make a correction, so that he was also examined before the committee wherein, among other things, he said:

"Q. Who employed you to work for Senator Newberry or for his campaign?—A. Mr. Floyd at Grand Rapids. (R., 510.)

"Q. What was your conversation with him when he employed you?—A. Well, when he called me on the phone, if I recall correctly, he said he had been looking for some one to handle the Newberry campaign in Ottawa County, and I had been highly recommended to him.

"Q. Afterwards did you make some arrangement with him?—A. Yes.

"Q. State it.—A. The arrangement was that I was to handle the campaign in substantially all of Ottawa County, barring the city of Holland, which was inconvenient for me to look after. (R., 511.)

"Q. How much money did you receive?—A. One thousand two hundred dollars.

"Q. And you accounted for how much?—A. Two hundred dollars by expense statement and verbally for the balance.

"Q. For what purpose was that expended?—A. A portion for my own compensation, approximately \$600.

"Q. So that there were \$600 additional that you accounted for orally?—A. Yes, sir.

"Q. As expense to cover your traveling and hotel expenses?—A. And for men employed for the distribution of literature and for speakers and for bands. \* \* \* I conducted a regular whoop-em-up campaign in a county where the candidate was not known at all, and we put him over in good shape.

Connelly's name does not appear in the books of the committee nor does the \$1,200 paid him, so far as discoverable.

#### TERRY T. CORLISS.

Mr. Corliss was an employee of the State auditors' office, Lansing, Mich.

"Paul King asked me if I could do anything for Newberry in Tuscola and I said I would be glad to do so. Afterwards I met him on telephone call in his Detroit office and Mr. King wished me to go through the State, various parts of the State, and organize county committees and go ahead with the organization a good deal along the lines that I saw fit, and at that time I said I could not afford to do it for nothing, and he said, 'That is all right; we will compensate you for your work.' He said, 'How much are you getting now?' I said, 'Fifteen hundred a year.' He said, 'Well, that is all right; I will pay you \$75 a week

and your expenses to carry on this campaign.' I did work for about 21 weeks at that salary, receiving \$2,275. \* \* \* His duties were specified by Mr. King to organize county committees—that is, choosing a man for chairman and a man for secretary—but he had no authority from Mr. King to pay them any money, but was to refer them in each case to Mr. King, to make the arrangements with him personally."

He then describes at length the going into various counties and meeting and making arrangements with a large number of individuals. He also called on other towns in the same county. He testified that about this time he met Mr. James Davis, who told him he was doing the same kind of work in the southern tier of counties, and also Mr. McGregor, at the Detroit headquarters, who told him he was working in the northern part of the State, doing the same work—organization. (R., 604.)

J. B. BURNS.

J. B. Burns, real estate insurance man, of Three Rivers, was employed by James R. Davis (a field manager). Davis— "wanted Burns to take charge of the campaign there and to take up the matter with the Detroit office. He went to the Newberry headquarters in Detroit and talked with Emery. He returned to Three Rivers and tried to get representatives in each township. \* \* \* Judge Thomas, of Constantine, went with him in an automobile on trips over the county. He wrote and sent out letters and literature. He kept \$300 out of the \$400 he received for his own services. He continued his interest in the campaign after the primary, but did not receive the \$20 per week after the primary. He received a letter and perhaps a telegram from Mr. Newberry thanking him after the primary." (R., 653.)

FAY G. DUNNING.

F. G. Dunning, of Lansing, Mich., a gravel-pit operator, was employed by Mr. E. V. Chilson, assistant secretary. He was employed in April or May.

"Mr. Chilson wanted him to spend his time for Newberry, and he said he could, as he wasn't very busy. He was to work with Dr. Shaw at Lansing, in the campaign, and Chilson paid him \$50 in cash then. He visited the Detroit office and received \$500 from Chilson; later he received \$300 from Emery at Lansing, all cash." (R., 605, 606.)

FRANK P. BOHN.

Frank P. Bohn, a physician and banker, of Luce County, Mich., testified that Paul King came to his office and asked him to manage the Newberry campaign for Luce County and he agreed. He received \$150. He testified one was for \$100 and one for \$50.

"I expended further \$125 for workers distributing literature and getting the vote out. Also had a list of voters in the townships made, which I used. I employed about 15 men to work primary day and paid them \$5 apiece, 2 of them \$10 who worked before primary day. \* \* \* I told them to get the boys out to distribute literature, and do what they could for the interest of Mr. Newberry. \* \* \* I had told Mr. McGregor that it would take from \$100 to \$150 to take care of the work. The men selected had worked for him (Bohn) in politics before; that I did not know who they were supporting before I hired them. My purpose was to get them to support Newberry. I simply asked them if they were not tied up to support Newberry. It was my intention to get their support and vote for Newberry. I did not know who they were for Senator." (R., 880.)

Neither this man's name nor the payments made him appear in the records of the committee.

WILLIAM E. RICE.

William E. Rice, of Grand Rapids, Mich., testified that Charles Floyd asked him to become identified with the Newberry campaign and that as a result of the conversation he made a contract with Mr. Floyd. The contract was that he was to do certain work and that was that he was to organize bolo clubs throughout the State of Michigan in connection with the Spanish-American War Veterans' camps. He went to various cities where these camps were and did organize the bolo clubs, making the Newberry campaign the principal issue or part of the work and that it was so stipulated by Mr. Floyd.

"He received \$50 a month salary and his expenses. He received a letter or telegram from Mr. Newberry regarding the work." (R., 874.)

Mr. Rice's name does not appear in the books or records of the committee.

J. CLYDE WATT.

J. Clyde Watt, of Ionia, testified King asked him to take charge of the Newberry organization in Ionia County. King said he would allow him \$500 compensation.

"He finally paid me \$600 and expenses. He reimbursed us for money paid out. We received, all told, about \$900. Our expenses were about \$250, and this was brought to us by James Haskins. Our expenses consisted of circulating petitions, distributing literature, telephone bills, automobile hire, etc. All our money came from Floyd, except \$250 from James Haskins."

EDWARD W. FEHLING.

Mr. Fehling lived at St. Johns, Clinton County, and was an attorney. He testified that—

"Floyd came to my office at St. Johns and requested me to become manager of the Newberry campaign in our county. I accepted, and I received altogether \$500. Of this amount I spent probably \$35 to \$75 for distributing literature and kept the rest. I paid nothing to men, but hired boys to distribute literature. I also made six or seven auto trips around the county."

"Q. And in that connection did he (Fehling) say what he was doing on the trips, or whether he was distributing literature, or matters of that kind?—A. He was making those trips over the county in connection with the campaign."

"Q. He had taken the chairmanship of it?—A. Yes, sir." (R., 506, 507.)

GEORGE C. WALSH.

George C. Walsh testified:

"The defendant, Guy Ingalls, during the primary of 1918, delivered to me \$100, and requested me to do something in behalf of Mr. Newberry. I spent between \$27 and \$30 of the \$100. I interviewed a number of men who worked for me, and I hired a man by the name of Peter Connors. I gave him \$10 and asked him to distribute cards and buttons. \* \* \* I retained the balance of the money Mr. Ingalls had given me. \* \* \* Whatever I got from Mr. Ingalls covered whatever I did either in my paper or other activities for him and for Mr. Newberry." (B. E., 455, 456.)

CHARLES A. CAMPBELL.

Charles A. Campbell testified he resided at Lansing, and was employed in the State labor department. That during the year 1918 he was grand master of the colored Masons, and went about the State

making addresses, "doing work during the campaign wherever I could for Newberry, outside of lodge rooms." He received \$15 per week from the Newberry committee for this work. That his expenses on these trips were paid by the Masons, and that he was also receiving a salary from the State. (R., 878.)

WILLIAM S. CREBASSA.

Mr. Crebassa was an undersheriff of Baraga County and a food and drug inspector of the State.

"He said he met Paul King in L'Anse in May, 1918, and also Charles Floyd. I talked with King, who said he was driving through the country in an auto and was up there in the interests of Newberry and would like to have me use my influence. He was talking to both Brennan and me at that time. Brennan said, 'Hand us \$1,000 and we will paint the town with Newberry literature.' Mr. King said it would take \$1,000,000 to satisfy everybody. Mr. Brennan then said, 'Crebassa and Herbert Brennan handled the campaign for Sleeper and did a good job.' \* \* \* He introduced Mr. King to Bill Brennan, the banker. I went with him to the Stearn-Culver office and introduced him to the office force and also introduced him to some of the merchants in the town. Mr. King then told me to do what I could for Newberry; that he had petitions to be circulated, literature to be distributed, also wanted a poll list made, and whatever expense you go to you will be reimbursed. I told him I would do what I could when in L'Anse, but that I was working for the State and away from home a good deal. \* \* \* In September after the primary I received from Detroit \$130 to \$160. I spent most of it for auto hire in Baraga County, and circulating petitions and having a poll list made up." (R., 889.)

JAMES R. DAVIS.

Mr. Davis testified that Paul King, about the 1st of May, wished him to interest himself in Mr. Newberry's campaign.

"He did go to Detroit and saw Mr. King and Mr. King made arrangements with him there for him to do organization work in the lower tier of counties in Michigan, except Berrien, and offered him \$300 a month and his expenses and gave him full authority to pay money to any of the men he interviewed to act as chairman or secretary of the county boards. \* \* \* He interviewed men in Cass, Hillsdale, St. Joe, Lenawee, Monroe, and Branch Counties. \* \* \*"

Names of some of the chairmen and secretaries are given and the testimony continues.

"He was later reimbursed for the amount he paid them to the amount of \$800 or \$900, and he received himself in the neighborhood of about \$700 for his own expenses and about \$1,100 salary, and he made the trips also in other counties, although he had no real organization work in the other counties, but he talked with his friends in favor of Newberry, and he went to Detroit headquarters nearly every week and received his pay. \* \* \* (R., 639.)

MEL DEO.

Druggist at North Branch, Lapeer County.

"Paul King asked him to take the chairmanship of the campaign for Lapeer County. Paul King asked us what the expenses would be. I told him just the expenses, and King gave me \$100, which I divided with Carrigan. I spent it treating the fellows. I told them it was on Newberry, and this was at a picnic and other places of that kind." (R., 877.)

FRANK L. COVERT.

Frank L. Covert, circuit judge, Oakland County, testifies that he went out with Mr. Seeley and called on men in each township, paid each man sufficient to cover his expenses, an average of \$10 to each man.

"We have 25 townships and probably about 25 men; used a total of \$250. We each retained \$100 for our expenses. He said that \$300 was left with him by Chilson, and I turned over \$200 of it to Mr. Seeley. After that I understood about \$200 more was given to Mr. Seeley. I just allowed myself the \$100." (R., 877.)

AUGUST FIELD.

Mr. Field was manager of the Chippewa Hotel at Manistee, Mich. He testified:

"Floyd came to Manistee one evening in April and asked me if I would take charge of Manistee County in the interests of the Newberry campaign. I told him I would. A few weeks later I received a check for \$200 from Floyd. \* \* \* I arranged for a luncheon of 20 at my hotel. Mr. King was the only speaker. Mr. Floyd, who accompanied King, gave me \$100 that day. I paid the hotel \$30 for the luncheon; that is, to myself. He also asked me to give \$100 to Richard Hoffman, county road commissioner, for work in the interests of Newberry. I think Hoffman was at the luncheon. I gave him \$50 that day and later I gave him \$50 more. Afterwards I received another \$300 from Floyd during the primary campaign. \* \* \* My recollection is that I gave either \$95 or \$105 to John Myers, who acted as secretary. \* \* \* I was canvassing the county to see people in the interests of Newberry. At the close of the primary campaign or the general election I had a talk with Floyd over the telephone. I says, 'You know how much money you gave me, and I think I have spent it all; can't you make a report?' He asked me to make it. He said to put in about \$120. As near as I recollect, I did make a report of \$120, instead of \$600; but I do not remember what items I listed in it. \* \* \* With regard to Mr. Hoffman, we agreed that we thought that, being county road commissioner, he could do a lot of good work for Newberry's campaign on account of being around the county so much." (B. E., 229, 230, 231.)

JAMES FISHER.

James Fisher, a banker of Laurium, Houghton County, Mich., testified that Mr. King engaged him to take charge of the Newberry campaign. Mr. James McGregor, another representative, came to see him and gave him \$250 and \$100 for Mr. Jones, of Ontonagon County, and \$100 for Mr. Crevessa, of Keweenaw County. He afterwards gave him \$500.

Among other things, this witness says that he gave \$80 to a Finnish paper, \$40 to a Polish paper; he paid a couple of Frenchmen for work; also to several men in and about Laurium amounts from \$10 to \$50.

Mr. Fisher further testified that after being subpoenaed he went to Detroit to see Paul King and Mr. McGregor.

"He stated the reason he went to see those gentlemen was to find out the line of testimony which would be required before the grand jury, and Mr. McGregor told him that he (McGregor) had made his returns for him at \$250 and also returned the \$200 he gave him for Crevassa and Jones. That when he was before the grand jury to say nothing about any moneys, with the exception of the \$250, or said that in substance. Mr. Fisher also stated that he received \$500 from Mr. McGregor as a gratuity. He stated that he kept no accounts of the moneys expended and made no returns. (Testimony of Mr. Fisher was given



before the grand jury on the trial, and a grand juror repeated his testimony to the petit jury, and this testimony was stipulated, like that of a number of others, into this record as being the testimony which the witness would give if subpoenaed to Washington and sworn before the committee.)

"Q. Did he tell about having received this \$500 from McGregor as a gratuity at the same time that he told about receiving the \$250?—A. He did not in the forenoon, and he did not make any statement relative to receiving the \$500 until after he had admitted that he went to Detroit for the purpose of seeing Paul King and Mr. McGregor." (R., 507.)

FRANK O. GILBERT.

Frank O. Gilbert stated that he was employed as a grand lecturer of the Masonic lodge. He testified that he was asked by Mr. James McGregor if he would do what he could to help on the Newberry campaign in talking to men that he saw in his trips through the State, and he said that he would, and he was so employed by Mr. McGregor at that time at \$50 a month. That he was paid this money in Bay City for four months by Mr. McGregor in two different payments. He stated that he merely had talked with men whom he met in hotels and on the trains and in towns that he was in favor of Newberry and he said that he also received a letter of commendation from Mr. Newberry just before the primaries. (R., 457, 458.)

Mr. Gilbert was also sworn before the Senate committee and confirmed the foregoing, and then testified:

"Q. This employment did not interfere with your regular salary or compensation?—A. No, sir.

"Q. And the only service you performed was in boosting, as it were, Mr. Newberry in the campaign?—A. That is all.

"Q. And you simply talked with people as you met them, and you received \$50 a month?—A. Yes, sir." (R., 458, 459.)

JOHN M. HARRIS.

John M. Harris, for many years probate judge of Charlevoix County, testified before the grand jury. His testimony was repeated before the petit jury. In that he said:

"Met Paul King at senatorial headquarters in Detroit, and he asked me to interest myself in the Newberry work, wishing me to organize the county committees in the immediate neighborhood in which I live, and I said I would. He offered me for that work \$200 a month and my expenses, and the first thing I did was to organize the county work in my own county.

He mentions a number of men whom he engaged to act, and said:

"He did not pay these men any money, but suggested their working and to have them go to Paul King and make the arrangements with him personally. He received \$800 in salary and about \$400 expenses money." (R., 432.)

Judge Harris was also sworn before the committee in Washington. Among other things he said:

"Q. Did you testify before the grand jury as follows: 'Judge Harris said Mr. King told him that the financial situation during this campaign was considerably different than during the Townsend campaign, and that they had plenty of money to carry on the campaign'?—A. I said something like that.

"Q. And that was true, was it not; he did tell you that?—A. I think so." (R., 431.)

"Q. Did you not have some request to send in a statement of your expenditures?—A. I think I did.

"Q. What did your report cover?—A. It covered the expenses in Charlevoix County.

"Q. Something like \$75 or \$80?—A. Something like that.

"Q. Your report did not cover the other \$1,100, did it?—A. No, sir.

"Q. You got \$1,200 and you reported about how much?—A. I think it was between \$70 and \$80.

"Q. What was the other \$1,100?—A. I acted on a salary. I went around and I wrote letters covering the northern part of Michigan." (R., 427.)

"Q. Well, you kept most of it as your salary of so many hundred dollars a month?—A. Yes. That was spent in this way—I traveled around some and I came into quite an orderly correspondence throughout the campaign in my office in connection with the campaign and it was applied that way. Call it salary or whatever you want to.

"Q. That is the way it was spent?—A. Yes, sir.

"Q. Wait a minute, was it spent; how much of that did you keep for services?—A. Well, you might say the way I figure it, I kept \$800.

"Q. For services?—A. Yes, sir.

"Q. And of the moneys you paid out you only returned, I think you said, \$71 or \$75?—A. Whatever that was; yes, sir." (R., 429.)

"Q. You went and saw Mr. King personally?—A. I did.

"Q. He fixed your salary then and your work?—A. We talked it over.

"Q. Do you remember how much it was per month or per week?—A. I remember just this, I had been assisting in political work before and never had thought of having any compensation. \* \* \* I said to Mr. King that it would be quite impossible for me to devote my time because of my other outside activities in connection with the chairman of our war board, and I think Mr. King said, 'We will be able in this campaign to take care of expenses.' We talked it over, and as I recall I said to Mr. King 'about \$200 a month.'

"Q. For your services?—A. Yes." (R., 429, 430.)

FRED KEISTER.

Mr. Fred Keister was editor of the State Journal at Lansing, Mich. In 1918 he was publisher of the Elsie Sun, also a paper at Pewamo. He saw Floyd (secretary of committee) at Grand Rapids, and—

"suggested to Mr. Floyd that he could be of use to him in the campaign where he was located. Told Floyd he was publisher of the Elsie Sun, also a paper at Pewamo. Floyd told me he would be glad to have me do some work and suggested that I take trips around the country with Mr. Fehling, prosecuting attorney, who had charge of the campaign in Clinton County, which I did. He told Floyd that he should have some sort of a jitney to run around with. Floyd replied they were not buying autos, but would give him \$200 and he could do what he pleased with it. He went back home but didn't buy a car. He said he took two trips with Mr. Fehling in Fehling's auto, one day over the northern half of the county and one day over the southern half. They called on business men in each town and were doing just general electioneering work." (R., 657.)

AUGUST KELLY.

This witness was employed in the superintendent's department of the State capitol. He testified:

"I went to the Newberry senatorial headquarters of Detroit, where I talked with B. Frank Emery. He wanted me to go to Alpena County and circulate some petitions for Mr. Newberry. He told me they

would pay me \$25 a week and expenses for circulating petitions. I did this. I was in Alpena County about six weeks. I should judge I got altogether for circulating these petitions, including expenses, a little over \$200." (B. E., 171.)

JOHN E. KERN.

This witness was in the real estate business in Midland County. He saw Mr. King in Detroit, where he was taken by Terry Corliss.

"We discussed the campaign there in Midland County and the conditions politically. \* \* \* Finances we discussed. \* \* \* While Mr. King and I were talking there and in the presence of King, a sealed envelope was put on the table right beside me, to take all right. I put it in my pocket. I didn't open it there. I opened the envelope on the train on my trip home and found \$400 in it. This was between the 15th and 20th of August. I was probably called secretary of the Newberry organization in Midland County. \* \* \* When I went on these trips with Mr. Corliss I introduced him to men over the county. That was my purpose in going out." (B. E., 133.)

It appeared that this gentleman, of his own motion, returned to the committee all the money except his actual expenses. This was an exceptional case.

ANGUS G. MACEACHRON.

This witness was advertising manager for Detroit Legal News.

"I was at that time and for 24 years had been a member of the United Commercial Travelers of America. \* \* \* I talked with him [Paul King] about taking some employment with the Newberry senatorial committee. I did not talk to him about the traveling men's organization, but the traveling men in general. Our order does not allow us to talk politics in the council rooms, but we have perfect liberty to talk what we please before the meeting commences and just after. That is what I told Mr. King. I told him that I thought if I could get in touch with the traveling men throughout the State that I could do Mr. Newberry some good. \* \* \* The arrangement was made for me to get in touch with the traveling men. That is all. I was to do the work whenever I could get in touch with them. \* \* \* I went talking with the traveling men, not at their meetings, but in their anterooms, wherever else I could find them. My work consisted of just talking to the traveling men, nothing else. Mr. King told me at the time I was employed that I was to get \$50 a week. I devoted about 10 week ends to it. I would leave on Friday as a rule and get back Sunday night or some time Sunday, and in the interim I boosted Mr. Newberry's campaign among traveling men. For that I drew in all salary and expenses, \$850—about \$500 salary and \$350 expenses. I included cigars which I bought for myself and others as expenses." (R., 405.)

HUGH A. MADDIGAN.

This witness was chief inspector of plant 35 of the Buick Motor Co., at Flint, Mich.

"As chief inspector of this plant there were a large number of men under my supervision. I knew Fred Henry (Newberry manager of campaign in Flint). He came to my home and asked me if I had lined up to work to elect a United States Senator. I told him I had not. \* \* \* I told him I had not considered whom I would support, and he asked me what I thought of Newberry. Well, I told him I had not studied up much on the campaign yet, or the candidates. \* \* \* I told him I thought Ford was a pretty fair man. He told me he was going to be manager of Genesee County for Newberry, and he asked me if I would support him. I told him I would consider it; so we talked there between two and three hours. Before he left I had decided that I would line up with Newberry. He said, of course, that he did not expect that we would devote our time for nothing. He asked me what I would expect if I would swing my support to Newberry. I told him I thought it was worth \$150. \* \* \* So then he told me he would expect I would devote all my spare time from that time on until after the primaries, and I told him if I had to do that I wouldn't do it for \$150—I would have to get more than it. While he said he would not let that stop it, that if I went out and devoted my time, I would get twice that amount; he didn't just use them words, but it was taken for granted that I was to get twice \$150, that is the way I took it. He gave me \$15 that evening. \* \* \* He told me that there would be some petitions out and wanted to know how many signers I could get. I told him between 700 and 1,000 throughout the factories."

Witness detailed other payments to him, amounting in all to \$130. (BE., 331, 332.)

ALLAN K. MOORE.

This witness was in the printing business at Grand Rapids. He saw Mr. King in Detroit at King's request.

"I told Mr. King I understood he wanted me to go into the upper peninsula and do some work up there. He said he did and gave me a list of names which we talked over, that I should call on up there, and I should see John G. Mangum, at Battle Creek, and have him suggest men to see in the different counties up there. I think Mr. King mentioned Mr. M. M. Duncan, general manager of the Cleveland Cliffs Iron Co.; Mr. Moriarity, of Crystal Falls; Capt. Richards, of Crystal Falls; Bob Douglass at Ironwood, and a banker at Munising. There was no further conversation, except he wanted me to see these men there and see how they stood for Mr. Newberry and report back. I think I was to make daily reports. \* \* \* I worked in Marquette, calling on the people that I knew, for several days, finding out whether they favored Newberry or not. During that time I was just calling on men that I knew and advertising Mr. Newberry's candidacy by conversation and literature. \* \* \* After this I went to Detroit, where, I think, I saw Mr. King in the Newberry headquarters. I do not recall anything special that was said at that time about my work by Mr. King, except that I had done good work up there in the northern peninsula. \* \* \* He also told me that the reason I was taken out of the upper peninsula was because the defendant, Rogers Andrews, objected to my work there. \* \* \* I think he told me at that time that Andrews had charge of the work in the upper peninsula. Witness was then told to report to Mr. Floyd at Grand Rapids, and he proceeded: 'As near as I can remember, but Floyd said that he had work to keep me busy all summer; thought I would like it better than chasing around in the upper peninsula. That he made arrangements through Dr. William Smith, of Muskegon, and George R. Murray, president of the Railway Men's Relief Association, whereby Mr. Murray would give me letters of introduction to different railroad men, who were members of this organization, for me to call on. \* \* \* I got in touch with George Murray. He published a monthly magazine in connection with the association, which is mailed to all the members. Mr. Murray gave me a letter to the officers of this association in various cities. \* \* \*'

"Mr. Floyd told me he wanted me to go to these men and get them to circulate petitions for Mr. Newberry, and he says, 'You can not expect that they are going to do this work for nothing,' and he gave me

in person, I think, at that time \$300 in cash to pay these men for the work they did."

Witness then describes calling on the different persons.

"I called with Mr. Jack Murray one or two days at the different street car barns and different railroad yards and met different men." Witness then describes large number of men he had called upon, giving each one of them money, \$20, \$40, \$25, \$75, and one \$250, etc. (B. E., r. 97, 98, 99, 100, 101, 102.)

"From there I went to Manistee and saw Joseph Linder, who was secretary of the relief association. I think I paid him \$20. \* \* \* I made two trips to Flint, where I called on Mr. Myers, who has charge of the Pere Marquette freight office. I think I paid Mr. Myers \$80 altogether, and I think I paid A. D. Cole, yardmaster of the Grand Trunk. I paid Roy Larrabee, a man who worked for the Interurban, \$10. At Battle Creek I met a man by the name of Mellon, engineer on the Grand Trunk. The first time I went down there I paid him \$140. I gave him \$52 once or twice after that. I think twice. I also went to Jackson, where there was a man by the name of Lloyd, secretary of the association, to whom I think I paid \$40."

He gives other names and payments.

"Each time I paid these sums I made a report to Mr. Charles Floyd, from whom in each instance except one I got the money I paid out to these railroad people. I think my work continued 20 weeks at the same salary I have heretofore mentioned (\$75 per week). (R., 98.) \* \* \* From the time I was assigned to this railroad work by Mr. Floyd up to the end of my employment I did no other line of work except that during the last week of the campaign I went back to Marquette at the request of Mr. Mangan. \* \* \* During the time that I worked for the Newberry committee I received \$1,500 salary and \$1,219 expense money. The total that I received was approximately \$3,500. It might have been \$3,600 or \$3,700. (B. E., r. 103.) I had been in the newspaper business there which had brought me in contact with a vast number of people, and Mr. King knew it. \* \* \* My object in going there was to call on the men of more or less prominence that I knew particularly and advertise Mr. Newberry's campaign. Mr. King and I had talked over the list that I was to see. In addition to that I called on practically everyone I knew."

Witness here mentions several men of great prominence, and proceeded:

"Including mining officials, manufacturers, lawyers, and public men, or some public men, and editors of that particular locality. My object in calling upon these particular men was to get their support in forming an organization in each county for Mr. Newberry. \* \* \* The whole object of these trips was the sounding out of the sentiment regarding Senator Newberry's candidacy and the promotion of it as far as I could through my own individual acquaintances. \* \* \* (B. E., r. 104, 105.)

The Newberry treasurer's report showed this witness, Allan K. Moore, as receiving a salary of \$866. His testimony showed 21 weeks at \$75 per week, or \$1,575.

GEORGE R. MURRAY.

This witness was president of the Railway Men's Relief Association and published its monthly magazine. King and Floyd called on him at his headquarters in Muskegon. After this visit he came out openly for Mr. Newberry and brought out the magazine in full support of Mr. Newberry. He went around with Allan K. Moore and made some addresses in behalf of Mr. Newberry at the meetings of the relief association.

"They asked me if there was anything I could do to help get the railway men lined up for Newberry and I assured them I would give them my support. It was kind of a hurried trip and they shook hands and bade me good-by. Before leaving they said anything I could do to help along the line they would take care of me. \* \* \* I got no money from Floyd besides the \$300. Four hundred dollars was paid to the magazine which was published; that went into the association funds. \* \* \*

"In the month of July a display advertisement was published in the magazine, and in August a personal letter from me to the railroad men. \* \* \* I think our bill for the one display was \$150. In August we published an article about Mr. Newberry's campaign, not an advertisement, just an article which I wrote. Twenty thousand extra copies were ordered through the Grand Rapids office." (B. E., 195, 196.)

GEORGE E. ROGERS.

This witness of Grand Rapids. Charles Floyd first spoke to him about working for Newberry.

"I was in his office many times after that and I worked for three or four weeks prior to the primaries. Floyd asked me to make a trip for Newberry and he wanted me to go out and call on him and put pep in the campaign. I told him I would go for \$25 a week and all expenses. \* \* \* On the trip north I went to Muskegon, Whitehall, Montague, Hart, Shelby, Ludington, Manistee, Copemish, Charlevoix, Petoskey, Levering, Cross Village, Traverse City, Cadillac, Reed City, Big Rapids, Howard City, and Newago. \* \* \* I was to see that they had Newberry literature and went to work." (R., 879.)

MYRON J. SHERWOOD.

Mr. Sherwood was a lawyer of Marquette, Mich.

"Paul King came to me, asked my support for Newberry, to take the management of his campaign for the upper peninsula. He said he refused to handle the upper peninsula, did not have time—his business was such he could not devote the time to it, but did agree to take care of the city of Marquette and surrounding towns, and refused to handle Marquette County."

Mr. Sherwood handled about \$1,500, according to his testimony, but did not reserve anything for compensation.

"He said, 'I employed men to work at the polls on election day.' That there were five precincts in the city. He had put men in each of the four precincts, but none in the other. He said, 'I paid these men \$7 per day.' He also had a man out over the city reporting the sentiment and paid him \$50 per month." (R., 883, 884.)

ELMER E. SMITH.

Mr. Smith was traveling manager or general manager for the Brotherhood of American Yeoman. He testified he received between \$500 and \$600.

"He was asked or he was suggested by a man by the name of Mark McKee that Paul King could use him in the campaign. Later on he received a letter from Mr. King, also some blanks for expense accounts and some petitions to circulate, which he was to circulate among the various different lodges, and also the instructions after they had been circulated, they should be returned to him and he was to return them to the Detroit office. Also, as Mr. McKee told him—well, Mr. McKee was a member also of this order, and he told him that Newberry was to become a member also, and to write to the various different lodges

and the most aggressive members stating that Mr. Newberry was a member of the lodge; later on he found he never was a member of the lodge at all." (R., 659, 660.)

ROBERT TETRO.

This witness was township clerk, living at Stevenson, Menominee County.

"He said that during the early part of the Newberry campaign Roger Andrews asked him to go to his office in Menominee, and he went, and Andrews asked him to use his influence and distribute circulars for Newberry. \* \* \* He asked me to employ men to work for Newberry—said he expected to pay them. He left it to me to pay them. I employed a lot of them, but only paid seven of them, paid them \$5 each. \* \* \* Said Andrews paid him about \$260 in all. \* \* \* Said the last time I went there (to see Andrews) I asked him for \$35 and he made out a check for \$135. I did not notice it at first, but I kept it all." (R., 883.)

NEIL R. WALSH.

Mr. Walsh was an attorney at Owosso, Mich. He said he went to King's office in Detroit and saw some person there.

"I am not positive who it was. It was either Mr. Emery or some other gentleman. The second time I met Mr. Corliss in Owosso he told me that he thought I would be a good man. He said I looked like a wonder, and I allowed I was, and he thought I would be a good man to handle the campaign for Mr. Newberry and to do the necessary distribution of literature and work along that line. \* \* \* I think I told them what I would want and ought to be a reasonable compensation for my work; left that with them. I am inclined to think that conversation was had with Mr. King; I am not positive about that. I do not know Mr. King. After that I received checks or drafts amounting altogether to about \$525. \* \* \* I worked my head off there night and day for about four months. \* \* \* I told them what I expended was about \$125. The other \$400 was retained for my services." (B. E., pp. 486, 487.)

GLEN L. WILLIAMS.

Mr. Williams was court stenographer at Adrian, Mich. He testified that James Davis came to see him and wanted to know if he was favorable toward Newberry as a candidate for Senator.

"I told him I was and he wanted me to help in my county. I agreed and was made secretary. \* \* \* I did go to Detroit and see King. I told King about my financial situation, and King wanted to know if I wanted to work as a paid worker. I said 'No; I would work as a volunteer worker.' He paid me \$100. Davis at another time gave me \$50. I received in all about \$350. I wrote in when I needed money to Paul King. Report of expenses of my account showed \$200, not itemized. Davis was there when I made the statement and he took it. He said to me in substance, to put in the expense statement \$200, amounts actually paid out at that time but not to include other items. Received a letter from Newberry thanking me for my services, also Harvey's Weekly." (Record, p. 650.)

WILLIAM H. YEARN.

Mr. Yearnd is prosecuting attorney at Cadillac, Mich.

"On that occasion there was some talk between Mr. King and myself concerning doing some work in Wexford looking toward the nomination of Mr. Newberry as a Senator. In substance he asked me if I was favorable toward the candidacy of Mr. Newberry. I told him I was. He asked me if I was in a position to do some work for him, and I told him I was. I said something to him that it would be impossible for me to organize a committee in each voting precinct. My recollection is he said to 'use your own judgment or proceed as you see fit,' or something to that effect. \* \* \* I received nothing that day, but afterwards I got a check for \$100. \* \* \* After that conference I went to Cadillac and caused petitions to be circulated for the nomination of Mr. Newberry and enlisted the support for Mr. Newberry of my friends and acquaintances. \* \* \* (B. E., r. 174.) I received no other money from any other persons during the campaign other than the amounts which I have already specified, which aggregated \$340. \* \* \* Approximately \$100 of the money which had been handed to me was not expended; that I retained." (B. E., r. 175, 176.)

We have thus given the names and testimony of prominent workers who were hired and paid to use their influence for, and to solicit aid, support, and votes for Newberry. They are numerous enough to demonstrate the illegality of the whole campaign, but they were only a fraction of the numbers employed. In every one of the 83 counties (except 1) prominent men were hired to work for Newberry.

They were selected because they were prominent and influential. King so stated in writing at the time to Mr. Truman Newberry. In his letter of May 30 to Mr. Newberry he states:

"Of course we could find people in these counties to take up the work, but in many cases they would be lesser lights, and we want to get the principal workers, if possible." (B. E., 743.)

The law of Michigan made this a criminal offense, and that is, in our judgment, why the records, books, and papers were destroyed, and why the new ones manufactured immediately after the primary contained no entries of these workers and payments, and why the treasurer's report was doctored so as to conceal these transactions.

In the light of the foregoing mass of evidence showing the illegal and criminal use of the moneys to hire workers, what can be thought of the statements in the majority report quoted at the head of this title?

The names of the following witnesses, whose testimony is briefly recited as above, do not appear in the reports made nor do the moneys paid to them appear in the pay roll or the account of expenditures filed: Charles Tufts, Rollo E. Prescott, Edward O. McLean, J. Scott Hunter, William M. Connelly, J. B. Burns, Fay G. Dunning, Frank P. Bohn, William E. Rice, Edward W. Fehling, Charles A. Campbell, William S. Crebassa, Mel Deo, August Field, James Fisher, Frank O. Gilbert, John M. Harris, August Kelly, John E. Kern, Hugh A. Madigan, William J. Michel, George E. Rogers, Myron J. Sherwood, Elmer E. Smith, Robert Tetro, Neil R. Walsh, Glen L. Williams, William H. Yearnd.

Does not a fair construction of the testimony hereinbefore quoted clearly show that the Newberry senatorial committee, its officers and representatives, "hired workers"?

Does it not show that they were paid to use their influence and solicit aid, support, and votes for Mr. Newberry?

Do not some of these witnesses testify positively that they hired workers for primary day and for days before?

Was not a large part of this money expended in violation of the primary statute, the intent of which, according to its very phraseology, was "to prohibit the prevailing practice of candidates hiring with



money and promises of positions, etc., workers on primary day and prior thereto?"

Should not the Blair report of receipts and expenditures have contained the names of these men who received these large sums of money and the purposes for which it was paid to them?

The men who conducted this campaign were not ignorant men. They were men of affairs, and among them some of the shrewdest politicians in the State of Michigan. Some of them, including their treasurer, were business men of large affairs. They knew, they must have known, that the report did not comply with the law, and the leading executives of this committee were Newberry's chosen representatives, and how can he evade responsibility for their acts, for their violations of the law, for their failure to file a proper report?

#### FURTHER IMPORTANT QUOTATIONS FROM THE RECORD.

The minority hopes that each Senator will read every page of this record, to the end that he may come to a conclusion which will be just to the contestant, contestee, the Senate itself, and to the people of the sovereign State of Michigan, as well as to the entire United States. They hope that the result will satisfy the law and the oath and the conscience of each Senator.

In order to facilitate the investigation of this record, the minority of the committee feel it is not improper to quote at length from the testimony of Mr. Paul H. King, the executive chairman, and from Mr. Charles A. Floyd, the secretary of the general committee. These quotations can, of course, be supplemented by reference to the record by anyone desiring so to do. Our belief is that the quotations herein contained will be eminently fair both to the witness and to Mr. Newberry.

#### EXCERPTS FROM TESTIMONY OF PAUL H. KING, EXECUTIVE CHAIRMAN.

I think Commander Newberry made a general inquiry as to what would be the expenses of a State-wide campaign, and I said that in the TOWNSEND campaign that it had cost Senator TOWNSEND's friends approximately \$20,000 to meet the expense of that campaign, but on account of changed conditions in Michigan and throughout the State that it would cost his friends probably considerably more than that, possibly \$50,000, to conduct the kind of a campaign—the publicity campaign—that would have to be conducted if it were to be successful. \* \* \* From that time on money or expenses were never discussed with Commander Newberry at any other time. I did not on that occasion tell either the commander or Mr. Cody while I was there at New York whether or not I would take the management. I returned to Detroit and talked the matter over further with my wife, and spoke to Mr. McKee about it, and asked if he had any objection. He said he had not. Finally, after a day or two—I do not remember how long it was—I told Mr. Templeton that I would accept the position of State executive chairman or manager of Mr. Newberry's committee of friends. (B. E., 664-665.)

I prepared a letter that was sent over Mr. Hopkins's signature to the various advertisers in the State requesting them to send in their bills. It was a circular letter, and was followed up by telegrams. In some cases those telegrams were followed up by telephones. I can not say who did the telephoning; it was done in the publicity offices by my direction. I told Mr. Hopkins to be sure to have in every newspaper bill, every bill in connection with the publicity department, before the time for the filing of the report. I do not recall whether or not prior to the time Mr. Blair signed it and it was filed I had a conference or a talk with Mr. Blair about the report. I told Mr. Blair, it seems to me, at the time that he came over to sign the report that we had made every effort to get every bill, and so far as I knew all of the bills were in, and that I had been so advised by Mr. Hopkins and Mr. Emery. It was after I told that to Mr. Blair that he signed the report. So far as I knew, Mr. Blair had nothing to do with the preparation and making up of that report; I did. I first got in on the preparation of the report about 10 o'clock on the morning of September 6. Mr. Emery had been working on it before that, and the various members of the office force had been working on it. Mr. Emery was at his home on the morning of September 6, as I remember. Various members of the office staff—I think, the most of them—assisted me on that day in the preparation and finishing up of this report. The report, or the documents in connection with it to make up the report, were in a very chaotic condition. Mr. Emery had been working for several days to get the report ready and had repeatedly assured me that it would be ready, and, in fact, as I was advised by one of the respondents when I got to the office that morning, he had worked all night the night of the 5th on the report, and had fainted away from exhaustion at 4 o'clock, and had been taken home in a taxicab. The Blair report was, in my judgment, as nearly correct as could be made from the information we had. (B. E., 671.)

I called their attention to the provisions of the Michigan primary election law and the restrictions therein contained and enjoined upon them a strict observance in every way of the law. I had a copy of the law in my office at all times. I had made a study of the law upon a previous occasion. I was very familiar with the law. I was not at any time prompted or actuated by any evil intent in anything I did. I engaged the respondent, John M. Harris. I had known Judge Harris a number of years. I think I had my conference with him that resulted in his becoming connected with this campaign at headquarters. My conference with him and my talk and instructions were substantially as I have just told you. I do not recall that in that talk Judge Harris inquired where the funds were coming from with which to finance this campaign, but I do know that I always stated to the field men that they might state to anyone who became responsible for the campaign in any county that the legitimate expenses in the campaign would be paid by the committee, and that funds would be provided by the friends of Commander Newberry for the purpose. (B. E., 681, 682.)

I don't want to have anybody associated with me in this matter begin any attack on Henry Ford of any kind. His Republicanism is not my fight, but is something that the Republican State committee and the national committee and the Senate campaign committee are vitally interested in, and if the matter develops further I hope you will see that this particular feature of the senatorial primary campaign is entirely omitted from the work you are doing, and I think the letters written from your office should carefully avoid any reference to this matter. (B. E., 715, 716.)

Mr. ALFRED LUCKING. Mr. King, we were calling your attention to Mr. Newberry's activities in his own campaign when you last were testifying. You reported to him your employment of Mr. Floyd, did you not?

Mr. KING. Yes, sir.

Mr. ALFRED LUCKING. As secretary?

Mr. KING. Yes, sir.

Mr. ALFRED LUCKING. And he approved of it?

Mr. KING. I believe he did.

Mr. ALFRED LUCKING. Did you tell him the compensation you were paying Mr. Floyd?

Mr. KING. No, sir.

Mr. ALFRED LUCKING. Or that you were not paying him anything, or anything about it?

Mr. KING. No, sir.

Mr. ALFRED LUCKING. Did you report to him that you were sending field men over the State?

Mr. KING. I think I did. I think the record shows it.

Mr. ALFRED LUCKING. He knew, did he not, that you had what you called your field force?

Mr. KING. I think you have the letter right before you. (B., 514.)

Mr. KING. As I recall, they were Mr. James R. Davis, James F. McGregor, Terry T. Corliss, R. E. Prescott, Ben F. Reed, and Charles Tufts for a short time. That is all I now recall. Mr. William Calhoun, who was the publicity man, did some little field work. I think he went over to Kalamazoo County and other counties.

The ACTING CHAIRMAN. Was Judge Harris a field man?

Mr. KING. Yes, sir; he was one I overlooked. I overlooked his name. He had the northwestern section—the Grand Traverse section. Capt. Tufts was more in the classification of Mr. Glocheski. I assigned the sections of the State to these field men, certain counties for them to visit periodically, which they did. Then I assigned other men whom I did not consider field men in the same sections, men like Mr. Glocheski, to work with certain nationalities of people or certain classes of people. Mr. Glocheski did work among the Polish people of the State. He visited the Polish settlement around the State, especially in Presque Isle County and Manistee County, and there are a good many Polish citizens in Kent County. Capt. Tufts visited the fishing communities, the fishermen and the shore counties, primarily.

Mr. ALFRED LUCKING. Were they all under pay?

Mr. KING. Yes, sir.

Mr. ALFRED LUCKING. Did you have a man or men to work with the fraternal societies?

Mr. KING. Yes, sir.

Mr. ALFRED LUCKING. Under pay?

Mr. KING. Yes, sir.

Mr. ALFRED LUCKING. What was his name, please?

Mr. KING. I can not recall it. Does the record show it?

Mr. ALFRED LUCKING. Was Elmer Smith one of them?

Mr. KING. Elmer Smith did some work; yes, sir.

Mr. ALFRED LUCKING. What did you call him?

Mr. KING. He did not have any title.

Mr. ALFRED LUCKING. Just a worker?

Mr. KING. Yes, sir.

Mr. ALFRED LUCKING. What was his field?

Mr. KING. What was his field?

Mr. ALFRED LUCKING. Yes.

Mr. KING. He was connected with a fraternity known as the American Yeoman, I think it was. I think Mr. Gilbert, the grand lecturer, did a little work. He testified yesterday. He was grand lecturer of the Masonic order. Those were the only two.

Mr. ALFRED LUCKING. Did Mr. Newberry know you had these field men at work?

Mr. KING. I think so.

Mr. ALFRED LUCKING. And you had some of those as assistant secretaries?

Mr. KING. Oh, these field men were the assistant secretaries. That was their title. (B., 516.)

Mr. ALFRED LUCKING. Were there not only four assistant secretaries on the pay roll—Davis, Corliss, McGregor, and Moore?

Mr. KING. I had forgotten Mr. Moore. He was not a field secretary in the same sense as the others that I mentioned. He did work among the railroad men. There was another group or classification that I tried to organize independently of county lines or the State, more as a group than residents of any particular county.

Senator WILCOTT. Did Commander Newberry know these men were being paid?

Mr. KING. Not so far as I know.

Mr. ALFRED LUCKING. Did you tell him they were volunteer workers, without pay?

Mr. KING. I don't think I said anything to him about it one way or the other.

Mr. ALFRED LUCKING. Did you purposely refrain from talking money to him?

Mr. KING. No, sir; there was no occasion to talk money to him.

Mr. ALFRED LUCKING. You reported to Mr. Newberry and received communications from him and conferred with him from time to time about methods and means of preventing other candidates from entering the field, did you not?

Mr. KING. Well, I wouldn't say to prevent any other candidate from entering, Mr. Lucking.

Mr. ALFRED LUCKING. Where they started in, to head them off, if possible. Are you going to compel me to call the names of each of these gentlemen you conferred about?

Mr. KING. I will not compel you to do anything.

Mr. ALFRED LUCKING. Isn't that a fair statement, that you did that directly in conference with Mr. Newberry?

Mr. KING. The record shows, Mr. Lucking—

Mr. ALFRED LUCKING (interposing). I don't care what the record shows. Can't you answer that question?

Mr. KING. In the correspondence I discussed with Senator Newberry the possibility of other candidates entering the field. As to preventing their entering, there was no way to prevent them from entering the field.

Mr. ALFRED LUCKING. I call your attention to Mr. Newberry's letter to you of March 8, on page 688 of the bill of exceptions, winding up as follows:

"I have not wired you because I can make no suggestion and only hope that you can locate the man, or men, upon whom Mr. Warren relies for advice as to any favorable outcome as to his candidacy, for it is with those men that you must confer and hope to persuade to our point of view." (B., 517.)

Mr. ALFRED LUCKING. Did you not hear his affidavit read, that he took no part whatever in the campaign and knew of no money being expended?

Senator WATSON. He was in New York at the time, and he has not denied the authenticity of that correspondence. The correspondence is admitted. There is no question about that. The only denial is of the financial knowledge of Mr. Newberry of what was going on. Of course, Newberry understood the situation. Now, you are going on to prove that Mr. Paul King was active in trying to keep down opposition to

Newberry, and Newberry had knowledge of that fact. It is entirely a legitimate proposition. He had a right to do it. We have all done it. We have not always succeeded as well as Paul did.

Mr. ALFRED LUCKING. Lengthening the chain; I propose to prove there was not a single part of this he was not active in. I don't know whether your honor has read this affidavit or not:

"The campaign for my nomination for United States Senator has been voluntarily conducted by friends in Michigan. I have taken no part in it whatever."

The ACTING CHAIRMAN. Was not that the financial statement? Mr. ALFRED LUCKING. "And no contributions or expenditures have been made with my knowledge or consent."

I am going to show the knowledge on his part of all these activities, which must have cost money, which he must have known cost money.

Senator WATSON. Can you show any letters of that kind that he ever wrote to anybody in that campaign? (R., 518.)

Mr. ALFRED LUCKING. Now, further about the activities of Mr. Newberry, under the head of "Private," on page 697, he says:

"This morning a high official of the Cleveland Cliffs Co. called me on the telephone from Cleveland and requested that I not use his name, so I must ask you not even to guess at it, but to know that I have every confidence in the gentleman and that his advice is worthy of our careful and immediate consideration."

I will not read all of the letter, but will ask you if it is not a fact that from that time on Mr. Newberry took charge, without letting you know, of certain activities in the northern peninsula? Is that not so?

Mr. ALFRED LUCKING. Perhaps your memory may be refreshed on that as we go along.

He states as the conclusion of that letter:

"I am writing Mr. McNaughton and Mr. Duncan as he suggests, but before saying anything to Mr. Roger Andrews I would like to have the advice of Mr. Templeton and yourself as to whether you and Mr. Templeton should handle this matter or leave it to my amateur effort."

That was with the idea of having Mr. Roger Andrews keep his hands off the mining companies and their men?

Mr. KING. Evidently.

Mr. ALFRED LUCKING. And allow the mining companies to handle it themselves?

Mr. KING. Yes, sir.

Mr. ALFRED LUCKING. What did you finally decide, in conjunction with Mr. Newberry, as to who should take it up with Andrews and head him off about that matter?

Mr. KING. I think I said I would speak to Mr. Andrews about it.

Mr. MURFIN. I can shorten all this. I will concede he was not locked up in New York.

Mr. ALFRED LUCKING. You say in your reply to him, on page 699:

"I will be glad to handle it with him if you desire. I will, of course, not write the gentleman named until after I hear from you."

He was the final man to decide, was he not?

Mr. KING. I wanted to talk with Mr. Andrews myself, and did subsequently discuss it with him.

Mr. ALFRED LUCKING. But you did not do it without getting your orders to do it?

Mr. KING. I did not consider it an order.

Mr. ALFRED LUCKING. Well, his permission.

Mr. KING. You can term it what you please, Mr. Lucking. That is your own privilege.

Mr. ALFRED LUCKING. In this same letter from you to Senator Newberry of April 1 you say:

"I hesitate to make any suggestion as to the amount of the contribution to the church in Augusta."

Mr. KING. Yes, sir. (R., 524-525.)

Mr. ALFRED LUCKING. Mr. John S. Newberry never asked whether you spent a dollar or a thousand dollars, or \$50,000, or anything, did he?

Mr. KING. I think not.

Mr. ALFRED LUCKING. Did Victor Barnes?

Mr. MURFIN. No; and neither did the rest of them. We will concede it all.

Mr. ALFRED LUCKING. Truman Newberry did.

Mr. MURFIN. You can argue that when the time comes.

Mr. ALFRED LUCKING. Mr. Barnes didn't make any question about expenditures to you?

Mr. KING. No, sir.

Mr. ALFRED LUCKING. Or to the committee, so far as you know?

Mr. KING. No, sir.

Mr. ALFRED LUCKING. He showed no interest at all in how his money was being disposed of?

Mr. KING. No, sir.

Mr. ALFRED LUCKING. Did Henry Joy at any time?

Mr. MURFIN. I will concede that none of them did. Why take up the time with that?

Mr. ALFRED LUCKING. I know it is an unpleasant topic.

Mr. MURFIN. There is nothing unpleasant about it.

The ACTING CHAIRMAN. Proceed with the witness. (R., 526.)

Mr. ALFRED LUCKING. Now, I call your attention to Mr. Newberry's letter of April 4, page 701, and want to ask you a question or two about it:

"The question of Mr. Warner's candidacy, or of anyone else besides Osborn, is, of course, of the highest importance, but I can not avoid the thought that the main idea in the minds of many influential people and papers like the Free Press and the News is anything to beat Osborn, and when you have impressed these papers and the public with the certain knowledge that I will continue in the race to a finish, they will then have to decide whether they can beat Mr. Osborn better by urging another candidate to enter besides myself or whether their best opportunity to beat Osborn would be to concentrate and cooperate with all the most satisfactory publicity that you have already given to me."

Now, I would like to ask you whether you took any steps to follow that suggestion?

Mr. KING. No, sir; I did not.

Mr. ALFRED LUCKING. Did you impress these papers and others with the thought that he would continue to a finish?

Mr. KING. I did that at all times from the start. I was always doing that.

Mr. ALFRED LUCKING (reading):

"In regard to the Upper Peninsula. I am hoping that you will frankly discuss the matter with Roger Andrews, and in order to make it easier for him to understand it, you might state that you yourself were going to leave the mining people to handle their own situation without advice or suggestion from anyone outside, because of the reasons stated in my last letter. This I know would be what Mr. McNaughton and Mr. Duncan desire to do."

Did you follow that idea in your interview with Mr. Andrews? (R., 527.)

Mr. ALFRED LUCKING. Did you make detailed reports to Mr. Newberry to each county, in addition to letters?

Mr. KING. Yes, sir.

Mr. ALFRED LUCKING. About what was being done to further his candidacy?

Mr. KING. As I stated yesterday, and as the records show, I told him about the people I met in every county and how they felt about his candidacy.

Mr. ALFRED LUCKING. Did you send him maps?

Mr. KING. I think I did.

Mr. ALFRED LUCKING. He states on page 704: "I am glad to have the maps and detailed reports from each county."

Mr. KING. We had outlined maps of Michigan, and I colored in different colors the counties to show, in my judgment, how they stood. I have forgotten the system that was used, but one color was for him, and one color was against him, and one color was noncommittal. That was to give him a sort of an outline or bird's-eye view of the situation as I saw it. (R., 528.)

Mr. ALFRED LUCKING. He says:

"I am glad to have the maps and the detailed reports from each county, which I shall be able to consult frequently as matters in various localities are referred to in your correspondence."

Did you, from your subsequent interviews with him, learn that he was consulting you: detailed reports and maps to each locality?

Mr. KING. He did not consult them as much as I hoped he would. He didn't have time.

Mr. ALFRED LUCKING. In some of these letters he says, "I am devouring every letter you write."

Mr. KING. Yes; but I sent him a long detailed report by counties alphabetically arranged that I hoped he would devour also, and I don't think he ever did.

Mr. ALFRED LUCKING. He approved of your employing Mr. Jim McGregor, did he not?

Mr. KING. I presume he did.

Mr. ALFRED LUCKING. The same letter says:

"I am particularly glad that you have found an opportunity to use Jim McGregor, which I know will please Mr. Warren, his friend."

Mr. McGregor was on salary?

Mr. KING. Yes, sir.

Mr. ALFRED LUCKING. He says he was glad you could use him. Did you tell him when you were talking to him how much McGregor's salary was?

Mr. KING. I did not.

Mr. ALFRED LUCKING. How much was it?

Mr. KING. I think it was \$75 a week. (R., 529.)

Mr. ALFRED LUCKING. That was Mr. Milton Oakman?

Mr. KING. Yes, sir.

Mr. ALFRED LUCKING. He was in charge in Wayne County?

Mr. KING. Yes, sir.

Mr. ALFRED LUCKING. And did he have these personal interviews with Oakman in New York?

Mr. KING. Not to my knowledge. I learned that at Grand Rapids.

Mr. ALFRED LUCKING. I call your attention to a sentence at the bottom of the same page:

"I am glad Mr. Warner is scared out for the present."

Mr. KING. Yes, sir.

Senator POMERENE. Whose letter is that?

Mr. ALFRED LUCKING. Mr. Truman H. Newberry's. He says in that letter:

"I am glad Mr. Warner is scared out for the present, and as long as we keep up our publicity work at full pressure it will be harder and harder for any new man to get any kind of a start that will make it seem worth while for him to be a serious candidate."

He knew of your publicity?

Mr. KING. Of course he did.

Mr. ALFRED LUCKING. And he said, "As long as we keep up our publicity work at full pressure."

Mr. MURFIN. All that is argumentative, not cross-examination.

Senator WATSON. He knew that was costing money?

Mr. KING. Yes, sir.

Mr. ALFRED LUCKING. He knew that was costing money?

Mr. KING. Any sane man would know publicity costs money.

Mr. ALFRED LUCKING. Certainly; any sane man would know publicity costs money.

Mr. KING. You would know it, and I would.

Mr. ALFRED LUCKING. Yes; but not a cent was expended with his knowledge.

Mr. MURFIN. That is purely argumentative.

Mr. KING. In my judgment, that statement is true.

Mr. ALFRED LUCKING. On page 706 you say:

"We have our meeting of the field men to-day, and I will send you a report to-morrow."

Your field men had to come from different parts of the State to any meeting?

Mr. KING. They certainly did.

Mr. ALFRED LUCKING. And he knew that? He knew who the field men were, did he not?

Mr. KING. I think he probably did. I must have told him who they were.

Mr. ALFRED LUCKING. Was a man named O. C. Davidson very active in the northern peninsula?

Mr. KING. He is a very prominent man in the upper peninsula.

Mr. ALFRED LUCKING. He was active in the campaign for somebody for Senator?

Mr. KING. He was a friend, as I remember, of ex-Gov. Osborn. I don't know how active he was.

Mr. ALFRED LUCKING. You learned from Senator Newberry that he was active, did you not? (R., 530.)

Mr. ALFRED LUCKING. I will tell you what this bears on. This is in the handwriting of Mr. Newberry:

"The campaign for my nomination for the United States Senate has been voluntarily conducted by friends in Michigan. I have taken no part in it whatever and no contributions or expenditures have been made with my knowledge or consent."

Senator EDGE. With his knowledge or consent. I do not know what the legal interpretation of that would be, but I would consider a man did not have any knowledge or did not consent unless he was in close touch with the direct spending of the money, would you not?

Mr. ALFRED LUCKING. If he was active in conducting that campaign, and it cost money, that would be within his knowledge, according to the understanding of common men. I don't know what some lawyer



might say about it, but I should say that. It is to meet that idea that I was directing these questions of how far he was acting in that campaign.

Senator EDGE. A man 1,500 miles away could not direct the management of a campaign.

Mr. ALFRED LUCKING. I am showing that he did.

Senator EDGE. Proceed. I just wanted to find out what you were leading up to.

Mr. ALFRED LUCKING. I am showing he was in most intimate touch with the campaign.

Mr. MURFIN. I will concede he kept in intimate touch with the campaign.

Mr. ALFRED LUCKING. And directed it.

Mr. MURFIN. I don't concede that.

Mr. ALFRED LUCKING. That is what I am showing.

Mr. MURFIN. That he counseled and advised, yes; we concede that. But if you think he directed it instead of Paul King, you will be a long time proving it.

Mr. ALFRED LUCKING. He didn't make any speeches; didn't go around over the State; but he knew what was going on.

Mr. MURFIN. He didn't appoint field agents. (R., 532.)

Mr. ALFRED LUCKING. Have you the letter of the 11th day of May, which is referred to in your letter of May 18, on page 738, where you say:

"Your letter of the 11th was particularly interesting, because it takes up some matters that I have written you about and clears up several matters on which I did not know that you were fully informed. I refer particularly to Mr. Barbour, Mr. Dwyer, and George Miller."

At the beginning of the same letter from which I have read, on page 737, you speak of two letters of the 11th.

Mr. KING. No; I haven't these letters.

Mr. ALFRED LUCKING. I mean a copy of it.

Mr. KING. I think not.

Mr. ALFRED LUCKING. Mr. Barbour and Mr. Dwyer were influential citizens in Detroit?

Mr. KING. Yes, sir.

Mr. ALFRED LUCKING. And large employers of labor? Mr. Miller was chief editor of the Detroit News?

Mr. KING. The Detroit News.

Mr. ALFRED LUCKING. On page 739 you say in your letter:

"Yesterday afternoon I spent with Richard H. Fletcher, State labor commissioner, who is certainly doing yeoman service. He is simply going 'sleed length' and is doing some mighty good work. You might write him a personal letter, if you will. His address is Lansing."

Did Mr. Fletcher continue active through the primary campaign?

Mr. KING. I think he did. (R., 533.)

Mr. ALFRED LUCKING. Mr. King, a few more questions regarding some of the correspondence. You, in addition to your daily letters or frequent letters reporting what you did, had a regular book of field reports, had you not?

Mr. KING. I started to keep such a book; yes.

Mr. ALFRED LUCKING. And you sent a copy of it to Mr. Newberry?

Mr. KING. I made up one set of field reports and took them or sent them down to Commander Newberry.

Senator POMERENE. Will you explain briefly what you mean by your field reports?

Mr. KING. Just a list of accounting alphabetically. It is such a report as is contained in the record.

Senator POMERENE. Do you mean as to finances?

Mr. KING. No; as to the state of the campaign in the various counties. You will find such a report beginning on page 746, Senator.

Mr. MURFIN. Just read one county.

Mr. KING. Alcona is the first county. [Reading:]

"Hon. George W. Burt, Harrisville, chairman, and R. E. Prescott, Lincoln, secretary. This county is completely organized, having chairman and vice chairman in each township and incorporated village. They are arranging for a complete follow-up campaign. The outlook here is promising. We have received a list of voters from the county clerk and are ready to go ahead with our mailing program. There is no question but what this county will go for Mr. Newberry—barring Mr. Ford's entry."

Of course that was early. The idea was to have a duplicate set of reports, one copy in New York and one in Detroit, but that was never kept up. (R., 606.)

Mr. ALFRED LUCKING. Well, I was calling your attention to the fact that in addition to your daily letters reporting what you did from day to day, or your frequent letters, you had a regular book of reports in each county.

Mr. KING. We started that system, if you might call it that, but it was never kept up.

Mr. ALFRED LUCKING. Well, it was started and you sent a copy to Mr. Newberry, and he acknowledged it, did he not?

Mr. KING. I presume he did. I do not now recall. (R., 607.)

Mr. ALFRED LUCKING. I call your attention to his letter on page 741, just a sentence out of it:

"If in your opinion I should by the use of these letters now declare myself to be a candidate under the primary law, would it not terminate our present plan of publicity?"

Mr. KING. Won't you read the preceding paragraph, Mr. Lucking, please, or allow me to read it?

Mr. ALFRED LUCKING. You read it.

Mr. KING (reading):

"When you finally settle on the forms please send me an index descriptive of the people to whom various letters are intended to be sent, together with clean copies of the forms you finally decide to use."

You will note that the decision rests with me.

Mr. ALFRED LUCKING. And will you please read now the prior sentence?

Mr. KING (reading):

"I return herewith the draft letters with a few notations. Please be assured that these were made with no intent to criticize, and only as a suggestion."

Mr. ALFRED LUCKING. Then he went over them and made notations? Mr. KING. I had forgotten that he did, but I do not recall that they were at all substantial.

Mr. ALFRED LUCKING (reading):

"Would it not terminate our present plan of publicity?"

Mr. KING. What is the question?

Mr. ALFRED LUCKING. The question is whether that was his plan of publicity as well as yours?

Mr. KING. No; it was my plan.

Mr. ALFRED LUCKING. You mean that you suggested it but he joined in it?

Mr. KING. No; I worked it out.

Mr. ALFRED LUCKING. Did he join in it—

Mr. KING. I talked it over with him.

Mr. ALFRED LUCKING. Did he approve it?

Mr. KING. As far as I know; yes. I do not recall any dissent. (R., 609.)

Mr. ALFRED LUCKING. In a letter to you by Mr. Newberry on July 4, appearing at page 818 of the printed bill, the Senator says:

"The farmers and men interested in public affairs whom you have seen will, of course, be active throughout the State, but if we are to be successful the organization in Detroit must interest the industrial element to vote on our side. Of course it would be useless if the vote were to be seriously split, or possibly you have decided that it would be best not to take any further steps at the present time."

When he spoke of the organization in Detroit he meant your organization, did he not? You so understood it, anyway?

Mr. KING. I think so; either that or the Wayne County organization. You will notice also it leaves the decision to me—or possibly you have decided that it would be best." (R., 613.)

Mr. ALFRED LUCKING. Now, referring to Mr. Oakman, I invite your attention to a letter from Senator Newberry to you on July 9, page 826, in which he says:

"Your information about the Wayne County situation does not surprise me at all, and I am quite prepared for any kind of a shift that Mr. Oakman may find that his personal political future requires. Your idea of having a separate organization in Wayne County, possibly in cooperation with Pliny W. Marsh, or the Detroit Citizens' League is, I think, a very necessary precaution, as a change in Mr. Oakman's mind under the present conditions would leave us without the slightest organization in the very place where we must secure a large favorable vote in order to insure success."

Did you make another organization following that letter? (R., 614.)

Mr. ALFRED LUCKING. Now, on page 834, Mr. Newberry writes to you:

"In regard to Dr. Dickie, am sorry you did not let me know before using his letter, as I have considerable more information on the subject of Dr. Dickie's activities than you have, and I would not have had his letter used under any circumstances. I do not desire his friendship or his support."

That is signed by Mr. Newberry. (R., 616.)

Mr. ALFRED LUCKING. Toward the end of that letter, on page 854, he says:

"I have arranged with them also to provide for representation at each voting precinct the entire day of the primaries so that through this whole district you can be sure that there will be at least one man and in some cases two or three giving their entire time in saying the final word."

Did you learn from Mr. Floyd whether those men were paid or not?

Mr. KING. I did not.

Mr. ALFRED LUCKING. Do you know whether they were paid or not?

Mr. KING. I have no knowledge on the subject. (R., 617.)

Senator POMERENE. Mr. King, it appears—and if I do not correctly state your attitude you may take any exception to it or make any explanation that you deem proper—it appears thus far in the testimony before this committee that you had a number of conferences with Mr. Newberry with regard to his candidacy and his campaign; that in one of these conversations you talked with him about the amount it would cost, and thereupon, in substance, you said to him that it cost the friends of Senator Townsend \$20,000, but that you thought his campaign would cost \$50,000 or thereabouts.

After that you had a number of conversations with him and you wrote to him giving him reports of what was being done. You have referred here to a so-called field report which you made, and you have read at my request one of these reports from one of the counties. I take it that those field reports gave him a general bird's-eye view of every part of this campaign except the financing. Will you explain why it was that you explained all of these other matters and did not explain to him the financing?

Mr. KING. Why, it is very easy of explanation. The funds were being provided at Detroit. The campaign was being financed. Questions of policy, as I have stated, were discussed, as to what was a good thing to do and what was not a good thing to do. I have no recollection of ever discussing with Senator Newberry the financing of his campaign or any part of it.

Senator POMERENE. Let us see. Does that satisfactorily explain it to your mind? You have referred to the general policy, and I think he had his campaign in very able hands.

Mr. KING. Thank you. (R., 633.)

Senator POMERENE. Why should you say now that the financing was taken care of in Michigan by his friends and give that as a reason for not counseling him on that subject, when the general policy of his campaign was being taken care of by his friends?

Mr. KING. The general policy was being taken care of by his friends; that is true.

Senator POMERENE. And I dare say, from what I have observed, that the general plan of his campaign and what was done outside of the finances by you was as well done as was the financing by his other friends. What was the reason why you should talk with him and confer with him and report to him about everything except the financing?

Mr. KING. Because, as I say, the money was forthcoming from Detroit. There was never any question about it. There was simply a question, Senator, when anything came up to be done—the question in my mind was whether it was a good thing to do, and if it was a good thing to do, I did it. The question of expenses did not come into my mind at all. It was a question of whether it was a good thing to do or not, whether it would help the campaign along or not. If it were a good thing to do, I did it regardless of the expense. If it were not a good thing, I did not do it.

Senator POMERENE. You knew where most of this money was coming from, did you not?

Mr. KING. I knew that Mr. John S. Newberry was supplying a considerable part of it, because I saw the checks.

Senator POMERENE. In view of your State statute and the Federal statute, did you regard it as a pretty important thing to look after the finances of this campaign as well as after the other features of it?

Mr. KING. I did. I thought we were.

Senator POMERENE. Yes. Was it because you had in mind the State statute or the Federal statute, or both statutes, limiting the amount of money that could be expended, that you did not want Senator Newberry to have knowledge of it?

Mr. KING. No; I would not say that.

Senator POMERENE. Is not that the reason?

Mr. KING. I do not think it was, Senator.

Senator POMERENE. As he had to file an account, can you explain why he was not concerned about this financing?

Mr. KING. To tell the honest truth, the matter of the account that he had to file never came into my mind at all until the blanks came to our office from the office of the Secretary of the Senate, I think it was; and I think I mailed them down to him. That was the first time that the matter of his accounting ever occurred to me at all.

Senator POMERENE. You had an attorney, one of your own office men, who was advising with you in regard to the law?

Mr. KING. As to details of the law; yes. I do not think he advised as to the financial features of it.

Senator POMERENE. Now, let me go to another matter.

Senator EDGE. May I ask just one question right there, Senator?

Senator POMERENE. Yes.

Senator EDGE. Was it not discussed rather generally in the press?

Mr. KING. When the attacks were made by these three papers I have mentioned—that was in August some time just before the (R., 634) primary, which was on the 27th—that was the only time that the question of expenditures had risen at all. Mr. De Foe raised the question, and Mr. Vandenberg.

Senator POMERENE. You did discuss with him the amount of advertising and the necessity for their general scheme or plan along that line?

Mr. KING. I think I told him about my plan for publicity; yes.

Senator POMERENE. And your general scheme of sending out field agents and organizing each county?

Mr. KING. Yes, sir.

Senator POMERENE. And you made these reports?

Mr. KING. Yes, sir.

Senator POMERENE. Let me go to another matter.

Your primary day was August 27?

Mr. KING. Yes, sir.

Senator POMERENE. And your report was filed on what date?

Mr. KING. September 7, I think, or 6—within 10 days after the primary. It had to be.

Senator POMERENE. Did you give instructions to destroy or burn the letters and other files that you had in the office?

Mr. KING. As I stated the other day, the form-letter correspondence, I told the office staff that they could throw out.

Senator POMERENE. When did you do that?

Mr. KING. That was just before the State central committee moved in. It must have been—I left on my vacation trip on the night of the 7th of September, 1918. It must have been the first week in September that we were closing up.

Senator POMERENE. Before or after your report was filed?

Mr. KING. The report was filed the night of the 7th. I left on the midnight train that night on my trip.

Senator POMERENE. Did you give any other instructions with regard to the books of account or your contracts—advertising or other contracts?

Mr. KING. No, sir.

Senator POMERENE. Did you know of their being destroyed? Did you know they were to be destroyed?

Mr. KING. I did not.

Senator POMERENE. Do you know they have been destroyed?

Mr. KING. It has been so testified.

Senator POMERENE. When did you first learn that some question was being raised about the character of the campaign that was being conducted in behalf of Mr. Newberry?

Mr. KING. I can not recall just the date when those three papers opened up on us.

Senator POMERENE. Name those three papers.

Mr. KING. The Charlotte Republican, the Escanaba Journal, and the Grand Rapids Herald. But I regarded those attacks as being purely political and inspired for political purposes. Senator Smith's paper, the Grand Rapids Herald, I thought was attacking us because of Mr. Vandenberg's possible aspirations for Senator; and the fact that Senator Smith had contemplated reentering the race at the last moment and had found that Senator Newberry had, through their own investigations—they sent out inquiries to the county clerks and judges of probate and members of the legislature, and the replies (R., 635) which they printed in their own columns showed that the sentiment was so overwhelmingly for Commander Newberry that Senator Smith decided not to allow his petition to be filed, right at the last minute, I think, right up to midnight of the final day.

Senator EDGE. What was the final day for filing petitions?

Mr. KING. Thirty days, I think, before the primary.

Mr. MURFIN. July 26.

Mr. KING. Up to 4 o'clock on that day; that was the final hour. They were in the possession of the secretary of state, and they were withdrawn by him when he discovered, through the investigation of his own paper, that sentiment was so overwhelmingly for Commander Newberry; and I thought it was his personal pique, perhaps, incident to the situation, that induced those attacks by the Grand Rapids Herald.

Senator POMERENE. You knew, prior to August 27, the day of the primary, that there were serious charges being made about the character of the Newberry campaign?

Mr. KING. Yes, sir.

Senator POMERENE. And those were made in part by Democrats and in part by Republicans?

Mr. KING. Yes, sir.

Mr. ALFRED LUCKING. No Democrats, I think, your honor, that I remember.

Senator POMERENE. Just let me go on.

Mr. ALFRED LUCKING. Pardon me.

Senator POMERENE. You remember that there was a letter written by your lieutenant governor on August 22, 1918?

Mr. KING. I remember the letter very well; yes.

Senator POMERENE. In which he made certain serious charges?

Mr. KING. Yes, sir.

Senator POMERENE. And you remember the character of them. I do not care to go into it, because I distinguish between evidence and charges. Also about that time—

Mr. KING. He was not even produced at the Grand Rapids trial by the Government.

Senator POMERENE. That is all right. That was printed immediately, was it not, after it was written?

Mr. KING. Yes; I think he put it in the paper before he mailed the letter to Commander Newberry.

Senator POMERENE. In any event, it was printed four or five days before the primary?

Mr. KING. Yes, sir.

Senator POMERENE. And then, also, Representative Wiley wrote a pretty scorching letter bearing on this same subject, on August 22, 1918?

Mr. KING. As representing Gov. Osborn, who was also a candidate; yes.

Senator POMERENE. That may all be, but he did make serious charges, did he not?

Mr. KING. Yes, sir.

Senator POMERENE. Without going into the details, they took up the question of the extravagance of the campaign as to money?

Mr. KING. Yes, sir. (R., 636.)

Senator POMERENE. This being so, did not the fact that these serious charges were made by representative men in the Republican Party admonish you that some question might be raised afterwards with regard to Senator Newberry's title to his seat if he were elected? Did not that occur to you?

Mr. KING. It looked to me just like a hot political fight, Senator. The subsequent developments that ensued, I am frank to say, never entered my mind at all.

Senator POMERENE. You are evidently right that it was a hot political fight.

Mr. KING. Yes; and the press will also show that I answered these attacks by stating the reasons why it was necessary to conduct the publicity campaign that we had conducted. Mr. Ford was the best advertised man in Michigan or in the country; that he was backed by the Democratic organization from the White House down, the Democratic national committee, the Democratic State central committee; he was backed by his own forces, which were in large numbers scattered throughout the State, and by his sales agencies. He was backed by the people who furnished supplies and materials, wealthy manufacturers who furnished these supplies and materials to his plants. I thought it was necessary to conduct a campaign of this kind of publicity and to organize to meet just exactly that kind of opposition, and I had no apologies to offer for it.

The ACTING CHAIRMAN. You mean, backed for what?

Mr. KING. Backing Henry Ford for United States Senator.

The ACTING CHAIRMAN. Was this in the primary?

Mr. KING. In the primary.

The ACTING CHAIRMAN. They were back of him as a Republican candidate in a Republican primary?

Mr. KING. Absolutely. The plan was to put him on both tickets, and the suggestion came from the White House that he was Mr. Wilson's candidate.

Senator POMERENE. Do you know that?

Mr. KING. Mr. Ford himself stated that he ran at the suggestion of the President; that he was drafted.

Senator POMERENE. Let me see if I understand you. From what you have said thus far do I understand that you were giving your reasons for the campaign you were conducting, or do I understand that you were making answer to these charges and are giving the substance of your answers?

Mr. KING. That is what I am trying to do.

Senator POMERENE. Then let me go a step further.

Of course, it is to be presumed that in your office you did have an account of receipts and disbursements.

Mr. KING. There was such an account, I suppose.

Senator POMERENE. You have no doubt about it, have you?

Mr. KING. No. In the beginning of the campaign—

Senator POMERENE. Do you know where that account is?

Mr. KING. I do not, Senator.

Senator POMERENE. Have you made any inquiry about it?

Mr. KING. No; I do not know that I have.

Senator POMERENE. As you were, unfortunately, one of the defendants in this case, after your indictment, when you had become involved in what was a serious charge, did it not occur to you that it would be necessary to have all this evidence? (R., 637.)

Mr. KING. Why, I had not thought of it in that way; no.

Senator POMERENE. Does it not occur to you that that is a reasonable conclusion to which any man might come?

Mr. KING. I regarded the whole trial and everything as part and parcel of the political fight.

Senator POMERENE. But be that as it may, it was tried, nevertheless. Whether rightly or wrongly, it got into the courts; and would you not be interested, then, in making your defense so you could produce these records?

Mr. KING. I have not found it necessary to make such defense in Michigan.

Senator POMERENE. Very well.

Mr. KING. My reputation stands up there with anyone else's thus far.

Senator POMERENE. I am not disputing that. If I am tiring you, I will stop.

Mr. KING. No; I am glad to answer these questions.

Senator POMERENE. There are just a few questions that I want to ask you.

In view of the fact that these serious charges were being made just prior to the primary, as well as immediately after the primary, did it not occur to you that it would be wise to have all of your original records?

Mr. KING. I supposed they were in possession of the proper custodian. I had had nothing to do with keeping them.

Senator POMERENE. As to your correspondence, if you had correspondence with different people that represented you outside—and I am assuming, now, for the sake of the question, that all of your correspondence was perfectly legitimate—would it not have been a good thing for you to have had all of that correspondence in the office if any controversy should arise after the primary?

Mr. KING. It would have been necessary to have arranged for storage space. It never occurred to me it was necessary at all.

Senator POMERENE. That may all be. Did it not occur to you, or to some of your associates, that it would be a very important thing, in view of the hot campaign that you had, that you should have your original books of entry, both as to receipts, expenditures, and as to contracts for advertising and other supplies and services? Did not that occur to you?

Mr. KING. I supposed, as I say, they were in the hands of the proper officers.

Senator POMERENE. But assuming for the sake of the argument that every item of receipt was legitimate and every item of expenditure was a legitimate expenditure, would it not have served you and Mr. Newberry and all the other defendants in good part to have had all of these original books of entry?

Mr. KING. I presume it would.



Senator POMERENE. Is it customary in your State that a campaign committee shall destroy the books showing their financial operations after the campaign is over?

Mr. KING. I can not testify as to what is customary. The only other senatorial campaign that I managed, the Townsend senatorial campaign, we kept books of correspondence for a long, long time, and I had the idea that I could refer to them for political information (R., 638) later; but they soon became obsolete and were in the way. We moved them from place to place, and finally dumped them all out. So when we came to this point I said to myself, "There is certainly no object in preserving all this mass of correspondence," and I said to the office staff, "We will not keep it."

Senator POMERENE. Senator TOWNSEND had a pretty energetic campaign up there, did he not?

Mr. KING. He did.

Senator POMERENE. And no question was ever raised about the character of his campaign?

Mr. KING. No, sir. And this campaign, Senator, was, in principle, exactly like Senator TOWNSEND's campaign, because where I had one field man then, part of the time, I had six or eight in this campaign. Where I inserted an occasional advertisement in a paper in that campaign, I had a definite plan of publicity with 13 insertions in all the papers, and where I had one poor little stenographer in the office who worked herself nearly to death, I had 50, if you please, in this campaign. It was simply an amplification of exactly the same procedure that I had followed in the Townsend campaign. In principle there is no difference at all.

Senator POMERENE. Let us pursue that a little bit further. There was no question raised about the legitimacy of Senator TOWNSEND's campaign, either before or after his primary?

Mr. KING. No, sir; although a very substantial sum of money was spent in that campaign.

Senator POMERENE. I understand that, and you have been very frank about that. But here was a campaign in which no charges were made with reference to a violation of the law or any extravagance, and yet you kept all your correspondence and files for a number of years thereafter. But when it comes to this Newberry campaign, with these very aggravated charges, whether right or wrong—I am not passing on that—when these very aggravated charges were being made against the character of the campaign, charging extravagance and even charging fraud and violation of the law, does it not strike you as a little strange that all of this correspondence should be destroyed at that time and the books of entry not available?

Mr. KING. The correspondence which was destroyed was purely form-letter correspondence. This correspondence is in the record here and fully covers the questions at issue. That was preserved. There was no idea of destroying anything that might be used in future proceedings, because the idea of all these proceedings had never occurred to me, I am frank to say.

Senator EDGE. What book entry was saved beyond that report?

Mr. KING. I do not know, Senator EDGE. I had nothing to do with that part of it, as I have stated, and I do not know what books were saved. So far as I know, I do not know that they are destroyed. I do not know that they are now.

Senator POMERENE. Did you have an understanding with John S. Newberry that he was to finance this campaign?

Mr. KING. No, sir; I did not know him at that time at all.

Senator POMERENE. How did you get your information that it was going to be financed by some of these gentlemen?

Mr. KING. I think, from Mr. Templeton. (R., 639.)

Senator POMERENE. What did he say to you on the subject?

Mr. KING. I can not recall, except that the expenses would be paid; and later, when I needed money, I asked him for money and he very promptly procured money for me. This was in the form of a check or checks signed by Mr. John S. Newberry.

Senator POMERENE. Did he tell you who was to finance it?

Mr. KING. I do not know that he did.

Senator POMERENE. You knew who these substantial contributors were from day to day?

Mr. KING. Yes; I think I knew about it. For instance, Col. Hecker, who is a very well known and prominent man in Detroit—he came into my office and left a check on my desk for a thousand dollars, which I turned over to Mr. Blair. So that indirectly, one way and another, I think I knew about it.

Senator EDGE. All these checks you received from Mr. Newberry you first turned over to Mr. Blair?

Mr. KING. These checks were made payable to Mr. Templeton, and he countersigned them. I saw the first one. Subsequently I did not see them any more.

Mr. ALFRED LUCKING. There were not any of them turned over to Mr. Blair?

Senator POMERENE. The question I propounded has not yet been answered. As I understand it, you say now that they were made to Mr. Templeton and you turned them over to Mr. Blair. What did he do with them?

Mr. KING. I think they were given to the office manager and deposited by him in the Commonwealth Bank. I am not sure.

Senator POMERENE. I am trying to find out, Mr. King, how they got into your regular account, of which Mr. Blair was the treasurer.

Mr. KING. I am not clear about that point, whether they were given to Mr. Blair or deposited in the Commonwealth Bank. I am not sure.

Senator POMERENE. That would be quite important in order to have an accurate accounting.

Mr. KING. I was not an accounting officer.

The ACTING CHAIRMAN. Do I understand you to say that Mr. Ford, at one and the same time, was running in the Republican primary for the Republican nomination and in the Democratic primary for the Democratic nomination?

Mr. KING. Yes, sir; that was the idea—to capture the nomination on both tickets.

Senator WATSON. He asked you if he was running for both nominations at the same time.

Mr. KING. Yes, sir.

The ACTING CHAIRMAN. So that in the Democratic primary he was running on the Democratic ticket and in the Republican primary he was running on the Republican ticket as a candidate for the United States Senate?

Mr. KING. That is it exactly.

The ACTING CHAIRMAN. Did I understand you to say that Mr. Ford said that that plan met with the approval of the President?

Mr. KING. Oh, no; he simply said he had been drafted to be a candidate for Senator.

The ACTING CHAIRMAN. The primary was on August 27?

Mr. KING. Yes, sir. (R., 640.)

#### EXCERPTS FROM TESTIMONY OF CHARLES A. FLOYD, SECRETARY.

Senator POMERENE. Let me ask you if you filed any account of these bills which you paid after the original account was filed, a supplementary account?

Mr. FLOYD. No, sir; we did not.

Senator POMERENE. The statute requires you to file an account of all receipts and expenditures, does it not?

Mr. FLOYD. I do not remember the wording of the statute. I believe it says within the knowledge of the committee or within the knowledge of the treasurer, or something to that effect.

Mr. MURFIN. The statute requires this report to be filed within a certain number of days after the primary, and there is no provision for taking care of pick-ups or unpaid bills. There is no provision for a supplementary report or a requirement of it.

Senator POMERENE. Did you have a memorandum of those unpaid bills in your office at the time and fail to account for receipts and expenditures?

Mr. FLOYD. We did not, or they would have been included in the report.

Senator POMERENE. Who was authorized to contract this indebtedness that you knew nothing about?

Mr. FLOYD. No; it was not. There were bills that came in. For instance, some advertising bills, newspaper advertising. Everyone had been instructed to do everything possible to get all the bills in, and still straggling bills came in. I think one was a telegraph bill.

Senator POMERENE. Did you prepare this account?

Mr. FLOYD. Which account?

Senator POMERENE. The account which was filed.

Mr. FLOYD. I had something to do with the tabulation of it.

Senator POMERENE. As everyone was instructed to get these accounts in, etc., you knew what accounts were outstanding, did you not?

Mr. FLOYD. There was no way of checking it.

Senator POMERENE. Did not somebody testify a little while ago to the effect that there was a written contract for advertising?

Mr. FLOYD. Yes.

Senator POMERENE. As those contracts were entered into, did you not have a memorandum in regard to it?

Mr. FLOYD. Yes, sir. There were memoranda in regard to that, Senator, but there was no way the office had of finding out if all the bills were in from the large number of newspapers.

Senator POMERENE. You certainly must have kept an account showing these contracts or obligations which you had entered into?

Mr. FLOYD. Our office system was not as perfect as it should have been in that connection.

Senator POMERENE. When you filed this account did you know there were some of these accounts outstanding?

Mr. FLOYD. I did not.

Senator POMERENE. Was there not some conversation among you and the other official heads in the office in regard to possible unpaid accounts still outstanding?

Mr. FLOYD. Yes, sir; and there were a large number of telephone calls and messengers to get all the bills we could possibly get. (R., 567.)

Senator POMERENE. Then the fact remains that at the time you filed this account you did know that there were other accounts out, did you not?

Mr. FLOYD. I can not say that, sir.

Senator POMERENE. You had every reason to believe that there were other accounts out?

Mr. FLOYD. No; I did not.

Senator POMERENE. You were not very much surprised when they came in, though?

Mr. FLOYD. At some of them; yes.

Senator POMERENE. Here is a matter of twelve or fifteen thousand dollars worth of accounts. With twelve or fifteen thousand dollars worth of accounts, as they came in, there were not very many of them that were disputed?

Mr. FLOYD. No, sir.

Senator POMERENE. And you were anxious to get the money to pay for them?

Mr. FLOYD. Yes, sir; it was embarrassing not to have them paid.

Senator POMERENE. If they were not disputed, you must have known something about it at the time you filed this account.

Mr. FLOYD. If any one man knew all the accounts that had been incurred and had checked them carefully as the various accounts came in, month by month, he would know that. For my part I did not know it.

Senator POMERENE. Whose duty was it to keep in touch with all those accounts?

Mr. FLOYD. It was not mine.

Senator POMERENE. Whose was it?

Mr. FLOYD. Some one in the Detroit office that I had nothing to do with.

Senator POMERENE. You were the secretary; you certainly know who had control of that part of the business?

Mr. FLOYD. Senator, as secretary my work was entirely outside of the Detroit office until the last two or three days before the filing of the report.

Senator POMERENE. Did you dispute any of these accounts which came in? I mean those embraced in the \$12,000 or \$15,000.

Mr. FLOYD. Not of the ones that were paid; no, sir.

The ACTING CHAIRMAN. When you made the account of September 6, 1918, did you think you had included every item of indebtedness of the Newberry senatorial committee from every source and of every character?

Mr. FLOYD. Yes, sir.

Senator WATSON. Mr. Floyd, if you had known that the account ran to \$190,000 instead of \$176,000 or \$177,000, would that fact have deterred you from putting in the whole amount?

Mr. FLOYD. Not at all.

Senator WATSON. Was there any reason why you should not have filed it for \$190,000 as well as for \$175,000?

Mr. FLOYD. Not at all.

Senator POMERENE. Did you consult anybody about these accounts as they came in?

Mr. FLOYD. Yes.

Senator POMERENE. Whom? (R., 568.)

Mr. FLOYD. Mr. Hopkins, of the advertising accounts. Mr. King had seen some of the accounts that he knew about before he went on his vacation, or else on his return; I don't remember which it was. Anyone who I thought had authority to have incurred the account, I tried to find somebody that could check it.

Senator POMERENE. Mr. Hopkins O. K'd the advertising account and Mr. King O. K'd the other account?

Mr. FLOYD. Possibly; not all of them. Mr. Turner may have O. K'd some small accounts and Mr. Phillips some others.

Senator POMERENE. Were those gentlemen in conference at the time this account was prepared and filed?

Mr. FLOYD. Not in conference; no, sir.

Senator POMERENE. With you?

Mr. FLOYD. No, sir; they were not.

Senator POMERENE. How would you know, then, whether there were additional accounts at that time outstanding if you did not consult with Mr. Hopkins?

Mr. FLOYD. They were mailed into the office. They came into the office after the filing of this report. I think I remember the details of one account—the Detroit Free Press. I believe it was an account for the entire month that got by everybody, which we would have been glad to have included in this report, but it did not come in until too late.

Senator POMERENE. What did it amount to?

Mr. FLOYD. Something like \$900.

Senator POMERENE. Do you mean to say that there was a \$900 account that got away from your committee that they knew nothing about with the Detroit Free Press, one of the leading papers in Detroit?

Mr. FLOYD. Yes, sir. I think that is the paper. It was one of the Detroit papers. It got by everyone. If we could have got it we would have taken some other measures to get that bill in there.

Senator POMERENE. That is all.

Mr. WILLIAM LUCKING. Mr. Floyd, how long did this twelve or fifteen thousand dollars' worth of bills embarrass you or trouble you before Mr. Green's money came in?

Mr. FLOYD. I would not exaggerate that as much as that.

Mr. WILLIAM LUCKING. Well, irritate you then?

Mr. FLOYD. From the time they were in the office.

Mr. WILLIAM LUCKING. How long was that?

Mr. FLOYD. They began to come in right after the report was filed.

Mr. WILLIAM LUCKING. A matter of a week or ten days?

Mr. FLOYD. Every day they would come in.

The ACTING CHAIRMAN. When did you make your statement to Mr. Green and get his money?

Mr. FLOYD. I think it was around the 1st of October; just shortly before or shortly after that.

Mr. WILLIAM LUCKING. Do I understand that there was no money left in the account of the committee in the Commonwealth Savings Bank with which any of these bills could be paid?

Mr. FLOYD. Are you asking me if there was?

Mr. WILLIAM LUCKING. Yes, sir.

Mr. FLOYD. Yes; something like \$2,000 left in the account. (R., 569.)

Mr. WILLIAM LUCKING. Whom did you delegate as secretary or assistant secretary in the Detroit office to take charge of the books of the senatorial committee?

Mr. FLOYD. I had nothing to do with the books of the senatorial committee during the campaign, so I could not have delegated it to anyone.

Mr. WILLIAM LUCKING. Who did, to the very best of your knowledge?

Mr. FLOYD. Who did keep the books?

Mr. WILLIAM LUCKING. Whose duty was it and who was charged with that responsibility?

Mr. FLOYD. Mr. Emery.

Mr. WILLIAM LUCKING. That is B. F. Emery, is it?

Mr. FLOYD. B. F. Emery.

Mr. WILLIAM LUCKING. What is there that you know of to show all the expenditures and receipts—that is, I mean books and records kept by the senatorial committee other than the two bundles of canceled checks which are here, Exhibits 135 and 136, 135 being the pay roll which was identified by Mr. Phillips, and this public report which was filed on the 6th of September with the county clerk of Wayne County, Mich.?

Mr. FLOYD. These papers or books—

Mr. WILLIAM LUCKING. What is there besides those books and records and data or lists of expenditures kept by the senatorial committee that you know of now?

Mr. FLOYD. I do not know of any other. (R., 570.)

Mr. WILLIAM LUCKING (interposing). Were there any papers burned or destroyed that you know of?

Mr. FLOYD. Oh, yes; all the surplus.

Mr. WILLIAM LUCKING. All the surplus?

Mr. FLOYD. All the surplus papers around there were burned. I think they were left for the janitor every night.

Senator POMERENE. What do you mean by "surplus"?

Mr. FLOYD. Mimeograph copies of letters, lists, and everything like that, that was not necessary for the final making up of the report.

Senator POMERENE. Why did you do that?

Mr. FLOYD. I didn't do it. He asked me what was done.

Senator POMERENE. When was it done?

Mr. FLOYD. Day by day as the janitor cleaned out the place.

Senator POMERENE. Account books, etc.?

Mr. FLOYD. No. Here are the account books. These account books were all made up from the various memorandum sheets that they had and the various records they had, which were all combined in this report.

Senator POMERENE. Were those memorandum sheets destroyed?

Mr. FLOYD. I suppose so. Not that I know of.

Mr. WILLIAM LUCKING. Do you know when this check register was made?

Mr. FLOYD. Yes, sir.

Mr. WILLIAM LUCKING. Exhibit 136?

Mr. FLOYD. That was made up during the final week before the report.

The ACTING CHAIRMAN. Is Exhibit 136 a record of every check that was drawn?

Mr. FLOYD. So far as I know.

The ACTING CHAIRMAN. And Exhibit 135 is a record of every bill that was paid?

Mr. WILLIAM LUCKING. That is the complete register of the pay roll. (R., 572.)

Mr. FLOYD. Don't you know what finally became of that particular \$2,500, whether it went through one of these two bank accounts or not?

Mr. FLOYD. I couldn't tell you.

Mr. WILLIAM LUCKING. Or whether you just distributed it, disbursed it in cash?

Mr. FLOYD. I couldn't tell you.

Mr. WILLIAM LUCKING. While we are on this subject, can you tell me what became of the money you drew on the 5th or 6th of September and cashed on the 7th, about \$8,000?

Mr. FLOYD. Yes; I can.

Mr. WILLIAM LUCKING. All right. The first one is the one we asked Mr. McGregor about.

Mr. FLOYD. Yes. The \$2,592.27 check that was given to me on September 5, that is covered in the settlement account of James F. McGregor, for checks drawn to me covering the McGregor and Chilson accounts. Chilson did the same work as McGregor did in those two counties. That check was written for the purpose of distributing the expenditure of the McGregor and Chilson funds on these sheets. It was indorsed by me and immediately turned back to the committee. It was only written for the purpose of going through the bank.

The ACTING CHAIRMAN. Was it a mere matter of bookkeeping to adjust prior accounts that had already been settled?

Mr. FLOYD. To take care of cash advanced to McGregor and Chilson to make these trips. It is merely a matter of bookkeeping. I didn't receive the cash on either of these checks, so don't misunderstand me.

Senator EDGE. It was a transaction going through the regular bank account?

Mr. FLOYD. Yes, sir.

Senator POMERENE. What is the amount of the checks?

Mr. FLOYD. The total is a little over \$8,000.

Mr. WILLIAM LUCKING. What was that explanation again? It was to reimburse for cash expended?

Mr. FLOYD. It was really a reconciliation check for the purpose of spreading on that check register the various county expenses and other expenses that had been paid by me, paid by McGregor, and possibly by Chilson, during the campaign.

Mr. WILLIAM LUCKING. Where did you get the money to pay it?

Mr. FLOYD. I got advancements in cash from Emery, supplies, I O U's, and various memoranda.

Mr. WILLIAM LUCKING. Where did Emery get the cash from?

Mr. FLOYD. That I don't know.

Mr. MURFIN. You did that to hide it, I suppose?

Mr. WILLIAM LUCKING. I object to that. (R., 579.) Have you got an explanation as to why at the same time Mr. Emery drew about \$24,000?

Mr. FLOYD. Yes.

Mr. WILLIAM LUCKING. Does that same explanation apply to those two checks?

Mr. FLOYD. Yes, sir. I was right there when that whole thing was done.

Mr. WILLIAM LUCKING. Where did he get the cash from in the first place, that all this represents?

Mr. FLOYD. I don't know where he got the cash, but I know he had a tremendous number of cash items against cash in the form of I O U's and various memoranda, that, in order to get it shipshape to make up the report, it had to be spread on this check register. So the checks were drawn to the men to whom they were drawn and they were asked at the same time to indorse them.

Senator EDGE. How do they appear on your return? Do they appear as \$24,000 in the various individual sums, or \$24,000 in cash?

Mr. FLOYD. They show each check.

Senator EDGE. One check for \$24,000. I understand that was to reimburse other men who had paid individual sums? Did you have the individual accounts in the final report?

Mr. FLOYD. Yes, sir; I had the individual accounts before these checks were made up.

Mr. WILLIAM LUCKING. Why did you have to draw those two big checks? Why didn't you draw separate checks, like the rest of those 1,800 checks?

Mr. FLOYD. These were separate checks.

Mr. WILLIAM LUCKING. Why did you draw two checks to yourself and two to Mr. Emery for \$35,000 and about 800 others for \$122,000 to different individuals?

Mr. FLOYD. The reason two were drawn to me was to balance my own account for cash items that Emery had in his files, and the other was to take care of the McGregor and Chilson accounts for their advances, which are stated in their accounts. The reason there were two checks drawn to Emery, one was the final settlement of pay-roll account that had been handled in cash, I believe \$32,000 or \$33,000.

Senator EDGE. So before that you received the itemized account of Mr. Emery's disbursements.

Mr. FLOYD. Yes, sir.

Senator EDGE. And they were itemized in your account?

Mr. FLOYD. They were. They were all for that purpose.

Mr. ALFRED LUCKING. The items should be produced.

Mr. FLOYD. I can produce them.

Mr. MURFIN. If he was trying to hide it, he certainly would not have done it that way.

Mr. WILLIAM LUCKING. Emery went home sick the last night, you know.

What I O U's were there in existence for \$8,000 or \$15,000 or \$10,000 at that time?

Mr. FLOYD. I don't know whether you would call them I O U's or not. We used that word because we called any slip an I O U that was put in the drawer in the place of cash that had been used. (R., 580, 581.)

Senator POMERENE. Here is this item of check payable to your order, dated June 18, 1918, check No. A1819, for \$5,559.88. On the reverse side is this statement: "Final settlement credited by itemized statement of all expenses, settlement of Grand Rapids office and various counties, \$12,641.02, from extra sums already reported direct or otherwise covering the same items, \$7,081.14; leaving a balance of \$5,559.88," the amount shown by the check itself.

Mr. FLOYD. Yes, sir.

Senator POMERENE. Will you just explain the entire history of that transaction, so that the record here will show what that check was to pay you for?

Mr. FLOYD. In the first place, that check actually did not come to me. The check was made out to spread on the record. It was indorsed by me and immediately turned back, because I already had the cash.

Senator POMERENE. Where did you get the cash?

Mr. FLOYD. I got it from time to time from Mr. Emery.

Senator POMERENE. How was that paid to you?

Mr. FLOYD. I think some of the items were paid by check. I see one for \$2,500.

Mr. WILLIAM LUCKING. That was not that check. The check is lost.

Mr. FLOYD. Checks and currency from time to time. I think that is the total amount that went through my hands.

Senator POMERENE. The total amount of what?

Mr. FLOYD. Cash and checks.

Senator POMERENE. Where did you get the \$12,641.02?

Mr. FLOYD. From the Detroit office. I think I got it from Mr. Emery in that office.

Senator POMERENE. In what form?



Mr. FLOYD. Checks and currency.  
 Senator POMERENE. Checks on this same account?  
 Mr. FLOYD. Yes, sir.  
 Senator POMERENE. Would those checks be entered here?  
 Mr. FLOYD. Yes, sir.  
 Senator POMERENE. And if you got cash would it be entered on this?  
 Mr. FLOYD. No, sir. That was what that check was written for, because the cash account had not been covered.  
 Senator POMERENE. What was done with those checks afterwards?  
 Mr. FLOYD. That was indorsed by me, the same as these other checks, and turned back to Emery, and either cashed by him or he deposited it.  
 Senator POMERENE. Was that check deposited?  
 Mr. FLOYD. Not by me.  
 Mr. WILLIAM LUCKING. It was cashed?  
 Senator POMERENE. Did it go through the bank at all?  
 Mr. FLOYD. Yes, sir. That was the purpose of writing it, to have it go through the bank, the only purpose of writing it.  
 Mr. ALFRED LUCKING. Do you mean it went through the bank without the bank giving any money on it?  
 Mr. FLOYD. No, sir.  
 Senator POMERENE. What is that perforation of the check?  
 Mr. FLOYD. "Paid September 7, 1918." (R., 584.)  
 Mr. ALFRED LUCKING. Who got the money?  
 Mr. FLOYD. Well, Mr. LUCKING, the money on that whole series of checks, something like seven or eight of them—  
 Mr. WILLIAM LUCKING. \$35,000.  
 Mr. FLOYD. Yes. That represented cash that Mr. Emery had outstanding.  
 Mr. WILLIAM LUCKING. But who got that money on this check? You say you didn't. Who did?  
 Mr. FLOYD. I didn't.  
 Mr. WILLIAM LUCKING. Who did?  
 Mr. FLOYD. I don't know.  
 Mr. ALFRED LUCKING. Somebody went to the bank and got \$35,000.  
 The ACTING CHAIRMAN. It is perfectly clear to me.  
 Mr. ALFRED LUCKING. Explain it to me.  
 The ACTING CHAIRMAN. Here is an office that goes to Mr. Emery from time to time, as money is needed, and Mr. Emery gives them some money.  
 Mr. ALFRED LUCKING. Where does he get it?  
 The ACTING CHAIRMAN. I will come to that. He may take it from cash contributions as they come in. He gives money, as required by the office, \$5,000, \$2,000, \$1,000. When the aggregate comes in he has nothing to show that he has given that money.  
 Mr. ALFRED LUCKING. He hasn't the money, either.  
 The ACTING CHAIRMAN. He draws a check for the amount, and it is indorsed by those who originally received the cash from him and turned back to him and the proceeds deposited to his account, and that clears the transaction.  
 Mr. ALFRED LUCKING. Where did they get the \$35,000 during the six months previous?  
 The ACTING CHAIRMAN. This witness says he does not know.  
 Mr. ALFRED LUCKING. He says it is perfectly plain.  
 The ACTING CHAIRMAN. Where Mr. Emery got it he says he does not know.  
 Mr. ALFRED LUCKING. We have a right to ask him where he got the money.  
 The ACTING CHAIRMAN. He has already given his explanation.  
 Mr. WILLIAM LUCKING. If you want to accept such an explanation as that.  
 Senator WATSON. If you could understand it you would not have any trouble with it.  
 Mr. ALFRED LUCKING. It is no wonder Mr. Emery was sick.  
 The ACTING CHAIRMAN. There is no occasion for that statement.  
 Mr. SMITH. It might be well to suggest that these checks are part of the \$178,000 which actually matches the deposits Mr. Blair made.  
 Mr. ALFRED LUCKING. Exactly, but where did the \$35,000 come from before that, that was used in cash?  
 The ACTING CHAIRMAN. If you have any evidence to show that, produce it.  
 Mr. ALFRED LUCKING. That is the evidence of it. What did they put it on at the last minute for?  
 The ACTING CHAIRMAN. Proceed with anything further this witness knows. He has already made his explanation of it. (R., 585.)  
 Mr. WILLIAM LUCKING. Mr. Floyd, did you get this explanation from Mr. Emery?  
 Mr. FLOYD. Of these checks?  
 Mr. WILLIAM LUCKING. You have explained what was done with that \$17,000 check. Did you get your explanation from Mr. Emery?  
 Mr. FLOYD. Certainly not.  
 Mr. WILLIAM LUCKING. How do you know it then?  
 Mr. FLOYD. I know all about it myself.  
 Mr. WILLIAM LUCKING. You do?  
 Mr. FLOYD. Yes, sir.  
 Mr. WILLIAM LUCKING. What did Mr. Emery do with the \$17,000? Where did he get that cash on the 7th of September?  
 Mr. FLOYD. I don't know what he did with it. He certainly had to reimburse somebody for the cash that he had advanced.  
 The ACTING CHAIRMAN. We are through with those checks. Proceed on some other line. (R., 586.)  
 Mr. WILLIAM LUCKING. There are no checks in this check register for the pay roll of \$35,000 except one \$2,500 check and one \$1,500 check, possibly. That is the point I make.  
 The ACTING CHAIRMAN. And thus Mr. LUCKING infers that if the pay roll of \$35,000, for which there are no checks in the check register, were added to the \$161,000 in the check register it would produce a total of \$196,000.  
 Mr. LUCKING. Yes; and on top of that there is nothing in this check register for all the expenses out in the State to workers, except the \$2,500 check to Mr. Floyd, which is No. 748, I think—  
 Mr. SMITH. What is the number of the salary adjustment? Have you got that there, Mr. LUCKING?  
 Mr. WILLIAM LUCKING. You mean the two Emery checks?  
 Mr. FLOYD. They run No. 1819 or 1820, or somewhere along in there.  
 Mr. WILLIAM LUCKING. No. 1827 to Mr. Emery for \$17,629.29; No. 1821 to Mr. Emery for \$8,825.62; No. 1819 to Mr. Floyd for \$5,559.88; and No. 1825 to Mr. Floyd for \$2,592.27.  
 The ACTING CHAIRMAN. Have you made any examination on that point?  
 Mr. FLOYD. Yes; I have, sir.  
 The ACTING CHAIRMAN. Will you state it clearly?

Mr. FLOYD. I found the original paper that I made up at the time this pay roll was distributed for the purpose of making up the so-called Blair report, which, if you remember, is classified under four or five general heads. There is a difference of several hundred dollars. It is within at least a thousand dollars of a complete check, but it was so long ago that I do not know that I can check that up. I would be glad to have this go right into the record if you want it to.  
 The ACTING CHAIRMAN. You may put it in as part of your testimony.  
 Mr. FLOYD. Do you wish it read?  
 The ACTING CHAIRMAN. Unless it helps you in your testimony we do not want it.  
 Mr. SMITH. I think you had better read the totals and give a general description.  
 Mr. FLOYD. The total distribution of pay roll accounts, as shown by this memorandum, is \$36,540.17.  
 Senator POMERENE. What memorandum?  
 Mr. FLOYD. The original memorandum I made at the time I made up the distribution of the so-called Blair report. The total is \$36,540.17.  
 The ACTING CHAIRMAN. That is, pay rolls? (R., 661.)  
 Mr. FLOYD. Yes, sir. That is the amount that is distributed into the Blair report. Here is the distribution: First, it is divided into office, including all clerical help. I show it as H. O. Turner et al., \$17,985.51.  
 The next division is publicity. The names are Morgan, Duthrie, Kopel, Wilson, Hopkins, Haskins, Calnon, and Phillips. The total of that pay roll is \$8,600.  
 The next division is field men—Davis, Corliss, McGregor, and Moore. The total is \$6,625.  
 In addition to that there is the Wayne County committee, which was taken care of through Emery funds and charged to county expenses. That pay roll totaled \$3,614.66. It makes a grand total of \$36,540.17.  
 Mr. SMITH. How does that compare with the pay-roll sheets, Exhibit 136?  
 Mr. FLOYD. I did not have access to those sheets in making up the check I made last night.  
 Mr. SMITH. You have the amount there, I think, somewhere.  
 Mr. FLOYD. I think the amount is \$35,435.39. In other words, we distributed a little over a thousand dollars more in the Blair report than these pay rolls would show. That is evidently clerical errors in combining these various accounts.  
 Under the office pay roll, in order to get a distribution into the general accounts, we had to use our best judgment as to everything in the office, as to how much time was spent by clerks in doing this and how much in that. We arrived at these percentages:  
 Newspapers, 20 per cent. Distribution of literature, 5 per cent. Letters and postage, 60 per cent. Speakers, 10 per cent. List of voters, 5 per cent.  
 This report will show what those percentages amount to against the total Turner pay roll. There is a difference there of \$19—some minor error in making these percentage computations.  
 The publicity pay roll was divided in this way:  
 Seventy per cent to newspapers, 20 per cent to printing and literature, 5 per cent to distribution of literature, 5 per cent to letters. The speakers' bureau was less than 1 per cent; flat at \$285. That was one man.  
 Field men's pay roll was divided in this way: Speakers' bureau, \$1,987.50; meetings, \$993.75; general salaries, \$3,643.75. Each of these various items will appear in the Blair report under their proper headings.  
 Senator EDGE. What was the reason for adopting what would seem to me to be a very complicated system of bookkeeping for a temporary activity like an election campaign is necessarily? It seems to me that it would meet all the necessities of the law in making your report if you had kept the usual ledger, journal, and daybook and entered the accounts in the ordinary way. All this percentage is not required at all under the law.  
 Mr. FLOYD. No.  
 Senator EDGE. What was the reason for adopting that method?  
 Mr. FLOYD. It appears superfluous. We had a report of something like 30 pages.  
 Senator EDGE. The so-called Blair report?  
 Mr. FLOYD. Yes. (R., 662.)  
 Mr. WILLIAM LUCKING. Did you know that this check register for the period from the time that Commonwealth account was opened, the main account of \$178,000, down to the 1st of June, showed about \$5,000 of checks drawn, whereas the withdrawals from the Commonwealth Bank record showed about \$2,000 during this same period? Did you know that?  
 Mr. FLOYD. No, sir; I did not.  
 Mr. WILLIAM LUCKING. You never checked that up when you were making this check register, Exhibit 136?  
 Mr. FLOYD. I can not understand such a situation as that. I either did not get your question—  
 Mr. WILLIAM LUCKING (Interposing). I am asking you whether you know it?  
 Mr. FLOYD. I misunderstood your question, or you have created an overdraft there.  
 Mr. WILLIAM LUCKING. You might have had a big enough balance to have stood that. You didn't keep track of that balance from day to day?  
 Mr. FLOYD. I certainly don't understand that question.  
 Senator EDGE. According to that statement there was a discrepancy of \$15,000.  
 Mr. WILLIAM LUCKING. Yes.  
 Mr. SMITH. This sheet, Exhibit 38, shows the withdrawals and deposits.  
 Mr. WILLIAM LUCKING. Starting with check 1, right down, up to June 1, 392 checks had been issued, according to the check register, around \$5,000 odd, whereas the withdrawals from the same account, as shown by the bank record, and as contained in the exhibit which Mr. Smith offered this morning, which is page 120 in the printed record, shows that in the same period there were withdrawals of about \$20,000.  
 Mr. FLOYD. That is very simple. I understand the whole situation. I did not understand your question before. When I checked that account over I found the system had been changed and that the preliminary pay-roll checks, which I believe were described as "pink" checks, had been entered in that account. The total of those checks must have been somewhere around \$11,000. I can't give you the exact figures.

That was the pay-roll account. That applies against the \$36,000 of the total.

Mr. WILLIAM LUCKING. That applies against the \$36,000?

Mr. FLOYD. That applies against the \$36,000 of total pay-roll accounts. (R., 670.)

Mr. WILLIAM LUCKING. Why didn't you show on the check register there were certain checks that were not on it?

Mr. FLOYD. Those were regular voucher checks.

Senator EDGE. Did the approximately \$15,000 difference between the \$5,000 shown on the check register and the \$20,000 shown as withdrawn by the bank record show anywhere on that check record?

Mr. FLOYD. No, sir; it does not. It shows in the report.

Senator EDGE. Are we to assume from that that there were \$15,000 more spent than Mr. Blair's report indicates?

Mr. FLOYD. No, sir; that total check register totals about \$160,000.

Senator EDGE. Do I understand that your explanation of the difference between the \$160,000 and the \$178,000 is shown by this \$12,000 or \$13,000?

Mr. FLOYD. Yes, sir; when I checked that account, as near as I could get it, roughly figuring, about \$160,000 was shown on the check register.

Mr. WILLIAM LUCKING. I want to challenge your attention to the fact that I asked you for that total yesterday, and you said you didn't know.

Mr. FLOYD. I didn't know the exact amount.

Mr. WILLIAM LUCKING. Go ahead.

Mr. FLOYD. In that were approximately \$2,000 of accounts receivable. Naturally they were not shown in the Blair report. That would reduce the amount of distribution to approximately \$158,000. On top of that is the \$5,000 of Paul H. King money, which brings it up to \$163,000. The pay-roll checks shown in Exhibit 135, of \$17,000, was written to Emery at the end of the period. The combination of the pay-roll checks and the \$17,000 check to Emery at the end of the campaign totals the entire pay roll, as shown in this exhibit. At the same time the total of the checks on the register of accounts receivable, plus the Paul H. King \$5,000 and the pay-roll money, totals \$176,000.

Senator EDGE, you were looking at me. It is plain to me. It may be complicated to you. I know everything was included in the Blair report. It does not seem to me that question can be answered quickly.

Senator EDGE. I must admit it is a little confusing to anyone who will get a list of checks, as shown there, and their dates, and then suddenly be confronted with the indisputable fact that you actually drew from the bank about \$15,000 more during that period than the check book shows. You are now making an explanation of it which we can consider.

Mr. FLOYD. I could have answered that more quickly if I had understood Mr. Lucking's question.

Mr. ALFRED LUCKING. I want to call your attention to one fact. Both of these counsel certified that this check register included this \$178,000—both of them. I challenged their attention to it. Now the witness says there were a whole lot of other checks. (R., 671.)

Mr. SMITH. We never certified that covered the pay roll at all.

Mr. ALFRED LUCKING. Both of you certified that covered the entire \$178,000.

Mr. SMITH. We have always understood that the check register and pay roll, less the adjustment check to Emery, totaled the amount of the Blair report included in the expenditures. There are two separate classes of expenditures. One is the checks there, and one is the pay roll here. Together they make the amount of the report.

Senator POMERENE. Let me ask you a question. You said he had to straighten up his cash.

Mr. FLOYD. Yes, sir.

Senator POMERENE. Where was that cash kept?

Mr. FLOYD. I don't know where he kept the cash. He had cash in his office. I don't know whether he used a safety deposit box or not.

Senator POMERENE. You mean in the committee's office?

Mr. FLOYD. Yes, sir. (R., 672.)

Senator POMERENE. Let me propound another question to you: Suppose John Newberry gave a check for \$5,000, and that is deposited in that bank, and straightway you draw \$2,000 out of that and put it in the cash drawer. That leaves a balance of \$3,000, though there has been deposited \$5,000.

Mr. FLOYD. Yes, sir.

Senator POMERENE. Suppose Mr. Barnes comes in and contributes \$5,000, and that goes in the cash drawer. There is \$7,000 in cash.

Mr. FLOYD. Yes, sir.

Senator POMERENE. And our friend Emery has I O U's and receipts and so on showing he had got \$7,000.

Mr. FLOYD. Yes, sir.

Senator POMERENE. Then you draw a check to his order for \$7,000 and you deposit that in the bank. How is that bank going to show the proper status of your account when the second \$5,000 has not been deposited in the bank? The deposit shows first \$5,000 and later \$7,000 or \$12,000.

Mr. FLOYD. Yes, sir.

Senator POMERENE. Straighten that out in the record, if you can, in the way that you did it.

The ACTING CHAIRMAN. Do you understand the case?

Mr. FLOYD. I think I do, Mr. Chairman.

I think, in the first place, the proper way of handling that would be to make a reimbursement check for the \$5,000, attaching to it a statement of what it covers, and have that check indorsed by the man who spent the money, and take that check over and deposit it in the bank. That would not affect the bank balance at all.

Mr. WILLIAM LUCKING. It would show?

Mr. FLOYD. Yes, sir.

Senator POMERENE. That is not how it might be done, but how did you do it?

Mr. FLOYD. In the first place, I didn't do that. I am telling you what I found when I checked over this account.

Senator EDGE. Maybe Mr. Floyd can go into the United States Treasury Department and help us out there.

Senator POMERENE. I wish he would.

The ACTING CHAIRMAN. Proceed.

Mr. FLOYD. It is plainly evident, Senator, that this \$13,000, when the check was cashed, was used in conducting the campaign, and then at the end it was also plainly evident that cash contributions when made would be used in the business before depositing in whole or in part, sometimes in part and sometimes as a whole.

Senator EDGE. I see how it could be done. (R., 678.)

Senator POMERENE. Were you present at the time instructions were given to burn or destroy some of the records and correspondence?

Mr. FLOYD. I was not present at any such conversation.

Senator POMERENE. Did you hear that any of it was destroyed?

Mr. FLOYD. Yes, sir. I could see plainly that each day all the superfluous matter accumulating around the office, that the next morning the place was clean, and the janitor had evidently taken it away and destroyed it.

Senator POMERENE. When was that?

Mr. FLOYD. All during the campaign.

Senator POMERENE. They did not take your office files away?

Mr. FLOYD. I never knew anyone else who took any office files or anything of that kind away and burned them.

Senator POMERENE. What other books did you see in the office other than those we have here? Books of record, I mean.

Mr. FLOYD. There were really no books of record in the way you mean, ledger and journal. They had various statements on sheets, these pay-roll sheets, and of various sizes and different shapes, but no regular books of record.

Senator POMERENE. No regular books at all?

Mr. FLOYD. No, sir.

Senator POMERENE. So that these accounts, amounting to more than \$170,000 of receipts and disbursements, were kept on mere memoranda and sheets?

Mr. FLOYD. Practically; yes, sir. That is what I would call them.

Senator POMERENE. Did you have any record of contract, book records, or any files?

Mr. FLOYD. They had some kind of thing; I don't know how you would describe it. I have seen it in the publicity department, something in the shape of a card referring to different newspapers. I think there was something of that kind.

Senator POMERENE. Did you have them at the time you were fixing up this Blair account?

Mr. FLOYD. I could have had access to them. If I could have obtained any information that would have been helpful, I would have used them.

Senator POMERENE. Did you have access to them?

Mr. FLOYD. Yes, sir.

Senator POMERENE. Why were those not kept?

Mr. FLOYD. I can not understand it.

Senator POMERENE. Who would understand that?

Mr. FLOYD. I don't know who would. They were publicity department forms.

Senator POMERENE. Do not misunderstand my question. I am referring to all books and papers, records, and documents they had which were destroyed. Who would know about that? Who can give us some definite information?

Mr. FLOYD. As to their destruction?

Senator POMERENE. Yes; or as to their whereabouts, if they are to be found. (R., 691.)

Mr. FLOYD. I can speak for the ones I came in contact with.

Senator POMERENE. Very well.

Mr. FLOYD. Everything I came in contact with to make up these reports were really originals and complete reports.

The ACTING CHAIRMAN. What do you mean by that? Do you mean Exhibits 135 and 136?

Mr. FLOYD. Yes, sir; the Blair report, the sheets, these final checks, everything we kept in the senatorial office, in headquarters. There was very little more of it. I remember those very well when I was making up that report.

Senator POMERENE. Where are they?

Mr. FLOYD. They were left there. The State central committee followed the senatorial committee into those rooms.

Senator POMERENE. Do you mean these papers and accounts were left with the State committee?

Mr. FLOYD. Here are the accounts right in front of you.

Senator POMERENE. No. Those are secondary matters, from your statements, as I understood them.

Mr. FLOYD. I did not intend to have them understood that way.

Senator POMERENE. You just made a statement to the effect that they had certain memoranda and sheets or something of that kind on which they made records from time to time.

Mr. FLOYD. Yes, sir.

Senator POMERENE. Your account is made up from those sheets or whatever they were?

Mr. FLOYD. Yes, sir.

Senator POMERENE. Where are the original entries of which this is secondary matter? Who can give us any information as to those original papers and original entries?

Mr. FLOYD. I don't know who can. I know I tried to find some of them after the State central committee had gone into these offices.

Senator POMERENE. Did you make any attempt to discover what had become of these documents after this subject got into the court at Grand Rapids?

Mr. FLOYD. Not after that time, but long before that time.

Senator POMERENE. Did anybody else try to find them?

Mr. FLOYD. I was asked at different times if I knew where they were, and I told them I had searched for them. They said, "The State central committee went in and took the offices. They are probably in their files." The chairman was dead, and there was no way of finding out what he did with them.

Senator POMERENE. Let me see if I understand you. There were 100 or more of you gentlemen under indictment.

Mr. FLOYD. Yes, sir.

Senator POMERENE. And you had skilled lawyers?

Mr. FLOYD. Yes, sir.

Senator POMERENE. Whatever you did, whether rightly or wrongly, was the subject of an investigation by the criminal court?

Mr. FLOYD. Yes, sir.

Senator POMERENE. With all that incentive to get all the facts, have you or anyone else connected with that defense, to your knowledge, been able to find what became of those original documents?

Mr. FLOYD. No, sir; I have not. (R., 692.)

#### SUMMARY.

The exorbitant expenditures in this primary campaign shocked the conscience of the country.

The attorneys for the contestant claim in their supplemental brief that the record shows disbursements in behalf of Senator Newberry aggregating \$263,060.67.



Some of these expenditures may be duplicates. The original books and records of the committee have been destroyed, or at least not produced. The books of the Newberry interests are likewise gone. The majority of the committee would not permit the subpoenaing of bankers to produce their books showing the Newberry accounts. There is no way in the present state of the record to arrive at the exact cost of this campaign. We are reasonably certain that much money was expended of which there is no account.

On the other hand, the Blair report, filed under the Michigan statute (B. E., 252-283), shows total disbursements of \$176,568.08. After this report was filed Secretary Charles A. Floyd testified that additional bills were presented, which were paid, aggregating between twelve and fifteen thousand dollars.

Accepting this smaller figure as correct, the total cost of Mr. Newberry's primary campaign was \$188,568.08. In other words, to secure him the nomination there was an outlay in Michigan of a sum sufficient to pay his salary for more than 25 years.

In the language of Senator Hear and Senator Frye in the Payne case, "no more fatal blow can be struck at the Senate or at the purity and permanence of the republican government itself than the establishment of this precedent."

True, Mr. Newberry, in his sworn statement filed with the Secretary of the Senate, says the campaign was voluntarily conducted by "his friends." "I have taken no part in it whatever, and no contributions or expenditures have been made with my knowledge or consent," says he.

But with the accusing finger of a large portion of the people of his State pointing at him and with this incriminating record before him he has not up to date volunteered to tell his colleagues in the Senate what the facts are, and the majority members of this committee refuse to invite him to tell them.

We submit that a careful review of this report supplemented by a reading of the record in this case will show conclusively:

First. That his nomination as a candidate for United States Senator was secured by this extravagant expenditure of money, without which he could not have hoped to win over his competitors, because he was little known in the State.

Second. This money was expended through the agency of the Newberry senatorial committee.

Third. This committee was organized at his instance and manned by executives whom he himself chose, or if they were suggested by his friends he approved them.

Fourth. While a larger part of the planning of the campaign may have been done by the executives of the committee, they were submitted to him for his approval.

Fifth. He approved or disapproved these plans according to his judgment.

Sixth. Every general activity of this committee and its executive officers, whether in organization or publicity work, was reported to him almost daily by Mr. Paul H. King, the executive chairman, and others.

Seventh. Many conferences were held between him and the executive members of his committee at New York for the purpose of originating, or criticizing, or revising the plans of the campaign.

Eighth. While Mr. Paul H. King insists that he never discussed with Senator Newberry the financing of the campaign, except in his first conversation when he told him that it would cost "his friends" \$50,000, he did know concededly the enormous expenses of the plan of organization and publicity of his senatorial committee, and he knew also that his own bank account and the bank accounts of the other Newberry interests were being depleted by his own attorney in fact, Frederick P. Smith, in order to replenish the waning balance in the bank account of his brother, John S. Newberry, out of which the campaign expenses were being paid. This is known because this same Frederick P. Smith testifies, as above quoted, that Senator Newberry talked to him "about the drain on the balances in the office, and he was complaining about the money that was being spent," and again that he (Senator Newberry) was "kicking about the balances."

Ninth. These drains on the Newberry finances must have been heavy, because out of these various funds were furnished net \$99,900, the amount charged in the Blair report.

Tenth. The Michigan law limited the expenditure of any candidate for the Senate to \$3,750. We submit that this amount could not be increased by the organization of a committee to act as his agent, and this committee did so act. Qui facit per alium, facit per se.

Eleventh. The Newberry senatorial committee, the agent of the candidate, violated the Michigan law by far exceeding the limitations upon expenditures, by hiring workers on primary day and for days before, and its members by purchasing drinks and cigars for voters.

Twelfth. The Blair report of the receipts and expenditures of the Newberry senatorial committee clearly violates the Michigan law, because it does not give the names of the men who did active work in the campaign and to whom money was paid, nor does it in many instances state the purpose for which it was paid, and gives no account of the liabilities which were outstanding and unpaid at the time that the report was filed.

Thirteenth. The Michigan statutes require both Senator Newberry, the candidate, and the treasurer of the senatorial committee to file accounts of their receipts and expenditures. The treasurer's account does not comply with the law for the reasons hereinbefore stated, and Senator Newberry filed no account whatsoever.

Fourteenth. Not having filed any account under the Michigan statutes, it was unlawful for the Michigan authorities to issue a certificate of nomination to Mr. Newberry.

Fifteenth. The Federal corrupt practices act required statements of receipts and disbursements to be filed in connection with the primary and general election campaigns.

Under this statute and under oath he filed on August 16, 1918, a preliminary statement in which he said:

"The campaign for my nomination for United States Senator has been voluntarily conducted by friends in Michigan. I have taken no part in it whatever, and no contributions or expenditures have been made with my knowledge or consent."

Under date of August 29, 1918, he filed his account of receipts and expenses for the primary election held August 27, 1918, in which he said, under the printed words:

"The following is a true and itemized account of all moneys and things of value given, contributed, expended, used, or promised by me or by my agent, representative, or other person for or in my behalf with my knowledge or consent, etc."

Then in his handwriting appears the words "none with my knowledge and consent."

This qualification follows:

"I have read the general published statement of Paul H. King concerning expenditures made by a volunteer committee of my friends, but these were made without my knowledge or consent."

These statements were made under oath and filed in conformity with the Federal statute. Presumably they influenced to some extent the voters of Michigan. The minority members regret to say that they were not true, and while the statute under which they were filed has been held unconstitutional the moral turpitude involved in their making is just as great as if the statute had been held constitutional.

Sixteenth. In our opinion the record as hereinbefore shown conclusively establishes a conspiracy upon the part of Truman H. Newberry et al., who were indicted and tried for a conspiracy to violate both Federal and State laws; that such conspiracy had for its object the violation of the election laws of the State of Michigan as well as the Federal statute limiting the expenditures allowed by a candidate for United States Senator and contemplated the debauching of the electorate of the State of Michigan by the expenditure of large sums of money; that said Truman H. Newberry participated in said conspiracy and actively engaged in its execution; that in pursuance thereof he selected agents and directed their activities; that he was familiar with the fact that large sums of money were being expended and would be expended in the primary election for the purpose of corrupting the electorate of the State of Michigan and in violation of the election laws of said State; that he knew that not less than \$188,568.08 were expended in said primary election and that the expenditure of said money was in violation of law; that he aided in the creation of a committee to take charge of his campaign as a candidate for the United States Senate and directed the work of said committee and was cognizant of its activities, including the expenditure of large sums of money in violation of the election laws of the State of Michigan; that he approved of the work of said committee and of its activities and of its large expenditures and was fully aware of the nature, character, and accomplishments of said committee and of the methods employed by it to secure his nomination at the primary election; that through his confidential agent and attorney in fact he contributed to said expenditures various large sums from time to time, but the amounts so contributed or the aggregate thereof are not known to the committee because neither said Truman H. Newberry nor those who controlled the payment of said amounts testified in respect thereto, and further contended that the books and accounts showing such payments were either lost or destroyed; that the payments so contributed by said Newberry, in the manner hereinbefore described, to said committee for the purposes aforesaid were so large as to impair the account of said Newberry at the bank where he conducted his business, resulting in his complaining to Frederick P. Smith, his confidential agent and attorney in fact, because of his reduced balances in bank, as stated in the eighth finding herein; that notwithstanding the knowledge by said Newberry of the facts hereinbefore stated, he filed under oath the statements referred to in the fifteenth finding hereinbefore set forth; that said statements submitted under oath were false and untrue to the knowledge of said Newberry in this, to wit: That he did take part in said campaign and did make contributions and expenditures and that contributions and expenditures were made to secure his nomination, with his knowledge and consent, and pursuant to his direction and control; and that the campaign for his nomination was conducted under the direction of said Newberry and pursuant to said conspiracy hereinbefore set forth.

#### BOOKS AND RECORDS DESTROYED OR MISSING.

One of the difficulties confronting the committee was the failure to produce the original books and entries of the Newberry senatorial committee.

Mr. Frank W. Blair, the treasurer of the committee, who filed the report of receipts and expenditures, was a mere figurehead. He kept no books. The account was prepared for him, and after some explanation he signed it and it was filed. The only records of receipts and expenditures presented to the committee were:

(a) The report of Mr. Blair.

(b) The pay roll.

(c) The check register.

(d) Government Exhibit 134 of 511 checks out of a total issue of 1,820 to 1,830 checks.

Blair says B. F. Emery was keeping the books of the committee. (R., 389.)

Harry O. Turner, the assistant secretary and assistant office manager of the committee, says (R., 697):

"I took receipts for every disbursement. These receipts were turned over to the auditing or bookkeeping department. The vouchers were turned over to the bookkeeping department. (R., 700.)"

"Senator POMERENE. If there was a bookkeeping department and you were in and out of there, did you not see some books?"

"Mr. TURNER. I saw some books, but for what purpose they were used I do not know. They were different kinds of books, memorandum books and things of that kind—records. I suppose that the auditing department kept a system of books."

"Senator EDGE. Who was the chief auditor?"

"Mr. TURNER. Mr. Emery was the man in charge of that."

"Senator EDGE. We ought to get back to Mr. Emery. (R., 700.)"

"Senator POMERENE. I wish you would tell this committee what books and records you saw about the headquarters there that were used in connection with the work of this campaign committee."

"Mr. TURNER. Senator, I can not tell you exactly what was used. I suppose they were using a daily register of some kind of disbursement and checks being issued. I thought I saw at one time, or at least understood, that there was a record kept of the checks that were drawn for newspapers. (R., 704.)"

They had certain memoranda and sheets from which they made up their account. Floyd says he tried to find them. The State central committee had gone into their office. He could not find them. (R., 692.) Floyd says it was Mr. B. F. Emery's duty to keep the books."

When asked about certain records Mr. King says, in answer to a question, "that they were in the office up to the day of the primary." (R., 335.)

Again, Mr. Alfred Lucking (R., 620) asks Mr. King, the executive chairman of the committee, about the books showing receipts on one side and expenditures on the other. He answers, "I never saw any such book. I presume there were books, but I never saw any such books." At the beginning of the campaign I talked over with Mr. Emery a system of keeping track of the account, but I never had time or opportunity to go into the details of financing the campaign."

All of these men knew that it was necessary to keep an account of receipts and disbursements. The record is full of testimony to the effect that they had books or records. The original entries they must have had, for otherwise they could not have made up the pay roll, the check register, or the Blair report.

King admits that he gave instructions to burn up the correspondence. We can speculate as to where these books are, but they have not been produced, though they were in charge of the men who were intimately connected with this campaign.

King and Floyd and Turner all indicate that it was B. F. Emery's duty to keep books, and he had charge of the bookkeeping or auditing department. B. F. Emery is said to be sick. That he was sick is true, but he was going about his business when process was served upon him in Detroit. When Mr. Lucking is told of his condition, that he is not fit to appear, he consents to a cancellation of the service of process, and immediately Emery went to Canada. About one month after service was made upon him, when it was understood that the hearings have been concluded, he is again back in Detroit.

The minority asked that he be called before the committee. A doctor, about one month before, said that he could not appear at that time, but there is no evidence that he could not have appeared before the committee either in Washington or at Detroit at the time the minority members of the committee asked for his appearance. The majority refuse to call him, and so the one man, the one officer who ought to have knowledge of the whereabouts of these records does not testify.

Again, the books showing the financial transactions of the Newberrys, and particularly of John S. Newberry, who furnished most of the money for the campaign, have likewise disappeared. It is claimed that after they were taken before the grand jury they were returned to the Newberry barn and locked up, and when Frederick P. Smith, the confidential agent, goes to the barn to get the books they are missing.

We then asked to have the officers of the National Bank of Commerce, in which John S. Newberry kept his account, called to produce the bank records of John S. Newberry's transactions. Again, the majority of the committee refuse to issue process, and thus we are without what certainly is available evidence, but the majority of the committee refuse to get it.

Lyman D. Smith, of New York, was likewise a large contributor. It became important to follow his transactions. His records, too, are gone, but the majority of the committee deny the right of counsel for the contestant to call the officers of the bank in which he kept his deposits.

The majority members seem to think that the pending contest was purely an adversary proceeding between Mr. Ford and Mr. Newberry. In one sense of the word this may be true, but it is a controversy which concerns the Senate itself, and the minority are very firmly of the opinion that witnesses desired by any Senator serving on the committee should have been called.

A request to this end was made by the minority members in subcommittee. It was denied.

In a meeting of the full Committee on Privileges and Elections the following several resolutions were presented by Mr. POMERENE:

"Resolved by the Committee on Privileges and Elections, That the subcommittee be instructed to subpoena and take the testimony of Frederick P. Smith and such other witnesses as may be suggested by any member of the subcommittee to the end that there may be a full and complete hearing respecting the issues involved in the pending contest.

"Resolved by the Committee on Privileges and Elections, That the subcommittee be instructed to invite Senator Newberry to appear before it to give testimony concerning the charges pending against him involving his title to a seat in the United States Senate.

"Resolved by the Committee on Privileges and Elections, That the attorneys representing the contestant and the contestee in the pending investigation be invited to appear before the full committee to submit oral arguments on a date to be fixed by the chairman of the committee."

They speak for themselves. Each one of them was denied. How the contestee or the majority of the committee can ask their colleagues to declare Truman H. Newberry entitled to his seat under these circumstances the minority is not able to explain.

#### NEWBERRY VS. UNITED STATES.

The majority report makes reference to the decision of the Supreme Court in *Newberry v. United States*, and quotes with much force from the late Chief Justice the following:

"There can be no doubt when the limitations as to expenditures which the statute imposed are considered in the light of its context and its genesis that its prohibitions were intended, not to restrict the right of the citizen to contribute to a campaign, but to prohibit the candidate from contributing and expending or causing to be contributed and expended to secure his nomination and election a larger amount than the sum limited as provided in the statute."

And from Mr. Justice Pitney as follows:

"His mere participation in the activities of the campaign, even with knowledge that moneys spontaneously contributed and expended by others, without his agency, procurement, or assistance, were to be or were being expended, would not of itself amount to his causing such excessive expenditure.

"A candidate can not be made a principal offender unless he directly commits the offense denounced. Spontaneous expenditures by others being without the scope of the prohibition, neither he nor anybody else can be held criminally responsible for merely abetting such expenditures.

"His remaining in the field and participating in the ordinary activities of the campaign, with knowledge that such activities furnish in a general sense the 'occasion' for the expenditure, is not to be regarded as a 'causing' by the candidate of such expenditure within the meaning of the statute."

The minority regrets that the majority of the Supreme Court felt compelled to hold the corrupt practices act unconstitutional. They prefer the reasoning of the Chief Justice and of Mr. Justice Pitney. They regard it as unanswerable. If the Supreme Court can say, as it did in *McPherson v. Blacker* (146 U. S., 1), that the election of presidential electors by popular vote was a compliance with the provision of the Constitution that each State shall appoint electors in such manner as the legislature thereof may direct, they can not understand why the majority of the Supreme Court could hold that the regulation of the manner of "holding elections for Senators" does not embrace primary elections. But we accept the conclusion of the majority opinion in this behalf, as we ought to do.

We agree that there was error in the charge of the trial court as pointed out.

A careful reading of the opinions delivered shows very clearly that they discuss two legal propositions—the constitutionality of the cor-

rupt practices act and the correctness of the charge of the trial judge. The facts involved in the record were only referred to incidentally in so far as they might shed light upon the legal propositions involved.

We admit that the statute does not restrict the right of the citizen to contribute, and that mere knowledge that moneys were being spontaneously contributed and expended by friends without his agency would not of itself be a causing of excessive expenditures.

We admit that the candidate's remaining in the field and participating in the ordinary activities of the campaign with knowledge that they occasioned the expenditure of large sums of money could not be regarded as a causing of such expenditure within the meaning of the statute.

But if it is claimed that the Chief Justice or the Justices of the Supreme Court expressed any opinion as to the facts contained in the record before it, which we deny, it is a sufficient answer to say that the record before the Supreme Court is not the record before the Committee on Privileges and Elections of the Senate.

We have quoted and discussed at length the testimony of John S. Newberry, the principal contributor to this campaign fund; of Fred P. Smith, the confidential agent and attorney in fact of the Newberrys; of Allan Templeton, the general chairman of the committee and a business associate of Senator Newberry; of Frank W. Blair, the treasurer of the committee; of Hannibal A. Hopkins, the publicity director; of Charles A. Floyd, the secretary of the committee; of Harry O. Turner, assistant secretary and office manager; of Lyman D. Smith, a contributor before; and of Andrew H. Green, a large contributor after the primary was over. None of these witnesses testified in the criminal trial.

Also in the trial court Mr. Paul H. King, the executive chairman, was not cross-examined by the Government because of sickness. He was further examined and cross-examined before the committee.

The testimony of these and other witnesses was before the Committee on Privileges and Elections and was not in the record before the Supreme Court.

This additional evidence shows conclusively Senator Newberry's active participation in the organization of his committee, his approval of all its activities, with few exceptions, his direction as to many of them, and the contributions from his own funds as well as other family funds in which he was interested through the medium of his brother, John S. Newberry, so that it can in no sense of the word be claimed that the moneys expended were spontaneously contributed by his friends, and that he did not participate therein.

The voice of the senatorial campaign committee may be the voice of the friends and business associates of the candidate, but its hand was the hand of Truman H. Newberry.

#### CONCLUSIONS.

As conclusions from the facts disclosed by the record and the findings herein set forth, we are of the opinion—

First, That the irregularities complained of do not relate to the general election but to the primary. Henry Ford did not receive a plurality of the votes cast at the general election. We therefore find that the petitioner, Henry Ford, was not elected and is not entitled to a seat in the Senate of the United States.

Second, We find that under the facts and circumstances of this case corrupt and illegal methods and practices were employed at the primary election and that Truman H. Newberry violated the corrupt practices act and the primary act of the State of Michigan, and that by reason thereof he ought not to have or hold a seat in the Senate of the United States, and that he is not the duly elected Senator from the State of Michigan for the term of six years commencing on the 4th day of March, 1919, and we recommend, therefore, that his seat be declared vacant.

ATLEE POMERENE,  
WILLIAM H. KING,  
HENRY F. ASHURST.

#### IN RE NEWBERRY CASE.

#### VIEWS OF MR. ASHURST.

The sitting Member, Mr. Truman H. Newberry, filed affidavits with the Secretary of the Senate stating that no money was spent in his primary campaign "with his knowledge or consent."

Mr. Frederick P. Smith, before the Subcommittee of the Committee on Privileges and Elections, testified inter alia as follows (H., 753-755): [H. refers to hearings before the Subcommittee of the Committee on Privileges and Elections; B. E. refers to bill of exceptions in re Newberry et al. v. The United States.]

Mr. ALFRED LUCKING. What do you call your position, secretary or executor?

Mr. SMITH. No; I call myself agent.

Mr. ALFRED LUCKING. You are their confidential financial man, are you not?

Mr. SMITH. Yes.

Mr. ALFRED LUCKING. You have, I think it has been said here, powers of attorney from both Mr. Truman and Mr. John Newberry?

Mr. SMITH. Yes; practically all of the interests in the office. I carry their powers of attorney.

Mr. ALFRED LUCKING. And there are others also interested?

Mr. SMITH. Yes.

Mr. ALFRED LUCKING. What others?

Mr. SMITH. Mrs. Truman Newberry's individual interests and Mrs. John S. Newberry's individual interests, and their sons.

Mr. ALFRED LUCKING. What did John Newberry say to you?

Mr. SMITH. He came to me, as near as I can remember it, the latter part of February or the first part of March—it was the late winter—and told me that if the committee made any demands for campaign funds, if his brother should be in the senatorial race, to give them the money. I do not remember whether he mentioned Mr. Templeton's name or not. I knew Mr. Templeton quite well. The first call was from him. The checks that were given after that were all given to Mr. Templeton the same as the first one.

Mr. ALFRED LUCKING. You have given us, in substance, all that transpired, have you?

Mr. SMITH. Yes, sir.

Mr. ALFRED LUCKING. No other discussion, except to direct you, if they wanted money and came and asked for it, to give it to them?

Mr. SMITH. Yes, sir.



Mr. ALFRED LUCKING. No limits as to amounts placed on you?  
 Mr. SMITH. No, sir.  
 Mr. ALFRED LUCKING. And no reports made to him as to the amounts you paid?  
 Mr. SMITH. No, sir.  
 Mr. ALFRED LUCKING. And no inquiries by him as to what it was used for?  
 Mr. SMITH. No.  
 Mr. ALFRED LUCKING. Or as to how much was used?  
 Mr. SMITH. My power of attorney is a very broad one.

Mr. ALFRED LUCKING. Mr. Truman Newberry asked you about the expenses at times, did he not?  
 Mr. SMITH. I do not remember that he did.  
 Mr. ALFRED LUCKING. You reported to him every day what was going on, did you not?  
 Mr. SMITH. No.  
 Mr. ALFRED LUCKING. Did you not send him a telegram every night of what occurred during the day?  
 Mr. SMITH. I sent him a telegram generally at night regarding what the papers said.  
 Mr. ALFRED LUCKING. About what the newspapers were saying?  
 Mr. SMITH. About what the newspapers were saying.

Mr. ALFRED LUCKING. I do not want anybody to accuse us of absolutely misleading the witness when it is plain he is mistaken. May I call your attention to page 219, to the following telegram:

DETROIT, MICH., July 28, 1918.

Lieut. TRUMAN H. NEWBERRY.  
 Third Naval District, 280 Broadway, New York:

I misinformed you this morning the date of close of regular expenses. Should have said August 27. The circular work, advertising, clerical help, postage, and all regular overhead expenses will naturally continue until primary. Have written.

FRED P. SMITH.

Did you send that telegram?  
 Mr. SMITH. Yes; I did.  
 Mr. ALFRED LUCKING. Then, it was not about when the primary was; it was when the expenses would cease that you were talking with him and writing him about. Is that right?  
 Mr. SMITH. That is probably it. I do not know what the conversation was, but I had told him July 27. I misinformed him as to the month.

Mr. ALFRED LUCKING. You had been talking to him. He wanted to know when these expenses were going to stop, did he not?

Mr. SMITH. I do not believe so. I think his conversation was about the drain on the balances in the office, and he was complaining about the money that was being spent.

Mr. ALFRED LUCKING. Complaining about the large amount of expenses being drawn?

Mr. SMITH. Of the money that was being spent and drawn from the account all the time and put into his brother's account to keep from being overdrawn.

Mr. ALFRED LUCKING. And his funds as well as his brother's were used?

Mr. SMITH. And everybody else's.  
 Mr. ALFRED LUCKING. To keep up the amounts that were on the books charged against John?

Mr. SMITH. To keep his account from being overdrawn.  
 Mr. ALFRED LUCKING. And he wanted to know when this thing was going to end. Is that the idea?

Mr. SMITH. I think that is right.  
 Mr. ALFRED LUCKING. You got the date wrong in your talk, and so you sent this telegram to him?

Mr. SMITH. Yes, sir; that is right.  
 Mr. ALFRED LUCKING. And you say:

"I misinformed you this morning the date of close of regular expenses. Should have said August 27."  
 In other words, you should have said that the expenses would then be cut off?

Mr. SMITH. Yes, sir.  
 Mr. ALFRED LUCKING (reading):  
 "The circular work, advertising, clerical help, postage, and other regular overhead expenses will naturally continue until primary."

Mr. SMITH. Yes, sir.  
 Mr. ALFRED LUCKING. And that is what he had been talking with you about over the phone?

Mr. SMITH. He was kicking about the balances.

THE ACTING CHAIRMAN. Any questions, Senator WOLCOTT?  
 Senator WOLCOTT. Yes; I want to find out about the checking out of these funds by you, Mr. Smith, to the Newberry primary committee. Those checks were all drawn against what account in your office?

Mr. SMITH. Against Mr. John S. Newberry's account.  
 Senator WOLCOTT. Are you positive they were invariably drawn against that account and no other?

Mr. SMITH. Absolutely.  
 Senator WOLCOTT. You spoke of transferring funds from the other accounts into his.

Mr. SMITH. Yes, sir. It is a procedure that has been current for years. When one account gets low it is fed from the others. We have 12 different accounts. Of course, we do not feed from the corporations, but the personal ones. I have done it this last week.

Senator WOLCOTT. How many of those personal accounts were there?

Mr. SMITH. There were 10 at that time.

Senator WOLCOTT. Did you transfer funds from Truman H. Newberry's account over to John S. Newberry's?

Mr. SMITH. Yes, sir; or Mr. Truman's to John S., or from Mrs. John S., around either way, and always have done it.

Senator WOLCOTT. All these funds in those various accounts, barring the corporation accounts, went to supply ready money to John S. Newberry's account?

Mr. SMITH. No; I do not think they all did in this case.

Senator WOLCOTT. Then, the funds in their two accounts went to keep the John S. Newberry account up to a sufficient fund so as to enable you to have enough money out of that account to take care of these primary expenses?

Mr. SMITH. In cases where there were overdrafts they would make up enough balance to cover the overdraft.

Senator WOLCOTT. Were those funds advanced from Truman H. Newberry's account and Mrs. Truman H. Newberry's account to John S. Newberry returned in due course to those accounts from which they were originally taken?

Mr. SMITH. Yes, sir.  
 Senator WOLCOTT. Have you the books showing all these transactions?  
 Mr. SMITH. No; I have not.  
 Senator WOLCOTT. Were those books taken by the cashier down to Grand Rapids?  
 Mr. SMITH. I do not remember about it. I did not pay any attention to what he took.

Mr. SMITH. We only have a limited space there in our offices. Every so often we have to clean them out with the enormous amount of business that comes through that office every year.

Senator WOLCOTT. Yes; but this was only a period of about two or three months of financing. How did you keep your books—in loose leaves or bound books?

Mr. SMITH. In bound books.  
 Senator WOLCOTT. Did you ever inquire of this cashier what he did with the books and checks?

Mr. SMITH. No, sir.  
 Senator WOLCOTT. Did you ever make any investigation about their whereabouts after they came back from Grand Rapids?

Mr. SMITH. No; I did not.  
 Mr. ALFRED LUCKING. Well, do you know the total amount that you charged against John S. Newberry on the books?

Mr. SMITH. I do not know what was charged, but I know that the credits, taking credits for what came back, because there were moneys coming back along about the time that the report was made up. It made, as near as I recollect, either \$99,000 or \$98,900. There was a discrepancy of \$900.

Mr. ALFRED LUCKING. What do you mean by a discrepancy?  
 Mr. SMITH. Well, the report showed, after it was filed by this office, \$99,000, and his books showed \$99,900.

Mr. ALFRED LUCKING. I think my recollection is that the report shows \$99,900. I may be in error about that.

Mr. SMITH. I do not think so. I think it is the other way about.

Mr. ALFRED LUCKING. Did you advance moneys in cash to anybody?

Mr. SMITH. Probably half a dozen times—something like that.

Mr. ALFRED LUCKING. To whom?

Mr. SMITH. When somebody would telephone in to meet their pay roll, and they would be out of town, they would ask me to protect their pay rolls, and Mr. Emery would come up, or Mr. Templeton, or Mr. Paul King, and I would give them the check there for cash.

Mr. ALFRED LUCKING. For how much?

Mr. SMITH. Well, a thousand dollars; I don't remember particularly the amounts.

Mr. ALFRED LUCKING. Have you any books showing those checks?

Mr. SMITH. No; I have not.

Mr. Paul King testified inter alia as follows (H., 459-472, 514-536, 550-556):

Mr. ALFRED LUCKING. You had a chairman and secretary of your county committee in nearly every county, did you not?

Mr. KING. I think in every county but Chippewa.

Mr. ALFRED LUCKING. What is that county?

Mr. KING. The home county of ex-Gov. Osborn, who was also a candidate for the nomination, and I felt it discourteous to go into his county and try to organize his political opponents against him, and we did not go into that county.

Mr. ALFRED LUCKING. So that you had an organization in every county outside of that?

Mr. KING. I think so.

Mr. ALFRED LUCKING. Was money put into every one of those counties where you had an organization?

Mr. KING. I think so; practically every county.

Mr. ALFRED LUCKING. Have you got the list of expenditures to those various chairmen?

Mr. KING. I have not.

Mr. ALFRED LUCKING. Money that they handled? (H., 334.)

Mr. KING. I have not.

Mr. ALFRED LUCKING. Who they are?

Mr. KING. I have not.

Mr. ALFRED LUCKING. Where are they?

Mr. KING. I don't know. (H., 335.)

Mr. ALFRED LUCKING. This diversion started at the point of finding out how much money went into each county?

Mr. KING. Yes, sir.

Mr. ALFRED LUCKING. I think you said you could not give the various amounts. I thought I would call them off, but I don't want to unless I am obliged to. You can not give that to me?

Mr. KING. I can not.

Mr. ALFRED LUCKING. What became of the record of that?

Mr. KING. I don't know, Mr. Lucking.

Mr. ALFRED LUCKING. Those records were in your office up to the day of the primary, were they not?

Mr. KING. I think so. (H., 335.)

Mr. ALFRED LUCKING (interposing). Did you report to him practically every day?

Mr. MURFIN. Wait a minute. Let him finish his answer. You considered yourself what?

Mr. KING. I considered myself a free agent, a free lance, to do just as I felt should be done in the management of that campaign, in the way I conducted it. All questions were referred to me for decision and were passed upon to the best of my ability. With the assistance of Mr. Templeton I conducted that campaign. I am glad of it and proud of it.

Mr. ALFRED LUCKING. Did you report every day to Mr. Newberry?

Mr. KING. I wrote him very frequently, and when I was out meeting people I wrote him practically every day, telling him whom I met and what they said and how they felt about his candidacy.

Mr. ALFRED LUCKING. How the campaign was progressing?

Mr. KING. Yes, sir.

Mr. ALFRED LUCKING. And went down to consult with him frequently?

Mr. KING. Several times; not frequently.

Mr. ALFRED LUCKING. About matters of policy?

Mr. KING. Yes, sir. (H., 469.)

I was the organization manager of that Newberry campaign, and I started out to make an organization that was the best one Michigan ever had, and I tried my best to do it, and I think I did. (H., 472.)

Mr. King further testified at the hearing:

I made up one set of field reports and took them or sent them down to Commander Newberry. (H., 606.)

I did report to Mr. Newberry by letter and telegram practically daily. (H., 607.)

Mr. Newberry approved of my plan of publicity. (H., 609.)

On April 14, 1918, Mr. Newberry wrote Mr. King that:

I am glad Mr. Warner (three times governor of Michigan) is scared out for the present, and as long as we keep up our publicity work at full pressure it will be harder and harder for any new man to get any kind of a start that will make it seem worth while for him to be a serious candidate. (B. E., 704.)

Mr. Thomas P. Phillips testified as follows:

I reside in Detroit, and received \$60 a week from the Detroit News before I went to work for the Newberry committee. Mr. King hired me at \$100 a week as publicity man for the campaign. I made four trips to New York and saw Mr. Newberry and took some moving pictures of Mr. Newberry. I talked to Mr. Newberry, and from what I gathered of his past life I wrote certain publicity. (H., 352.)

Mr. King told me that he had made arrangements to take more moving pictures of Mr. Newberry, and asked me to go to New York and see that the pictures were made. (H., 353.)

Senator Newberry posed for his pictures in my presence on the wooden battleship in the park. I O. K'd the bill for this picture, but did not handle the money. The company that circulated the moving picture was the Dunn Master Plate Co., of Detroit, and I personally paid them \$800. This company was paid in all \$3,788. (H., 354.)

This wooden battleship that Senator Newberry posed on was designed to encourage enlistments, and was in Union Square, New York. (H., 355.)

I got up quite a lot of publicity. If there was a newspaper in Michigan that it was not published in, it was because I missed it. Mr. H. A. Hopkins had charge of placing the advertising. I helped to write some of the advertising and advised with Mr. Hopkins and Mr. King. (H., 356.)

Mr. John S. Newberry (brother of the sitting Member, and who contributed \$99,900 to the Newberry campaign fund) testified inter alia as follows. (H., 317):

Senator POMERENE. And you want the committee to understand, do you, that you placed no limit upon the amount which Smith was to draw out of your account for the financing of that campaign?

Mr. NEWBERRY. No, sir; I never thought about it. I just said, "Go ahead and use what money you want."

Senator POMERENE. Do you mean to say you do not know whether any money was borrowed from one or the other?

Mr. NEWBERRY. No, sir; I don't.

Mr. ALFRED LUCKING. The fact is that since your father's death your brother has practically run your business affairs?

Mr. NEWBERRY. Yes, sir. (H., 319.)

A specimen of the methods resorted to in this campaign is disclosed in the testimony of Mr. George Murray, who was president of the Railway Men's Relief Association, of over 10,000 members, with headquarters at Muskegon.

He was editor of the monthly magazine published by his association.

In May, 1918, Mr. King and Mr. Floyd came to him and paid him \$300 to work for Mr. Newberry, and an additional \$400 was paid to the magazine and went into the association's funds.

Up to that time Mr. Murray had not advocated the nomination of Mr. Newberry in his magazine nor had he published anything about Mr. Newberry's candidacy until Mr. King and Mr. Floyd told him "that they would take care of him on the proposition." (B. E., 195.)

After being paid this money Mr. Murray started out to work for Mr. Newberry and to line up the railroad men for him.

Mr. Murray then started making speeches among the railway men for Mr. Newberry and in all attended 33 meetings.

In the month of July an advertisement was published in Mr. Murray's railway magazine and in August Mr. Murray published a personal letter "direct from him to the railroad men." In this letter Mr. Murray says:

MUSKEGON, MICH., July 30, 1918.

To my friends in the railway service:

I feel it is due you all to know why I am indorsing and supporting the candidacy of Commander Truman H. Newberry for the office of United States Senator.

Mr. Newberry's record, public and private, is such as to inspire the confidence of every man.

I have investigated his character and find that it stands the test.

I trust that my friends among the railway men of Michigan will put their shoulders to the wheel and make this result absolutely certain. The primaries come on August 27.

I personally indorse Mr. Newberry's candidacy, the man, and the principles of sturdy Americanism which he represents.

Fraternally, yours,

G. R. MURRAY, *Supreme President.*

(B. E., 203, 204.)

"NONCOMMITTAL" AND "FLIMSY."

On August 8, 1918, nearly three weeks before the primary election, Mr. Vandenberg, of the Grand Rapids Herald, wrote Mr. Newberry as follows:

DEAR SIR: I desire to direct your attention to certain phases of the Michigan Republican senatorial campaign which seem to demand very clear and explicit public statement from you well in advance of primary election day.

I direct your attention to these specific charges which have appeared in responsible newspapers. They are charges, furthermore, which find kinship in very general rumor and report. I fully realize that gossip is deadly and a ruthless assassin. But gossip, in this instance, is too widespread to be longer ignored. It charges you and your associates with the expenditure of money running into six figures in the erection of your senatorial organization. Such a situation must be as intolerable for you, if these reports are false, as it is intolerable for the State if the reports are true. Therefore, it is a situation which must be challenged,

because if not challenged by you it will have to be challenged by the electorate.

While this letter is purely personal to you, I should be glad to have an answer from you which could be published simultaneously with this letter so that the issue may be made clear.

To which letter the sitting Member replied by telegram as follows.

NEW YORK, August 11.

A. H. VANDENBERG,

*Editor the Herald, Grand Rapids, Mich.*

I heartily concur in your views and suggestions as stated in your letter of August 8 just received. I have not paid nor am I obligated to pay anything in connection with the senatorial primary nor have I any fiscal information thereof beyond the assurance of the Newberry committee that their accounts will be filed as required by law and all expenditures made only for such purposes as allowed by law. I have forwarded your letter to the committee requesting them to send you a clear, comprehensive, and adequate statement for publication with your letter as you suggest.

I thank you for writing me and appreciate the opportunity thus offered to state the truth.

TRUMAN H. NEWBERRY.

(Record, p. 791.)

Mr. Newberry's comment to his campaign manager on this reply to Mr. Vandenberg is as follows:

I am inclosing a copy of my noncommittal reply to the Grand Rapids people, which covers the situation in a rather flimsy manner \* \* \*. (Mr. Newberry's letter to Mr. King of Aug. 9, 1918, B. E., 881.)

In this same letter to Mr. King, Mr. Newberry, the sitting Member, amongst other things made the following observations:

There is much more information about Osborn's (also-a candidate) present plight I will tell you when I see you. The statement that he is short of ammunition is an absolute fact. Whether or not this was a feeler I will leave to you to judge when I talk to you about it.

I have noticed Osborn's strength with the labor people, and, of course, do not understand it, but am thankful we have a fighting minority, which I hope has gained enough time to include my views in their circular of the workmen's publicity committee.

I am inclosing copy of my noncommittal reply to the Grand Rapids people, which covers the situation in a rather flimsy manner.

A public outcry and warning against the improper use of money in Mr. Newberry's campaign was made by Hon. Luren D. Dickinson, Lieutenant governor of Michigan, in the form of a letter addressed to the sitting Member, which was widely published throughout the State of Michigan and was as follows:

AUGUST 22, 1918.

HON. TRUMAN H. NEWBERRY,

*Brooklyn Navy Yard, New York.*

DEAR SIR: Men of all walks of life, who have the best interests of our State at heart, believe the men who are conducting your campaign for United States Senator are conducting one that will bring one of the greatest scandals on our State that Michigan politics ever saw and have asked me to take the lead in attempting to rid our State of this blight. I note by your statement that you say you do not know of these things.

In giving you the information I will give you the terms that I hear everywhere in the 62 counties in which I have been recently. I have always had the highest regard for you and must believe you will relieve the Republican Party and the State of a campaign that is now being likened to the notorious Lorimer campaign of Illinois a few years ago. The terms "boodle" and "rotten" seem to be general terms that I hear.

Every section of the State shows evidence of an expensive newspaper campaign costing thousands and thousands of dollars. Thousands of men are liberally paid for work at many more thousands of dollars, an expensive suite of offices with a large force sending out hundreds of thousands of letters to influential voters at more thousands of dollars, thousands of autos already engaged for use on primary day at many more thousands; that practically every opponent of the primary system is backing your campaign; and that hundreds of the experts who have figured in or conducted for money the wet campaigns of the past are among the most active of your supporters.

Conservative estimates say everywhere from \$250,000 to \$500,000 is being used. The good people of the State are apparently powerless to give the voters these matters on short notice. In case you get the most votes you must expect to have the placing of your name on the election ballot contested. If by technical reasons you succeed, then you must expect every church and moral organization to work until election night to keep our fair State from the baneful influence that success following such methods would leave for years to come.

Should you be successful at the polls, you must expect a legislative investigation that would be demanded by an indignant populace. And if by technicalities you could overcome this, you will probably have to face a Democratic Senate which will unseat you, as it justly unseated William Lorimer, Jr., because of flagrant disregard in your behalf of Michigan's primary laws. The effect on the Republican Party, with the people demanding cleaner things, can not be estimated. Already we hear the Democrats will make the corrupting use of money in your campaign one of their great campaign arguments.

I can not believe you understand the situation, and if you did you would come to the rescue. I am, therefore, asking you in behalf of the old Republican Party, clean politics, preservation of the primaries, social and business interest, to withdraw from this campaign and save the everlasting disgrace to the party and the State from a pollution that would stay for years. Hoping you may act favorably and retain the high esteem in which you have been held in the State, I am,

Sincerely, yours,

L. D. DICKINSON,

*Lieutenant Governor of Michigan.*

After the primaries Mr. Newberry wrote to ex-Gov. Chase S. Osborn, in answer to a telegram, and said the following:

NEW YORK CITY,

Sunday, September 1, 1918.

MY DEAR GOVERNOR: Your cordial telegram assuring me of your earnest support is all that was needed to insure the defeat of Ford in



November. I fully realize that my personality is submerged in the issues that confront our party in our State. Many times in the past few months I have envied your ability and privilege to talk, and when your voice rang clear and strong throughout State and Nation on the menace of Ford I wanted to wire you Godspeed in your patriotic work.

Your deeply appreciated telegram of support helps me to visualize the statesman, the sportsman (hunter), and gentleman that I have always known you to be.

Cordially, yours,

TRUMAN H. NEWBERRY.

In reply to this Mr. Osborn wrote him an open letter, which was published generally throughout Michigan and which reads as follows:

SEPTEMBER 17, 1918.

MY DEAR COMMANDER: I have read your letter. Thank you for your sentiments. I shall support you. Already I have straightened out entanglements that would have been hurtful to your success. I am not interested in you personally a particle. The entire matter is so far beyond personal consideration and transcends individual proportions to an extent that only public welfare may be thought of. You can be elected; no doubt you will be. My idea is that the thing for you to do is to honestly confess that you broke the law and that you knew all about the campaign, but that you did not realize the enormity of your offense. In such a position you would be entrenched in honesty, I fully believe. And an indulgent people would forgive you and fight for you, because of the past services they think you have given and what they have been told you are giving now. In addition this action would make for your name an honorable place in the history of Michigan. Otherwise the future will curse you.

The plea can not be honestly made that you spent money in excess because you were fighting Ford, because you had begun your reckless campaign long before Ford was mentioned, and had already transgressed the law. Nor can you plead "you did not know." That would prove you to be both an ass and a liar, which I choose to think you are not. I am for you only to save the Nation and the State from the curse of Fordism. A vote for Ford is a vote for the Kaiser right now, as I view the case.

Yours, truly,

CHASE S. OSBORN.

Yet in the face of widely published warnings that a searching investigation would surely be made as to expenditures of money, those persons in charge of the campaign of the sitting Member exhibited indifference in preserving books, accounts, and vouchers, and now seek refuge from questions, the answers to which might prove awkward, by asking your committee to believe that the books are "lost" or have "mysteriously disappeared."

On June 15, 1918, Mr. Newberry, the sitting Member, wrote to Mr. King in these significant words:

\* \* \* The unheard-of developments in Mr. Ford's case really require pages of comment, and I am going to hope that after 10 days or more that you will come down alone or with Allan, when we can give some time to a thorough review of the situation as it then exists and plan for the future. \* \* \* (B. E., 777.)

The foregoing is but a sample of the large volume of correspondence and reports which passed daily between Mr. Newberry and his campaign managers.

MONEY WAS PLACED IN EVERY COUNTY—BUT NOW THE RECORDS ARE GONE.

Mr. King testified:

Q. You had a chairman and secretary of your county committee in nearly every county, did you not?—A. I think in every county but Chippewa.

Q. Was money put into every one of those counties where you had an organization?—A. I think so; practically every county.

Q. Have you got the list of expenditures to those various chairmen?—A. I have not.

Q. Money that they handled?—A. I have not.

Q. Who they are?—A. I have not.

Q. Where are they?—A. I don't know. \* \* \*

Q. Those records were in your office up to the day of the primary, were they not?—A. I think so. \* \* \* (H., 334, 335.)

At the outset Mr. Newberry was confronted with the fact that he was little known in Michigan.

At an interview in New York on the last Sunday in December, 1917, Mr. Jay Hayden, a correspondent of the Detroit News at Washington, told Mr. Newberry that "one of the great obstacles to his candidacy" would be that he was little known in Michigan; that he doubted if he was known to a thousand persons throughout the State. (B. E., 61.)

Mr. Hayden refused the offer of Mr. Newberry to manage his campaign, and departed from New York warning Mr. Newberry against "a barrel campaign" in Michigan. (B. E., 61.) After this advice to Mr. Newberry from Mr. Hayden he was never spoken to again or requested by either Mr. Newberry or Mr. Cody to take the management of their campaign. (B. E., 61.)

This interview in New York had been arranged in December, 1917, in Washington by Mr. Fred Cody, who represented himself to Mr. Hayden as the agent of Mr. Newberry, and told him that Mr. Newberry was considering becoming a candidate for United States Senator. (B. E., 58.)

Mr. Paul King, who subsequently became Mr. Newberry's campaign manager, also told Mr. Newberry at his first interview in February, 1918, in New York that he (Mr. Newberry) was not known in Michigan and that he must prepare for a large and expensive campaign of publicity. (B. E., 664, 665.)

MR. NEWBERRY'S AGENT, MR. CODY, PREDICTED "A BARREL CAMPAIGN" BY NEWBERRY.

Later on in January, 1918, this same Fred Cody told James Sweinhart that "Mr. Newberry would make Mr. Hayden such a financially advantageous offer that he could not afford to reject it," and that "it will be a great time for the boys in Michigan, because they will spend a barrel of money." (B. E., 66, 67.)

In the month of April, 1918, Mr. Cody was talking to Mr. Sweinhart in Mr. Newberry's office in New York and told him that he had been out in Michigan and that "he understood the lid was off and that the sky was the limit so far as expenditures were concerned." (B. E., 68.)

In December, 1917, Mr. Newberry sent Mr. Fred Cody to Washington with a personal letter of introduction to Mr. George Miller, of the Detroit News. This letter stated that Mr. Cody had "some confidential matters" to talk over with Mr. Miller for Mr. Newberry. (B. E., 640.)

Mr. Cody was very close to Mr. Newberry and was often seen in Mr. Newberry's office in New York during the progress of the campaign, as well as in Detroit once a month, and in the Detroit office of the Newberry estate. (B. E., 140, 311, and H., 365.)

Mr. King testified:

Q. When you were over in New York advising with Mr. Newberry, Mr. Fred Cody was present there, was he not?—A. Yes, sir. (H., 535.)

The Michigan primary and corrupt practices acts prohibit—

The hiring of workers at and before the primary.

The disbursement of any money by any person not the candidate or his committee treasurer.

The doing by any person of any act which the candidate himself could not do.

SAMPLE OF REPORTS.

Mr. King tells Mr. Newberry how "work" is done in a letter to him on August 15, in which he says:

\* \* \* Our only weakness is with the labor vote, and my reports indicate that we are getting stronger there. The Flint Labor News, which has been strongly Osborn, is weakening, and I am sending a man there to-day with a page advertisement for insertion just before the primaries. (B. E., 888.)

It is disclosed by Government Exhibit No. 60 (B. E., 253) that the sum of \$176,586 was disbursed by the Truman H. Newberry senatorial committee, according to statements on file in the office of the county clerk of Wayne, Mich., and this does not include several thousand dollars disbursed later in payment of additional expenses incurred.

The majority of the committee say: "The amount of money spent at the primary was large—too large—\* \* \*," and, further, "Your committee condemns the use of such a large sum of money in any primary campaign \* \* \*." To these expressions I will simply add that the law and public policy also condemn the use "of such a large sum of money in any primary campaign."

The men who managed the campaign for Mr. Newberry, the sitting member, exhibited fertility, efficiency, and industry that could well be admired, if employed in transactions not discreditable, but in this episode, as is apt to be the fate of most feats of left-handed wisdom, their mystifying methods and their juggling of accounts aroused a public resentment which in no small degree contributed to the very results these campaign managers thought they were avoiding—defection and trouble.

The failure of the Newberry campaign committee to keep regular accounts, the shifting of records and papers concerning the campaign from one place to another, the juggling of money from one account to another, and the adoption of mysterious and unusual methods and roundabout ways regarding matters that might just as well have been performed in the open are not the methods and habits of candidates seeking to obey the law. This mysterious method of accounting prompted Senator EDGE to ask the following questions:

Senator EDGE. What was the reason for adopting what would seem to me to be a very complicated system of bookkeeping for a temporary activity like an election campaign is necessarily? It seems to me that it would meet all the necessities of the law in making your report if you had kept the usual ledger, journal, and daybook and entered the accounts in the ordinary way. All this percentage is not required at all under the law.

Mr. FLOYD. No. \* \* \*

Senator EDGE. It is quite simple to do that without working out a percentage basis. You would simply charge publicity at whatever it is, the men employed in that particular work, copy writing, etc.

Mr. FLOYD. We did that indirectly. Some of these men had various duties.

Senator EDGE. And you felt it necessary to subdivide the duties of a man who happened to be engaged at times in different activities.

Mr. FLOYD. There was another reason for that, Senator.

Senator EDGE. I am free to admit that I can not see any reason.

Senator POMERENE. I have the same inquiry in my mind that Senator EDGE has \* \* \*. (H., 662, 663.)

He who in possession of evidence, in the form of books, papers, and vouchers, tending to exculpate him carefully preserves the

same and is anxious and willing at the proper time to exhibit the same.

He who knows of the whereabouts of vouchers, books, and records which he suspects may in the future confound and embarrass him spends but little time or effort to preserve such evidence.

The testimony in this case shows that the senatorial campaign in Michigan in 1918 partook more of the character of an auction than an election. From its inception to its conclusion it was a reckless and illegal foray of opulent men—a foray conducted with a disregard of public morality and with a boastfulness that would be comical if it were not sinister. If the desperate and dubious expedients resorted to in the senatorial contest in Michigan in 1918 to obtain a seat in this body were to become the general rule or the custom of persons seeking membership here, then no man of limited means—indeed, no man of ample fortune, if honest—could enter the senatorial contest with even a conjectural probability of success.

To encourage the methods practiced in the senatorial contest in Michigan in 1918 would be to embolden and to multiply the most baleful assaults that can be made upon representative government.

The testimony shows that the sitting Member was privy to and inevitably, in the nature of events, had knowledge of those facts concerning his own campaign, which scores of thousands of men in Michigan well knew. He was warned by the editor of the Grand Rapids Herald and by Lieut. Gov. Dickinson as to the improper course of his campaign. His agents and managers kept him fully and constantly supplied with reports, but he failed to put a stop to the disbursement of moneys made by his agents, with the obvious purpose of improperly influencing voters, and it is puerile to say that a seat in this body thus obtained may not be declared vacant because, forsooth, the candidate says he was oblivious to that one feature of his own campaign, which overshadowed all others of the contest, which feature was so widely discussed and so notorious as to be known not only in Michigan but throughout the length and breadth of the land.

Of all the persons interested in that campaign, Truman H. Newberry, the sitting Member, was the most interested. He was the candidate; he was the man for and in whose behalf the expenditures were made; he was the luminary around whom all the satellites revolved; from him they received their light and heat and life. To him the daily reports were made; from him the managers received suggestions, words of encouragement, and orders to proceed "at full pressure." He was the motive power of the "organization" built to secure for himself a seat in this body—an organization which moved with a celerity and momentum that crushed or purchased opposition to its plans or purposes.

The credentials of the sitting Member are stained by fraud and tainted by illegal expenditures of money. His seat should be declared vacant.

(Signed) HENRY F. ASHURST.

Mr. SPENCER. Mr. President, I make a parliamentary inquiry of the Chair. In his judgment am I entitled to call the resolution from the table for the consideration of the Senate at this time without any motion or without unanimous consent?

The VICE PRESIDENT. The Chair has already laid the resolution before the Senate.

Mr. SPENCER. Then I ask—

Mr. HARRISON. Mr. President, has the Chair ruled that it takes no motion to bring the resolution before the Senate?

The VICE PRESIDENT. It does not. The resolution was introduced yesterday, and it is laid before the Senate under the rule as a resolution coming over from the previous day; and it is now in order.

Mr. WALSH of Montana. Mr. President, my understanding is that that is the last order of the morning business. I inquire if the preceding morning business has been disposed of?

The VICE PRESIDENT. It has been disposed of.

Mr. SPENCER. Mr. President, I send to the desk and ask to have read to the Senate a proposed unanimous-consent agreement for the information and action of the Senate.

The VICE PRESIDENT. The Secretary will read the proposed unanimous-consent agreement.

The ASSISTANT SECRETARY. The Senator from Missouri [Mr. SPENCER] asks unanimous consent that at not later than 4 o'clock p. m. on the third calendar day upon which the Senate is in session after Sunday, December 25, 1921, the Senate will proceed to vote, without further debate, upon Senate resolution 172, declaring Truman H. Newberry to be a duly elected Senator from the State of Michigan, and so forth, and upon any amendment that may then be pending or that may be offered

thereto; and that on said calendar day no Senator shall speak more than once or for a longer period than one hour.

Mr. SPENCER. The Secretary omitted two words written in pencil, namely, the words "or substitute," after the word "amendment."

The VICE PRESIDENT. A substitute is an amendment.

Mr. SPENCER. There is no doubt of that, but, at the request of Senators on the other side, those two words were inserted.

The ASSISTANT SECRETARY. It is proposed to modify the request for unanimous consent so that it will read "any amendment or substitute that may then be pending."

Mr. TRAMMELL. Mr. President, I always dislike to object to a proposed unanimous-consent agreement, but I see no reason why we should try to hasten a vote upon this question. Under the agreement which has just been proposed a few Senators could occupy practically all the time in a discussion of the question and others would be precluded from an opportunity of presenting their views if they wished to do so. For that reason I object.

Mr. KING. Will the Senator withhold his objection for just a moment?

Mr. TRAMMELL. I will.

Mr. KING. Let me say to the Senator that, as I understand and interpret the unanimous-consent agreement as proposed, debate may commence to-day or at any time and may be continued without interruption from now until the time fixed in the unanimous-consent agreement for a vote. It does seem to me that ample opportunity will be afforded every Senator to submit his views.

Mr. TRAMMELL. Mr. President, there will be other questions in the meantime to be discussed, and we shall have limitation upon debate in relation to other matters. I like to be agreeable, but in this instance I insist upon my objection.

Mr. ROBINSON. Will the Senator withhold his objection for a moment?

Mr. TRAMMELL. Certainly; I will withhold it for a moment.

Mr. ROBINSON. Mr. President, it has developed during the course of previous discussion of this matter that some of the Senators who are members of the Committee on Privileges and Elections that reported the resolution, notably the Senator from Ohio [Mr. POMERENE] and the Senator from Utah [Mr. KING] and, perhaps, some others, in the discharge of other duties imposed upon them by the Senate will be absent a portion of the time between now and the date proposed to be fixed for the final disposition of the resolution. It is important that the Senate shall have the advantage of their study and their information respecting this subject. The record is very voluminous, and many of us have not had an opportunity and will not be afforded the opportunity of going through it in detail. The nature of this controversy is such that every Senator ought to be fully and fairly advised with respect to it. The unanimous-consent agreement, as I recall it, provides that on the day fixed for final consideration each Senator may speak one hour. As suggested by the Senator from Utah [Mr. KING], ample opportunity will be afforded in the meantime for complete discussion of the case. The resolution is privileged, and without regard to the provisions of the unanimous-consent agreement, it may be brought before the Senate at almost any time.

Mr. KING. It is here now.

Mr. ROBINSON. It is before the Senate now, and it can be kept before the Senate under the proposed unanimous-consent agreement so long as any Senator is ready to discuss it.

I realize, Mr. President, that this case ought to have been brought before the Senate a long time ago; that the delay in presenting it is almost inexplicable, and that this is rather an inopportune time to discuss this subject in the Senate; but in view of the well-known facts I have stated, that ample opportunity for consideration and discussion will be afforded under the proposed unanimous-consent agreement and that such opportunity may be denied if the unanimous-consent agreement is not entered into, and a vote may be had before Senators are ready to present their views respecting the subject, I express the hope that my friend the Senator from Florida [Mr. TRAMMELL], for the convenience of the Senators whom I have mentioned, and in order that the Senate may have the benefit of their study relating to this subject, may find it consistent not to make an objection.

I realize that there is much force in the statement which the Senator from Florida makes, and I repeat that I can not understand why the resolution was not presented some months ago; I can not understand why the report was made with no resolution or motion accompanying it; but the fact is that the unanimous-consent agreement now proposed is a fair one; it



affords every Senator an ample opportunity to discuss the issues in the case.

Mr. WALSH of Montana. Will the Senator pardon me for an interruption?

Mr. ROBINSON. I yield.

Mr. WALSH of Montana. I should like to address an inquiry to the Senator from Missouri for the enlightenment of those Senators who are endeavoring to follow the argument of the Senator from Arkansas. What will be the status of the resolution, as the Senator from Missouri understands, between this time and the reconvening of Congress after the Christmas holidays?

Mr. SPENCER. My understanding is that, in accordance with the usual custom in the Senate, the resolution will, of course, be open to such discussion as any Senator may see fit to give it, even if it is not the unfinished business upon the calendar. I desire to add further—and I should like the Senator from Florida [Mr. TRAMMELL] to listen to this statement—that my understanding is that when we meet on the 5th day of December and the session opens there will be ample opportunity to discuss the resolution from that time until it is finally called up at the last of the year. If we take a recess at Christmas time, then, undoubtedly, the resolution would not come up for final action until January, because the unanimous-consent agreement provides that it shall be considered on the third calendar day on which the Senate is in session after the 25th of December.

Mr. WALSH of Montana. If the Senator from Arkansas will pardon me further, of course, we all appreciate that no matter what subject is before the Senate a Senator may speak on anything he sees fit to speak upon, but, of course, if the tariff measure, for instance, were before the Senate and were the unfinished business, the business engaging the attention of the Senate, a discussion of any other subject would not have the attention, in all probability, that it would receive if that particular subject were before the Senate. Inasmuch as this is in the nature of a privileged matter, I desired to ascertain the views of the Senator from Missouri as to whether the resolution could be called up at any time and made the business before the Senate?

Mr. SPENCER. I have no doubt that it could. It is privileged at any time after the 25th day of December; in fact, before that time it could be called up and made the business of the Senate, and I am free to say further to the Senator from Montana that I should be very glad, so far as I have any control over the matter, to call it up immediately upon the reconvening of the Senate after the 25th day of December, so that the Senate may have at least three days in which to consider it.

Mr. ROBINSON. With respect to the inquiry submitted by the Senator from Montana [Mr. WALSH] to the Senator from Missouri [Mr. SPENCER], I wish to say that there can be no question as to the fact that the resolution is privileged by its very nature, and that there is nothing in the unanimous-consent agreement proposed to be entered into that in any way diminishes or subtracts from its privileged character. Not only can the Senator from Missouri, by calling up the resolution in the contested-election case, displace other business that may be pending before the Senate, but any Senator securing recognition from the Chair may do the same thing. That is the effect of the privilege attaching to the resolution, and that is the point I seek to make, that the effect of the proposed unanimous-consent agreement, if entered into, will be to give more time and opportunity for debate than will probably be afforded if unanimous consent is denied.

It was stated yesterday by a number of eminent Senators that they are not ready to proceed with the discussion of this case. If the proposed unanimous-consent agreement is entered into, they will have opportunity to make preparation, whereas if it is not entered into they may be compelled either to refrain from discussing it or to proceed at once to discuss it. In that view of the subject, and for the benefit of the Senate, in order that the Senate may have the result of the study of the Senators whom I have mentioned, I hope that my friend from Florida will not insist upon his objection.

Mr. NORRIS. Mr. President, I can not understand why the Senate is undertaking to pursue a different course in connection with this resolution from that which it ordinarily pursues in reference to any other bill or resolution before the Senate. Why are we so anxious to have a unanimous-consent agreement before the debate begins? Who is able to state or to have any intelligent opinion as to how long the debate is going to last and how long it may occupy the Senate before it is ready to vote? It seems to me we ought to do as we do on all other occasions, namely, proceed with the consideration of the resolution, and as the discussion progresses Senators will be able to determine how the debate is going to hold out and eventually a unanimous-consent agreement will naturally follow.

I do not think that we ought to postpone the vote on the resolution until next year. It seems to me, Mr. President, that the argument which has been made by the Senator from Arkansas that this case ought to have been brought up long ago is a complete answer against now waiting and putting it off further. I agree with the Senator from Arkansas that this matter has been too long delayed, and I think it is the general opinion of the country that the Senate owes it to itself and to its own self-respect that questions of this kind should be determined promptly and not be postponed, but while Senators are objecting to postponement, in the next breath they are asking for another postponement and a delay that seems to me to be unreasonable.

What will be the parliamentary procedure if we enter into the proposed unanimous-consent agreement? Nobody anticipates that from now until next January we are going to take up all of the time of the Senate in debating this proposition. Other business will come before the Senate; the unfinished business will be taken up; and the result will be that when a Senator wants to do so he can discuss this resolution or he can discuss the proposition which may then be pending before the Senate. The question will be in and it will be out, so that no consecutive discussion will take place until just a few days before the time comes to vote. Then, under the proposed unanimous-consent agreement, a few Senators may be able to utilize all the time.

I do not expect to take part in the discussion, Mr. President; so far as I am concerned, I am ready to vote now, and I have no desire to crowd other Senators who say they want further consideration; I am willing to give them any reasonable length of time; but I believe they will have that opportunity if we proceed with the debate. There never will come a time, no matter when we fix the day for voting, but that some Senator will be absent, but that some Senator will be discommoded, and it seems to me the case has already been held up longer than it ought to have been held up.

Mr. POMERENE. Mr. President—

Mr. NORRIS. I yield to the Senator from Ohio.

Mr. POMERENE. Mr. President, as a general proposition I can not take much exception to what the Senator from Nebraska has said, but the conditions in this instance are rather peculiar. In the first place, this is a question of the highest personal privilege, and the Senator from Missouri and perhaps other Senators have the right to call it up at any moment. I am one of those who feel that there should be very full discussion of this case. If the right is on the side of the sitting Member, it is not going to hurt him to have the matter discussed; if the right is on the other side, it is not going to hurt the American people to have it discussed. This, however, is the situation: Unfortunately the Senator from Utah and myself are on the special committee that has been appointed to investigate the Haitian and Santo Domingo matter. We have had rather extensive hearings on the subject here. It is found necessary that we go to Haiti. The chairman of the committee, the Senator from Illinois [Mr. McCORMICK], is very positive in his conviction on that subject, and with the knowledge that I have I share that conviction, because it is going to be exceedingly difficult to get at the truth of that controversy unless we can be on the ground. I am satisfied that that is true.

Mr. NORRIS. When does the committee expect to leave for Haiti?

Mr. POMERENE. The arrangements were made to leave on Saturday or Sunday, as I recall. The Senator from Illinois is here and will correctly inform the Senate.

Mr. McCORMICK. Mr. President—

Mr. NORRIS. Mr. President, before I yield the floor I want to take up that matter. Of course, I do not need to tell the Senator from Ohio or the Senator from Utah that I do not want to discommode either one of them.

Mr. POMERENE. Oh, I am sure of that.

Mr. NORRIS. If they had to go to-day, I would feel more inclined to agree to this unanimous-consent request; but if they go Saturday or if they go Sunday they will be able to give to the Senate before they go their views, which I for one will be glad to hear, because I know they are posted on the question; but they will have ample time to debate it fully before they leave. When they go there is not any doubt but that other Members going on the same trip will not agree with them as to their votes on the Newberry resolution, and they can easily pair, so that there will be no loss to either side so far as the voting is concerned, and we will not be deprived of the addresses of the Senator from Ohio and the Senator from Utah and the information that may be contained in them.

Mr. POMERENE. Mr. President, with all due respect to what the Senator has said, this is one of the questions on which I will not under any circumstances pair with anybody. I have

gone into this subject very thoroughly, I think. I have reached a conclusion about it. There has been some uncertainty as to how long the hearings on the island will take. There is that uncertainty, and we have been very desirous to arrange a time which would not only permit of full discussion of this case here in the Senate, but would give us an opportunity to be back here when the subject is taken up for its final consideration. I had been hoping that Senators would not object to this unanimous-consent agreement. There will be plenty of opportunity for everyone to discuss it. If there were an attempt to make a unanimous-consent agreement to vote within the next few days, I certainly should object to that. I do not think that would be just to any Senator here. I thought we had practically solved the problem by agreeing upon the terms as they have been indicated.

Mr. NORRIS. My idea is that we ought not to have at the present time any unanimous-consent agreement. I do not see any necessity of any. I would not find fault with the Senator if he objected. I am not trying to preclude a full debate of all the questions involved here, but I am opposed to this long delay, and I am opposed also to fixing a time so far in the future for voting on a question that ought to be debated fully before the American people, and the debate ought to be consecutive. There ought not to be an hour's debate upon the Newberry resolution and then a day's debate upon the railroad bill and then a half day's debate on the funding bill, and then, perhaps, further debate on the tariff bill, and then go back to this matter again.

Mr. WATSON of Georgia. Mr. President—

The VICE PRESIDENT. Does the Senator from Nebraska yield to the Senator from Georgia?

Mr. NORRIS. In a moment. We will not have a consecutive debate on this proposition if the time is fixed so far in the future. If it were a question that had been debated, I would not care so much; but it ought to be debated, it ought to be discussed, it ought to be done fully and completely; and when we go that far that is far enough. If we should devote the time from now until next January to the debating of this question to the exclusion of all others, it would, in my judgment, be an unlimited waste of time—too much time, too long. I do not think anybody feels that there ought to be that much debate on it.

I yield now to the Senator from Georgia.

Mr. WATSON of Georgia. Mr. President, I wish to say that I fully agree with the Senator from Nebraska [Mr. NORRIS]. If the Member who has been sitting here for nearly two years is not fit to be here, he ought to have been expelled long ago; and to have the sword of Damocles hung over his head for an indefinite period in the future is a wrong to him, a wrong to his family, a wrong to the Senate, and a wrong to the country.

Mr. NORRIS. That is right.

Mr. WATSON of Georgia. I object to the consent, because I think we ought to decide the matter right now.

Mr. WATSON of Indiana. Mr. President, do I understand the Senator from Georgia to object to the unanimous-consent agreement?

Mr. KING. Will the Senator from Georgia withhold his objection for one moment?

Mr. WATSON of Georgia. I was just stating the grounds upon which I would object. I think the thing ought to be settled right now.

Mr. KING. Does the Senator from Nebraska yield the floor? If so, I should like to ask the Senator from Georgia to withhold his objection for a moment.

Mr. WATSON of Georgia. I thought the Senator from Florida [Mr. TRAMMELL] had the floor.

Mr. McCORMICK. Mr. President, has the Senator from Nebraska the floor?

The VICE PRESIDENT. The Chair recognizes the Senator from Utah.

Mr. KING. Mr. President, may I say to the Senator from Georgia, as well as to my friend the Senator from Nebraska, that ordinarily I am very much opposed to fixing a day certain for voting upon important measures. The Senator from Missouri [Mr. SPENCER] brought this matter to the attention of the Senate a day or two ago, and was within his rights when he insisted that the matter be presented and pressed for an early vote. Many of the Senators—indeed, I believe the majority of the Senators—have not read the record. It is a voluminous record, at least 2,000 pages. The briefs in the case are perhaps four or five hundred pages additional. I am sure that the Senator from Georgia is not ready to pass upon this question now. I am sure that many of the Senators who desire to discuss it are not sufficiently familiar with the record to make what they would like to make, a lawyerlike argument, if they are competent to do so. It will take several days to peruse the record, to familiarize oneself with it, even in order to vote intel-

ligently; and, of course, if one anticipates making a speech upon the matter a vast amount of time should be devoted to a consideration of the record.

Mr. LA FOLLETTE. Mr. President, will the Senator yield? Mr. KING. I yield.

Mr. LA FOLLETTE. Does not the Senator know that with the pressure that is constantly upon Members of this body no serious study of this case will be made until it is taken up? Does not the Senator know that if a unanimous-consent proposition is agreed upon to vote upon it at a remote period Senators, pressed as they are by their urgent duties of every day, will wait until that time is at hand before they begin a study of this case? If it could be taken up now and debate upon it made to the extent of a fair presentation upon each side it would inspire Senators, I think, to examine the record and study the case.

We have two or three matters of very great importance right on the threshold of enactment here. They can occupy the time of the Senate up to the adjournment that has been planned for, and for one I am frank to say that I would not myself consent to fixing a time to vote upon any matter that has not been before the Senate and been discussed for some little time, so that we may get our bearings and know what the case is.

Mr. WATSON of Indiana and Mr. STANLEY addressed the Chair.

The VICE PRESIDENT. Does the Senator from Utah yield to the Senator from Indiana?

Mr. KING. Just one moment, if the Senator will permit me.

Mr. WATSON of Indiana. I want to make a point of order—that the discussion is out of order, because the Senator from Florida [Mr. TRAMMELL] has already registered an objection, as I understand. Am I right in that?

Mr. KING. He is withholding his objection pending discussion of the matter.

Mr. TRAMMELL. Mr. President, I withdrew the objection temporarily on account of being requested to do so by several Senators, but I will renew it after the Senators are through.

Mr. WATSON of Indiana. I understood that the Senator from Florida [Mr. TRAMMELL] had objected; I understood that the Senator from Wisconsin [Mr. LA FOLLETTE] had objected; I understood that the Senator from Georgia [Mr. WATSON] had objected; and I understood that the Senator from Nebraska [Mr. NORRIS] had objected.

Mr. NORRIS. Mr. President—

Mr. KING. Mr. President, I have the floor. I yield to the Senator from Nebraska.

Mr. NORRIS. I thank the Senator, and I stand corrected. The Senator from Florida, as I understand, had objected. It is unnecessary for another objection to be made. I was doing what I could to show a reason why the Senator from Florida was right in making his objection. The Senator from Georgia felt the same way. I understand from what the Senator from Wisconsin says that he feels that way, and I feel that way. I have no objection to not interposing an objection while Senators are discussing the matter, but I have not been convinced but that an objection ought to be made; and if it gets down to me, unless I am convinced, I shall make the objection myself.

The VICE PRESIDENT. The Chair is going to put the inquiry as to whether there is objection. Is there objection?

Mr. HEFLIN. Mr. President—

The VICE PRESIDENT. The Senator from Utah has the floor.

Mr. HEFLIN. Will the Senator from Utah yield to me?

Mr. KING. I yield for a moment, if it is a question. I should like to conclude the brief observations that I desire to submit.

Mr. HEFLIN. I will wait, then, because I want to say something about the proposition for unanimous consent that has been submitted.

Mr. McKELLAR. Mr. President—

Mr. KING. I yield to the Senator from Tennessee.

Mr. McKELLAR. I merely want to ask the Senator whether he thinks that any discussion will change any votes in the Senate. Does he not think that everybody in the Senate already knows about the facts in the case? Does he think discussion will change any votes?

Mr. KING. I believe that the Senators will approach the consideration of this subject as judges would approach the consideration of a vital matter submitted to them; and I can not conceive of any Senator, Republican or Democrat, who would care to vote upon this important question without being entirely familiar with the record and with the legal questions involved.

Mr. McKELLAR. I think most of the Senators have familiarized themselves with the record.



Mr. KING. Of course, if they have familiarized themselves with the record, they are probably ready to vote; but I believe that this is a matter that should be discussed, and that Senators desire a discussion of the matter.

Let me reply very briefly to the Senator from Wisconsin [Mr. LA FOLLETTE].

As I understand the situation, Mr. President, we have the railroad bill before us; we may have the conference report upon the tax bill; we have the beer bill, which will be voted upon on the 18th. That will take up, of course, all discussion until the 18th. The railroad bill will doubtless consume several days thereafter. There is no other measure of importance before us, so far as I know, except the Newberry case. The tariff bill—and I invade the domain of prophecy now, and I am prophesying for my Republican friends—will not be before us until after the beginning of the year; so that we will have practically a clear field and can give 30 days, or a large part of that time, to a discussion of this question.

Let me say that the proponents of this proposition, those who are urging a vote, our Republican friends, led by the Senator from Missouri [Mr. SPENCER], I think, have been entirely fair on this proposition. They insist upon pressing it now. A number of Democrats are compelled, because of assignments to public duty, to leave the city within a few days; so that it is to our advantage, it is at our request, that this delay is occurring. It is not at the request of Mr. Newberry. It is not, so far as I know, at the request of the majority of the committee; and, in view of the attitude of the ranking member of the committee, the Senator from Ohio [Mr. POMERENE], I do feel that the Democratic Members ought to accede to this unanimous-consent request.

Mr. WATSON of Indiana. Mr. President, I demand the regular order.

The VICE PRESIDENT. The regular order is whether there is objection.

Mr. HARRISON. Objection to what?

The VICE PRESIDENT. To entering into the unanimous-consent agreement.

Mr. HEFLIN. Mr. President, I understood before the Senator from Indiana demanded the regular order that I was to have an opportunity to say a word.

Mr. LA FOLLETTE. Should we not have a roll call?

The VICE PRESIDENT. It is not necessary that there shall be a roll call.

Mr. LA FOLLETTE. Why not?

The VICE PRESIDENT. Because under the rule it is only necessary to have a roll call when a date is fixed in an agreement for a final vote on a bill or joint resolution. Is there objection?

Mr. WATSON of Georgia. Mr. President, I object.

The VICE PRESIDENT. There is objection.

Mr. HEFLIN and Mr. SPENCER addressed the Chair.

The VICE PRESIDENT. The Chair is under an obligation to recognize the Senator from Alabama [Mr. HEFLIN].

Mr. HEFLIN. Mr. President, this unanimous-consent agreement is a very unfair one, it seems to me, in a way, suggesting that on the third legislative day the Senate is in session after the 25th of December a vote shall be taken on this question, when the holidays are on and some Senators will be home spending the holidays with their families and friends; yet under the unanimous-consent agreement which has been submitted a vote could be taken on the third day after the 25th day December.

Mr. CURTIS. Mr. President—

The VICE PRESIDENT. Does the Senator from Alabama yield to the Senator from Kansas?

Mr. HEFLIN. I yield.

Mr. CURTIS. I rise to a point of order.

The VICE PRESIDENT. The Senator will state his point of order.

Mr. CURTIS. As I understand it, this question is not debatable. There is nothing before the Senate, and the Senator from Alabama is proceeding now by unanimous consent. I therefore demand the regular order.

The VICE PRESIDENT. The Chair has already inquired if there was objection; the Senator from Georgia objected, and the Chair stated that there was objection. The point of order of the Senator from Kansas is well taken.

Mr. NORRIS. A parliamentary inquiry, Mr. President.

Mr. HEFLIN. The question of the unanimous-consent agreement has been disposed of and I can talk about anything I please. If the Senator from Kansas insists on his point of order, I will speak for a couple of hours now.

Mr. CURTIS. I understand that debate during the morning hour is limited to five minutes. There being nothing before

the Senate, there is nothing the Senator from Alabama can debate, and therefore he is out of order.

The VICE PRESIDENT. The resolution offered on yesterday by the Senator from Missouri [Mr. SPENCER] is before the Senate, and the question is on agreeing to the resolution.

Mr. CURTIS. If that is the case, I withdraw my objection. I did not know the resolution was before the Senate. I did not understand that it had been called up. I withdraw my objection.

Mr. HARRISON. Mr. President, I want to make a point of order.

Mr. HEFLIN. I am glad that my genial good friend from Kansas has at last recovered his equilibrium.

The VICE PRESIDENT. The Senator from Mississippi will state his point of order.

Mr. HARRISON. I yield to the Senator from Alabama.

Mr. HEFLIN. I have the floor already in my own right.

Mr. HARRISON. I made a point of order, Mr. President.

The VICE PRESIDENT. The Senator from Alabama has the floor, unless the Senator from Mississippi desires to raise a point of order.

Mr. HARRISON. I want to discuss the point of order, and I do not desire to take the Senator from Alabama off the floor.

The VICE PRESIDENT. The Senator from Mississippi will state his point of order. It may not need discussion.

Mr. HARRISON. I withhold the point of order until after the Senator from Alabama has concluded his remarks.

Mr. HEFLIN. Mr. President, I was about to remark that under the unanimous-consent agreement there could be a vote on the resolution offered by the Senator from Missouri on the third calendar day after Christmas, and there might be a bare majority of Senators here. I am anxious to accommodate my good friend, the able Senator from Ohio [Mr. POMERENE], the ranking Democratic member of the Committee on Privileges and Elections, but I submit that we might reach an agreement by which we could take this case up on the 6th day of December and proceed to discuss it day after day, and vote on Saturday night before the adjournment of the Senate, thus disposing of it that week. Let the discussion be confined to that question. It is a serious question, and ought to be determined soon; but it should not be tied up in this fashion, so that it could be taken up right after Christmas Day dawns upon us, if the Senate is in session. Suppose the House should recess for Christmas, but suppose the Senate should refuse under this agreement; if a majority decided to hold this body in session, they could act upon this proposition; and there might not be very many Senators here, a bare quorum, probably.

Mr. President, I would rather proceed with the matter now than to postpone it under such conditions. Certainly the minority members of the committee, and the majority members of the committee, can discuss this question for a couple of days. We can hear their discussion, and in the meantime peruse the record. I have already read quite a number of pages of the record. I have read the majority and minority reports, and other Senators can do likewise. But we ought to focus our attention upon this case, and we ought to focus the attention of the country upon it, and, if we can, get a full and fair report of it to the country by the press. I do not know what the splendid newspaper boys are sending to their papers, but I did not see a line in the papers this morning about the matter having been brought up before the Senate yesterday, and about an effort being made to consider it and dispose of it, a great question like this, which affects the honor and integrity of this body, which raises the question as to whether or not seats in this body are to be made a matter of barter. This may be a matter of small concern to some people who do not regard the honor and good name of this historic Chamber as they should. This is a serious question, and ought to be taken up and discussed fully and fairly. The Senate ought to go into the facts of this case, and let the people of the country know what the facts are. One Senator asked if it was thought that any votes would be changed by discussion. Yes; there will be votes changed by discussion. The Senator from Ohio stated yesterday that word came to him that the other side had been polled some time back, and that enough promises had been secured to insure the seating of the Senator from Michigan. I recall when a favorable report was returned from the committee in the Lorimer case, and they had enough pledges to seat him, but when Senators were confronted with the facts in that case, one by one they slid from under the agreement they had made, and when the roll was called, voted to deny him a seat in this body.

Yes; I think votes will be changed by the discussion of this case, because from what I have seen of the facts in the case,

the admitted facts, I say to the Senate that there is enough to convince any fair-minded jury that this man should be denied a seat in this body. Yes; I look to see votes changed.

The way Senators voted on a question like this resulted in the retirement of some of them, as the Senator from Oklahoma [Mr. OWEN] suggested. I have heard of Senators who were defeated because they voted to seat Lorimer. That same thing is going to happen in the Newberry case. It ought to happen, because when Senators make up their minds to vote to seat one in this body whose counsel admits that he spent nearly \$200,000—that amount would pay the salary of a United States Senator for more than a quarter of a century—whenever Senators make up their minds to indorse such extravagant expenditures then they need to be scourged out of this body themselves by the people of the sovereign States that they now represent.

Yes; it is a serious question, Mr. President. It is now the most vital question up for consideration by the Senate. Peace is demanding the attention of the world, being discussed by the conference now in session in this city. What are we going to do here in this law-making body of the Nation toward keeping this place clean from the corrupting and corroding influence of money in politics?

Is any Senator going on record as in favor of selling seats in this body, and that no longer the merits of men are to be considered, that seats here are to be made a matter of barter? Are we to indorse the corrupt use of money in politics, poisoning the Nation at its very source, because, as Thomas Moore said:

When the stem dies, the leaf that grew  
From out its heart must perish too.

Whenever we come to the time when a poor man can not be elected to this body upon his own merits and the cause that he espouses, farewell to the Republic; God pity those who are unfaithful when that staggering hour shall come.

How will it be, Senators, when you are asked how you voted, when the question came up as to whether or not seats should be bought in this Chamber? That is what you will have to answer, Senators, and you ought to have to answer it.

Mr. President, one more word. I would be in favor of entering into some kind of an agreement, as I suggested, to take this case up on the 6th day of December, if we do not want to go on with it now, and proceed for a week, and let the last two days of that week be devoted to speeches of an hour each, to be divided equally between the two sides, and continue to consider the case until a vote is had before final adjournment on that day.

Mr. SPENCER. Mr. President, I understand that resolution No. 172 is now before the Senate for discussion.

Mr. HARRISON. There is a point of order pending.

The VICE PRESIDENT. No point of order has been stated.

Mr. HARRISON. I shall state it now. Does the Senator from Missouri want to speak on the point of order?

Mr. SPENCER. I do not. I propose to speak on the resolution.

Mr. WATSON of Indiana. May I ask what the point of order is?

Mr. HARRISON. The point of order is this: A moment ago I understood the Chair to say, in answer to a question of the Senator from Kansas [Mr. CURTIS], that the resolution is before the Senate. I make the point of order that it is not before the Senate, and that under Rule VIII it could not be considered as being before the Senate. Rule VIII reads:

At the conclusion of the morning business for each day, unless upon motion the Senate shall at any time otherwise order, the Senate will proceed to the consideration of the calendar of bills and resolutions, and continue such consideration until 2 o'clock.

Immediately after the morning business had been concluded the calendar should have been called up, and bills on the calendar should have been considered, where objection was not made. That is my point of order, succinctly stated.

I take it that the Chair has ruled, because the resolution was presented yesterday, that it would be in order to hand it down to-day. I submit that that has not been the rule followed by the Presiding Officer of the Senate for the past eight years. Vice President Marshall did not follow any such rule, and a resolution going over was not called up except upon motion of the Senator who offered the resolution.

The VICE PRESIDENT. The Chair had not stated that morning business was closed. The taking up of resolutions coming over from the previous day is a part of the morning business. The fifth section of Rule XIV provides that—

All resolutions shall lie over one day for consideration—

Not for motion to be taken up, but for consideration. The order of procedure as laid down in the rule requires that as a part of the morning business all resolutions coming over

from a previous day shall be taken up. After morning business is closed the calendar under Rule VIII is in order. An order introduced by Senator Hoar, which is still in force, provides—

That until otherwise ordered, the chair shall proceed with the call for resolutions to be newly offered before laying before the Senate resolutions which came over from a former day.

The point of order is not well taken.

Mr. HARRISON. Mr. President, a parliamentary inquiry.

The VICE PRESIDENT. The Senator will state his inquiry.

Mr. HARRISON. Does the Chair in that ruling hold that it takes no motion upon the part of the Senator from Missouri to bring the resolution before the Senate?

In propounding the inquiry I submit the observation to the Presiding Officer that if the rule should be followed that resolutions coming over from a preceding day, it matters not what their character may be, whether privileged or otherwise, can be handed down by the Presiding Officer to be taken up for consideration without a motion, the prevention of the call of the calendar could be carried out, and it might be possible for the calendar never to be called up for consideration if such procedure should be followed. I submit that it is a very far-reaching rule which would hold that without a motion the Presiding Officer may, before the calendar is called, lay before the Senate resolutions that may have come over from the preceding day.

The VICE PRESIDENT. The Chair holds that the resolution is before the Senate. Of course, to the parliamentary inquiry of the Senator from Mississippi the answer would be that any Senator might move to take up the calendar or any other business he might desire to have considered.

Mr. HARRISON. Then I move that the calendar be called.

Mr. SPENCER. Mr. President, have I the floor?

The VICE PRESIDENT. The Senator from Missouri has the floor.

Mr. SPENCER addressed the Senate. After having spoken for some time,

The VICE PRESIDENT. The hour of 2 o'clock having arrived, the Chair lays before the Senate the unfinished business, which will be stated.

The READING CLERK. A bill (H. R. 8331) to amend the transportation act, 1920, and for other purposes.

Mr. CUMMINS. Mr. President, for reasons stated several days ago, which I shall not repeat at this time, I ask unanimous consent that the unfinished business may be temporarily laid aside.

Mr. HARRISON. I object.

The VICE PRESIDENT. There is objection.

Mr. WATSON of Indiana. Mr. President, I move that the Senate proceed to the consideration of Senate resolution 172, the Ford-Newberry contest.

Mr. HARRISON. Mr. President, a parliamentary inquiry.

The VICE PRESIDENT. The Senator will state his inquiry.

Mr. HARRISON. If the motion of the Senator from Indiana prevails, it displaces the transportation bill?

The VICE PRESIDENT. It certainly does.

Mr. HEFLIN. Mr. President, I suggest the absence of a quorum.

The VICE PRESIDENT. The Secretary will call the roll.

The reading clerk called the roll, and the following Senators answered to their names:

Ashurst	Glass	McKinley	Shields
Borah	Gooding	McLean	Shortridge
Broussard	Hale	McNary	Simmons
Calder	Harris	Myers	Smith
Cameron	Harrison	Nelson	Smoot
Capper	Hefflin	New	Spencer
Caraway	Hitchcock	Norbeck	Sterling
Culberson	Johnson	Norris	Sutherland
Cummins	Jones, Wash.	Oddie	Swanson
Curtis	Keyes	Overman	Townsend
Dial	King	Page	Trammell
Elkins	Ladd	Phipps	Walsh, Mont.
Fernald	La Follette	Poindexter	Watson, Ga.
Fletcher	McCormick	Pomerene	Watson, Ind.
France	McCumber	Ransdell	
Frelinghuysen	McKellar	Sheppard	

Mr. HEFLIN. My colleague [Mr. UNDERWOOD] is absent from the Senate attending to his duties as a member of the Disarmament Conference.

The VICE PRESIDENT. Sixty-two Senators having answered to their names, a quorum is present. The question is on the motion of the Senator from Indiana to proceed to the consideration of the Senate resolution 172.

Mr. HARRISON. The motion is debatable, I believe?

The VICE PRESIDENT. The Chair understands that it is debatable.

Mr. HARRISON. Mr. President, I merely desire to say that I got it somewhere—I do not know whether it was in the spe-



cial message of the President, or a communication from the Secretary of the Treasury, or from some other source high up in the administration—that this Congress could not adjourn until the railroad transportation bill as well as the question of the funding of the international debt had been considered, and until recently the same persistency was to be shown upon the part of Republican leadership toward pressing through Congress a revision of the tariff laws.

Of course, we do not hear very much now about revision of the tariff. We did hear it when the President, in his first message to Congress, said it was one of the most essential and necessary pieces of legislation that should be considered by the Congress. However, there has been such a conflict of views on that question that there is now nothing like unanimity of opinion on it. But the impression has prevailed that the Republican Party promised the country in the last campaign a speedy revision of the tax laws and the tariff laws of the country. We have frittered away time now for nearly eight months or more, and the tax revision bill is not yet out of conference. I understand that in that conference the Republican conferees, as to certain provisions, are fighting among themselves like cats. It is to be hoped, however, that those differences will be ironed out and that the promise made to the country will be in part fulfilled—that is, to the extent that they will at least pass the legislation, whether it is good or bad.

Now, the Republican promise was just as strong, if not stronger, that they were going to consider the tariff question. Why, Mr. President, the sentiment was so strong on the other side of the aisle for it that a few Senators met somewhere recently and said they were going to invoke the cloture rule to pass the legislation and redeem their promise to the people. They even talked about cloture in passing the most iniquitous piece of legislation that ever traveled through this body and the other body, namely, the tax bill which is now in conference. Although we effected many changes in behalf of the people after full consideration and before it was finally passed, Senators on the other side of the Chamber met and agreed that they were going to try to invoke cloture in order to put it through this body.

Oh, you can say now, what harm would have resulted if cloture had been invoked, and yet the Senator from Indiana [Mr. WARSON] and the junior Senator from Maine [Mr. HALE], who some in this country believe is the mouthpiece of the President of the United States to-day, they and others close to the President threatened cloture to pass the tax bill through this body. You have received petitions and letters by the thousands from your constituents throughout the country telling you of the promises that you made to them in the last campaign that you were going to place upon the statute books a protective tariff law; that it was essential to the general welfare and business interests of the country; and yet here is the leadership of this body doing nothing on that question except adjourning from day to day in the committee.

Why do you not redeem your pledges to the people? Why do you promise them one thing one day and go back on it the next day? You smile now because you know I am stating what are the facts.

So, rather than deal with that important question and carry out a pledge solemnly made to the people, you prefer to try to cram through the Senate in a few days, without proper consideration and deliberation, the question of the seating of a Member of the Senate against whom charges have been preferred and against whom a verdict has been rendered by a jury of his peers in his own State. It is an important question that you are dealing with. Senators on this side of the Chamber have asked you to give them reasonable time in which to study the record and form their conclusions, that they may know whether to vote for the resolution presented by the junior Senator from Missouri [Mr. SPENCER] or not. Yet they are following the high-handed methods which were first proclaimed in the beginning of this Congress by the Senator from Connecticut [Mr. BRANDEGEE], when he said that the steam roller was working and that it would run over this side of the Chamber. Yes; we know your steam roller is working, but the American people, with such charges preferred against one as high in authority as is a Senator of the United States, will not sanction such high-handed, steam-roller methods as that.

It has been suggested that there is method in the madness of Senators on the other side of the Chamber. I admire the adroitness of their leadership. I know those Senators some times deal in secrecy and oftentimes try to stifle legislation or to put through something here upon which they would not have the searchlight of publicity thrown lest the American people be informed and condemn them for their work. I will be perfectly frank with those Senators. I have not had time

to study the record which is involved in this election contest, and there are other Senators also who have not had time to do so. I desire to have time for that purpose; I desire that sufficient time shall elapse before this case is disposed of so the newspapers of the country, which are now crowded with news of the Disarmament Conference, will be able to give space to some of the speeches, pro and con, which may be delivered during the progress of this debate, and that the people may be informed of the charges against the junior Senator from Michigan. I say I am candid in that position.

Oh, the adroitness of the Senator from Indiana [Mr. WARSON] and the smartness of the Senator from Kansas [Mr. CURTIS]! They know full well from their experience that when there is in session here a great Disarmament Conference, which is the hope not only of the people of the United States but of the peoples of the world, news in regard to the proceedings of that conference is being read by the people of this country to the exclusion of everything else. Is an unusual procedure to be invoked here so that Senators on the other side of the Chamber may rush through the consideration of this question now so that nothing will get into the newspapers in reference to it, or people's minds will be focused upon the proceedings of the Disarmament Conference and they will not read the speeches which are delivered here?

Is the Senator from Indiana and are his colleagues here who control the destinies of the Republican Party going to invoke night sessions in order to force a disposition of this case and before it can be discussed adequately and before the people of the country may know of their handiwork?

Ah, Senators, that is unfair. Why do you not agree on a proposition that at a certain time—sufficiently remote, so that Senators who are busy with their other work may find an opportunity to read the hearings and the record and the report in this case and to study this question as jurors should in order to arrive at an honest conclusion—this matter may be taken up and considered, to the exclusion of everything else, debate upon it to be limited to one speech by each Senator, if it be so desired, of one hour or an hour and a half in length? That would be the fair thing to do; that would be the right thing to do. This side of the Chamber is asking nothing more than that; and yet we are met by the leadership on the other side of the Chamber trying to cram through the Senate this proposition before the people of the country can be informed of the charges against the Senator from Michigan.

The Vice President ruled this morning, and it is now a precedent to be followed throughout all time, that resolutions coming over from one day to the next are to be handed down without a motion being made or without the Senate passing upon the question; in other words, the rule to be followed hereafter is that when a resolution is offered on one day it is to be handed down on the next day and to be considered by the Senate whether the Senate desires to consider it or not.

I see in the calendar which I hold in my hand certain resolutions, and I am wondering why this resolution, based upon a record that would require days and nights to read and study, was handed down this morning. I see in the calendar that there are lying on the table certain resolutions that were not handed down this morning and about which nothing was said. Why was this resolution, which was presented only on yesterday, handed down without a motion and without the privilege on the part of the Senate of expressing its opinion as to whether or not it should be considered?

The other resolutions which are on the calendar still remain on the table. Why was this resolution, which means so much to the integrity of our elections as well as of this august body, handed down without a Senator having the privilege of speaking upon it or expressing his choice as to whether or not it should be taken up for consideration? These other resolutions, I repeat, still remain upon the calendar.

Mr. TOWNSEND. Do I understand the Senator from Mississippi to say that the pending resolution is not on the calendar?

Mr. HARRISON. This resolution was presented on yesterday.

Mr. TOWNSEND. But it is on the calendar.

Mr. HARRISON. Senators on this side of the aisle have been trying to direct the business in the right course for the whole day, following the usual procedure which has been pursued on this side of the Chamber since Senators on the other side organized this body, although not knowing what Senators on the other side are going to do.

Here is a resolution on the calendar, Senate resolution 26, introduced by Mr. REED on April 12, 1921. That resolution is on the table; it has not been handed down. That resolution requests the President to ascertain whether the Government

of the Republic of France is willing to discuss the cession to the United States of all or any part of its possessions in the Lesser Antilles Islands. Why should one resolution which is introduced one day be handed down the next day and the same procedure not be followed in connection with other resolutions?

On May 9 there was a resolution offered by the distinguished Senator from Wisconsin [Mr. LA FOLLETTE] protesting against this Government taking part in any foreign councils except upon the express understanding that the purposes of such councils are to be the fulfillment of the pledges made by the responsible representatives of this country and the allied Governments during the war. That resolution has not been handed down; the procedure that is followed in that instance is that the Senator submitting the resolution must make a motion to call it up. It has been lying on the table since May 9.

The resolution presented yesterday, that should be given further consideration by this body after all the evidence in the case has been read and the record studied, is handed down to us to be considered to-day without any opportunity for an expression of choice as to whether it should be considered or not.

On May 14, a long time ago, another resolution was presented, which is lying on the table. It was offered by the Senator from Wisconsin [Mr. LA FOLLETTE], and requests the Secretary of State to inform the Senate regarding the negotiations as to the acceptance by the President of the invitation to appoint representatives to meet with the supreme council, the conference of ambassadors, and the Reparations Commission.

That was an important proposition; that carried with it some dynamite for the Republican Party, and so it still sleeps "the sleep that knows no waking" upon the table there. Why was that resolution not handed down as the resolution now before the Senate was handed down? Why is a rule invoked in one instance and not followed in other instances?

On July 8 there was another resolution which is now lying on the table offered by the Senator from Wisconsin [Mr. LA FOLLETTE]. They seem to have it in for the Senator from Wisconsin. None of his resolutions are handed down. Perhaps the reason is that he votes too many times with the Democrats. I am glad I get some support for that statement from the other side. At any rate, that is the most plausible reason I have heard why the resolution should not be handed down as was done in the case of the resolution now before the Senate, namely, that he votes too many times with the Democrats.

Senate resolution 107, offered on July 8, calls upon the President for information relative to conditions in Mexico. Yet that resolution is sleeping on the table there, and is not handed down.

On July 25 there was a bill introduced by a Democrat, but the Democrats should be treated like the Republicans, for there is not so much difference between some of them at any rate. Of course, there is considerable difference between my friend here [Mr. FERNALD] and myself on political matters solely. But this particular bill was offered by the Senator from Utah [Mr. KING] and is entitled "A bill (S. 2302) to extend the term and powers of the War Finance Corporation for the purpose of promoting and protecting the export of agricultural products in the United States." That is a most important measure; and yet the rule is invoked as to that bill that it must sleep upon the table; but in the matter of seating a United States Senator a resolution is handed down to us and the steam roller is put in operation, and it is said that we can not vote on the proposition of whether or not we shall take up the resolution.

On August 15 another resolution was offered, which is now lying on the table. It was submitted by the Senator from South Dakota [Mr. STERLING] for the senior Senator from Michigan [Mr. TOWNSEND]. The Senator from Michigan was treated badly in that instance.

Mr. TOWNSEND. Oh, not at all. The senior Senator from Michigan knows, as does the Senator from Mississippi, that if he wanted that resolution called up he could have called it up. The fact is that what was intended to be accomplished by the resolution has been taken care of in other ways.

I do not wish to interfere with the discussion of the Senator from Mississippi, which is made for the purpose of killing time, but his statement when he refers to me, of course, is not accurate, because if I had wanted to call up the resolution I would have invoked the rule, as the Senator from Mississippi would have done if he had a resolution lying on the table, and, as I take it, every other Senator would have done who had a resolution lying upon the table.

Mr. HARRISON. Absolutely, and I thank the Senator for his explanation as well as for his argument. He indorses

everything I have been saying—that a Senator who offers a resolution should make a motion to call it up. What I am inveighing against is that this morning there was a ruling invoked as to this situation whereby a resolution relating to the seating of a Member of the Senate was handed down without a motion being made, as should have been done, as suggested by the Senator from Michigan. Now I come to the other proposition.

Mr. TOWNSEND. Mr. President, it would not have been necessary for the Senator from Missouri to have made a motion in order to have called up the resolution. When this resolution was presented yesterday it was presented for the purpose of making it possible to call it up to-day, and the Senator from Missouri submitted the resolution with the understanding that he would call it up to-day. The resolution, as I have said, was presented in order to make it possible to bring it before the Senate. Then when the resolution came before the Senate this morning every effort was made to reach an agreement to vote, so that the Senator from Mississippi and other Senators could be accommodated, but that effort failed and the Senate was obliged to proceed with the consideration of the resolution if it intended to consider it at all.

Mr. HARRISON. Mr. President, the Senator and myself are in thorough accord. The Senator stated that the resolution was submitted yesterday for the purpose of being called up to-day. What I am inveighing against is that the Senator had his right to call it up and make a motion to call it up, but the Presiding Officer presented it to the Senate without giving us the right to say whether or not it could be considered. So I again thank the Senator from Michigan for his explanation and indorsement of my contention.

On August 16 another resolution was presented by the Senator from Utah [Mr. KING]. That still remains on the table. The same rule was not invoked as to that resolution that was invoked in regard to the resolution this morning. It was a resolution authorizing the President of the United States to call a conference of the leading mercantile nations to consider ways and means to stabilize international exchange.

Is there any question that is more important at this time than trying to stabilize international exchange? The Senator from Utah saw the wisdom of calling a conference of the mercantile interests of the world in order that they might arrive at some conclusion touching the stabilization of international exchange; and doubtless if it had been called it would have brought forth more fruit than the conference recently called by some one on unemployment.

Does any Senator on the other side now know what the recommendations of that unemployment conference were? Does any Senator here know what that conference did? I understand that they passed a resolution saying that there were between five and six million people out of employment in the country. Well, that is natural. We told the people about a year ago that if they again intrusted you with power in the Senate, and intrusted you with power in the Nation, there would be unemployment. I had no idea, and others who tried to tell the people that that situation would come about had no idea, that it would be so great as it is. You simply did worse than we thought it was possible for you to do; but the conference, I believe, did say that there were some six million men out of employment, and they recommended to the mayors and the governors of the States that they ought to do a whole lot of public work and give employment to these people.

That is the extent of your unemployment conference. That is all they did, instead of recommending that the Government should start to work on deepening the channels of the harbors and the rivers of this country that have suffered for six years because of inadequate appropriations and expend sufficient money so that they might be dredged, and that this great fleet of merchant vessels that have been constructed at great cost might come into these ports and carry our products to the markets of the world.

Why did not President Harding, and those who believed with him that something should be done for unemployment, recommend to Congress something to do, instead of sending emissaries throughout this country to the various cities and telling the cities to get busy and build bridges and streets to take care of the unemployment? Of course, that is good; that is fine; and all the cities and all the States now should adopt the most liberal policy of expenditure in order that the great unemployed may be fed, that they may exist in the present panicky and depressed conditions in this country; but the Federal Government can do something, too, and it should, yet the conference was as weak as water in recommending anything substantial and material in the way of legislative action to relieve the situation. Why, of course we would have given sanction and approval to a plan that would expend a reasonable amount of



money on good roads, on public buildings, on rivers and harbors, to help in the present distressed condition.

Mr. President, I shall not go down the line reading these numerous resolutions. There are many. They will continue to sleep. Motions will have to be resorted to in the future, I presume, to call them up. If a Senator can get a majority of the votes of the Senate, they will be considered; otherwise, they will not be; but it will live in the history of this body that in connection with a resolution to seat a United States Senator against whom charges of corruption have been preferred, on whom a jury of his peers after weeks of consideration passed a verdict and said that he was guilty, you under those conditions resort to high-handed methods, when the Disarmament Conference is in progress and little other news will get to the country and the public be informed, to cram it down our throats.

I state to you now that some of us, as long as we have physical strength to combat such high-handed, outrageous procedure, will stand here and read the record presented to the jury that convicted the Senator in Michigan as well as the hearings that were presented to the committee here. Take your own course, but if you had any real plan of procedure to put legislation through here, you could frame a unanimous-consent agreement to take up this proposition at a certain time and keep it then before the Senate and limit the debate on it to the exclusion of everything else. Then it would be discussed and the people would be informed. Take whichever course you prefer. If you want to follow high-handed methods and work in secrecy and try to keep it from the people, go ahead; hold night sessions. Otherwise suggest something reasonable and we will accept it.

The VICE PRESIDENT. The question is on the motion of the Senator from Indiana [Mr. Watson].

Mr. HARRISON. I ask for the yeas and nays. I suggest the absence of a quorum.

Mr. CURTIS. Mr. President, has any business been transacted since the point of no quorum was last made?

The VICE PRESIDENT. Does the Senator from Mississippi say that any business has been transacted since the last quorum call?

Mr. HARRISON. Of course, the Senator from Kansas would not think that an excommunication of his party was any business. I think there was some.

Mr. CURTIS. Mr. President, we have heard the kind of speeches that have been made every few days by the Senator from Mississippi. They do not worry us a bit.

Mr. HARRISON. No; and you do not answer them, either.

Mr. CURTIS. There is no use in answering them when the answer is already in the Record. The Senator knows that a proposition for unanimous consent was made this morning and an objection made upon his side of the Chamber.

Mr. HARRISON. The unanimous-consent request this morning was to fix a definite date for voting on this proposition.

Mr. CURTIS. I make the point of order that no business has been transacted since the last quorum call.

The VICE PRESIDENT. The Chair has inquired of the Senator from Mississippi whether any business has been transacted. He does not state any. The Chair knows of no business, and the Chair rules that no business has been transacted.

Mr. HARRISON. I ask for the yeas and nays on the motion. The yeas and nays were ordered.

Mr. ASHURST. Mr. President, what is the question? Let it be stated.

The VICE PRESIDENT. The question is on the motion of the Senator from Indiana [Mr. Watson] that the Senate proceed to the consideration of the Newberry case. The Secretary will call the roll.

The reading clerk proceeded to call the roll.  
Mr. BROUSSARD (when his name was called). I am paired with the senior Senator from New Hampshire [Mr. Moses] and withhold my vote.

Mr. GLASS (when his name was called). I have a general pair with the senior Senator from Vermont [Mr. DILLINGHAM]. In his absence I withhold my vote.

Mr. HARRIS (when his name was called). I have a pair with the junior Senator from New York [Mr. CALDER], and therefore withhold my vote.

Mr. McKELLAR (when his name was called). I have a pair with the junior Senator from Ohio [Mr. WILLIS]. I do not know how he would vote, and I therefore withhold my vote. If I were at liberty to vote, I should vote "yea."

Mr. OVERMAN (when his name was called). I have a general pair with the senior Senator from Wyoming [Mr. WARREN]. I therefore withhold my vote.

Mr. SIMMONS (when his name was called). I have a general pair with the junior Senator from Minnesota [Mr.

KELLOGG]. I transfer that pair to the senior Senator from Missouri [Mr. REED], and vote "yea."

Mr. WILLIAMS (when his name was called). I have a general pair with the senior Senator from Pennsylvania [Mr. PENROSE]. In his absence I am not permitted to vote. If I were at liberty to vote, I would vote "nay."

The roll call was concluded.

Mr. McKELLAR. I am told that the junior Senator from Ohio [Mr. WILLIS], with whom I have a pair, would vote as I shall, and I will vote. I vote "yea."

Mr. GLASS. I am told that the senior Senator from Vermont [Mr. DILLINGHAM], with whom I have a general pair, would vote as I will vote on this question, and I therefore vote. I vote "yea."

Mr. SUTHERLAND (after having vote in the affirmative). I transfer my pair with the senior Senator from Arkansas [Mr. ROBINSON] to the junior Senator from Oregon [Mr. STANFIELD], and allow my vote to stand.

Mr. HARRIS. I am informed that the junior Senator from New York [Mr. CALDER], with whom I have a pair, if present would vote "yea," and therefore, being at liberty to vote, I vote "yea."

Mr. CURTIS. I desire to announce the following pairs:

The Senator from New Jersey [Mr. EDGE] with the Senator from Oklahoma [Mr. OWEN];

The Senator from Massachusetts [Mr. LODGE] with the Senator from Alabama [Mr. UNDERWOOD]; and

The Senator from Maine [Mr. FERNALD] with the Senator from New Mexico [Mr. JONES].

The result was announced—yeas 63, nays 1—as follows:

#### YEAS—63.

Ashurst	Gerry	McKellar	Shields
Ball	Glass	McKinley	Shortridge
Borah	Gooding	McLean	Simmons
Bursum	Hale	Myers	Smith
Cameron	Harris	Nelson	Smoot
Capper	Heflin	New	Spencer
Caraway	Hitchcock	Nicholson	Sterling
Culberson	Jones, Wash.	Norbeck	Sutherland
Cummins	Kendrick	Norris	Swanson
Curtis	Kenyon	Oddie	Townsend
Dial	Keyes	Page	Trammell
Elkins	King	Phipps	Walsh, Mass.
Ernst	Ladd	Poin Dexter	Walsh, Mont.
Fletcher	La Follette	Pomerene	Watson, Ga.
France	McCormick	Ransdell	Watson, Ind.
Frelinghuysen	McCumber	Sheppard	

#### NAYS—1.

Harrison

#### NOT VOTING—32.

Brandegee	Fernald	Moses	Stanfield
Broussard	Harrell	Newberry	Stanley
Calder	Johnson	Overman	Underwood
Colt	Jones, N. Mex.	Owen	Wadsworth
Crow	Kellogg	Penrose	Warren
Dillingham	Lenroot	Pittman	Weller
du Pont	Lodge	Reed	Williams
Edge	McNary	Robinson	Willis

So the motion of Mr. WATSON of Indiana was agreed to, and the Senate proceeded to consider Senate resolution 172, submitted yesterday by Mr. SPENCER, as follows:

*Resolved*, (1) That the contest of Henry Ford against Truman H. Newberry be, and it is hereby, dismissed.

(2) That Truman H. Newberry is hereby declared to be a duly elected Senator from the State of Michigan for the term of six years commencing on the 4th day of March, 1919.

(3) That his qualification for a seat in the Senate of the United States, to which he has been elected, has been conclusively established, and the charges made against him in this proceeding, both as to his election and qualification, are not sustained.

Mr. SPENCER obtained the floor.

Mr. WALSH of Montana. Mr. President—

The VICE PRESIDENT. Does the Senator from Missouri yield to the Senator from Montana?

Mr. SPENCER. I yield.

Mr. WALSH of Montana. When this matter came before the Senate yesterday morning, a request was made for the reading of the reports made by the minority and the majority of the committee. I thought that an exceedingly appropriate way of introducing the subject, so that the contentions of both sides might be before the Senate and in order that the arguments might be addressed to those contentions. I thought it likewise of value to inform the public, through the RECORD, as to what are the contentions of both sides. If it would not embarrass the Senator, I ask that the reports be incorporated in RECORD immediately before the commencement of the Senator's argument.

Mr. SPENCER. I have no objection to having the reports incorporated in the RECORD.

Mr. WALSH of Montana. I do not like to interrupt the statement of the Senator from Missouri for the reading of the

reports, but I believe it would be helpful if they should be read at a later stage in the proceedings; unless the Senator is willing that they should be read now.

Mr. SPENCER. I have no objection whatever to the reports being incorporated in the Record, but may I say to the Senator from Montana that those reports have been upon the desks of Senators since September 29, 1921, and that in the talk of an hour or more, which I have already made, I have gone over a part of the majority report and will doubtless refer very closely to the remaining part of the majority report. Therefore, if the Senator cares to hear what I have to say, he will have the main points of the majority report. Doubtless when the Senator from Ohio comes to speak he will give as much of the minority report to the Senate as he desires to give. The minority report is largely taken up with the testimony which was given before the committee. It is set out at some length, and that report is a document of considerable size. I would not like to have my remarks interrupted by the reading of both reports at this time.

Mr. WALSH of Montana. I do not desire to press the matter if it is not altogether agreeable to the Senator from Missouri. I desire to say to the Senator from Missouri that I myself have read very carefully both the reports, because I felt called upon to make some remarks upon the subject, being a member of the committee, but I am quite in error if very many of the Members of the Senate have found the time to read either the one or the other report, so that they are proceeding without any general, comprehensive idea of what the controversy is about. I understand, then, that the reports are to be incorporated in the Record.

Mr. SPENCER. Yes; as far as I am concerned.

The VICE PRESIDENT. It is so ordered.

Mr. HARRISON. Mr. President—

The VICE PRESIDENT. Does the Senator from Missouri yield to the Senator from Mississippi?

Mr. SPENCER. I yield.

Mr. HARRISON. I shall object to that if it will operate to prevent the reading of the reports, because I shall ask unanimous consent to have them read at the proper time. The Senate should be informed about the contents of those reports.

The VICE PRESIDENT. Does the Chair understand that an inquiry is made by the Senator from Mississippi?

Mr. HARRISON. I merely stated that I would object if it would preclude me from having the reports read at a later stage of the consideration of this proposition, because they should be read. On yesterday the Secretary was reading them, and the reading was stopped, I think, by the remarks of the Senator from Missouri.

Mr. WALSH of Montana. I venture to say that there would be no good ground for objection, later on, to a request for the reading of the reports, provided they were not duplicated in the Record.

The VICE PRESIDENT. The Senator from Mississippi will lose no rights.

Mr. SPENCER. I understand the reports are, by unanimous consent, to be incorporated in the Record at the beginning of these proceedings.

The VICE PRESIDENT. It is so ordered.

Mr. SPENCER. The Senate expressed its desire to take up the Newberry case by so decisive a vote that I hope it may be convenient for the Senate to continue as long as possible in the consideration of it to-day, because there must be given full opportunity for as much discussion as either side desires. Perhaps it is only fair to say that I shall ask the Senate to continue in session some time to-night for the consideration of this case, and perhaps to-morrow night, so that we may proceed with it as expeditiously as possible.

Mr. POMERENE. Mr. President, I hope the Senator will not insist upon a night session the very first day this matter is taken up. My colleagues and myself have assisted in having the matter taken up. We are not to blame for the fact that a unanimous-consent agreement could not be made, and I think we are all sufficiently busy at least to have a little respite after the usual hour of adjournment in the evening. I hope the Senator will not insist on his suggestion. I do not want to be put in the position of objecting, and I am not objecting now, but I simply want to express the view that I think it is hardly the right course to pursue.

Mr. SPENCER. Mr. President, I had in mind partly the convenience of the Senator from Ohio and those who are planning to go to Haiti with him on Government business, because if the discussion of the case is as protracted as the Senator from Mississippi thinks it will be, it would be difficult to close it before the Senator from Ohio would want to leave for Haiti, and that would be very unfortunate, because his fa-

miliarity with the case is such that the Senate will want to hear the presentation he will make of his side of it. Therefore it seems to me that we ought to proceed as expeditiously as possible, so as to conclude it before he has to leave.

The VICE PRESIDENT. The Senator from Missouri will proceed.

Mr. SPENCER. Mr. President, I have listened to the remarks of the Senator from Alabama [Mr. HEFLIN] and I can not refrain from quoting a verse that is found in the Holy Scripture, which reads as follows:

He that is first in his own cause seemeth just; but his neighbor cometh and searcheth him.

Mr. President, I welcome the opportunity to lay before the Senate the facts in this contest. There can be little, if any, doubt about the law. The Senate is the sole judge "of the election, returns, and qualifications of its own Members." The case will be decided upon the facts as they have been shown by a series of examinations that in extent have been unequalled in the history of any similar case.

In the fall of 1918 there was held a primary election in the State of Michigan for the nomination, among others, of a United States Senator. Truman H. Newberry was a candidate upon the Republican ticket for that office, and there was another candidate upon the Republican ticket, Gov. Osborn. Strange as it may seem, there was also upon the Republican ticket as a candidate Henry Ford, who was running at the same time upon the Republican ticket for the Republican nomination and upon the Democratic ticket for the Democratic nomination. The result of that primary nominated Truman H. Newberry. His election followed at the regular election in 1918.

Mr. HARRISON. Mr. President—

The PRESIDING OFFICER (Mr. CURTIS in the chair). Does the Senator from Missouri yield to the Senator from Mississippi?

Mr. SPENCER. I yield.

Mr. HARRISON. A parliamentary inquiry. A few moments ago the distinguished Senator from Kansas [Mr. CURTIS], who is now presiding in the Senate, made a statement to the Vice President, then presiding, that the five-minute rule would be invoked up until 2 o'clock. Is that the ruling of the Chair?

The PRESIDING OFFICER. The present occupant of the chair did not know that the resolution was before the Senate. He was engaged and thought the request for unanimous consent was being considered, and that that was the question before the Senate. That is the reason why, before assuming the chair, he made the point of order.

Mr. HARRISON. A further parliamentary inquiry. Can one Senator speak more than five minutes on this matter?

The PRESIDING OFFICER. Yes; on the pending resolution.

Mr. HARRISON. The Chair has changed his views.

The PRESIDING OFFICER. No; the Chair has not changed his views. The Senator from Missouri will proceed.

Mr. SPENCER. After the general election in November, 1918, there was filed in the Senate of the United States on January 6, 1919, and again on May 20, 1919, a petition of Henry Ford contesting the election of Truman H. Newberry as a Senator from the State of Michigan and asking for a recount of the ballots for the office of United States Senator cast at the election in Michigan held November 5, 1918, and for other relief and praying—

That said Truman H. Newberry be declared not elected, and also disqualified, and not entitled to a seat, because of the aforesaid violations of law; and that petitioner (Henry Ford) may be declared elected and entitled to said seat.

These petitions were referred to the Committee on Privileges and Elections, and of course raised first the question as to who was elected at the general election in 1918, for manifestly if the allegations of the petitioner, whom I may refer to as the contestant, were true with regard to the election and Mr. Newberry was not elected and Mr. Ford was elected, then there was no need of going into any examination with regard to the primary. So, first the committee, with the consent of both parties, took up the question of the general election of 1918, and about that, as briefly as I am able to do, I present the facts to the Senate. We brought to Washington all the ballots that were cast in the State of Michigan for Senator at that general election.

Mr. LA FOLLETTE. Mr. President—

The PRESIDING OFFICER. Does the Senator from Missouri yield to the Senator from Wisconsin?

Mr. SPENCER. I yield.

Mr. LA FOLLETTE. Did the Senator from Missouri say that the petitioner prayed that he be held to be elected?



Mr. SPENCER. The Senator from Wisconsin is entirely right. May I quote the exact words of the petition:

And that petitioner (Henry Ford) may be declared elected and entitled to said seat.

At the recount of those ballots there were some 93 precincts where the ballots had been lost or had been destroyed, because under the laws of Michigan the ballots which were kept intact in ballot boxes are, when those ballot boxes are necessary for another election, taken out and destroyed. It happened in some precincts that after the fall election and before the investigation of this case commenced there were local elections which, in a comparatively small number of precincts, necessitated the destruction of the ballots.

Mr. WATSON of Georgia. Mr. President—

The PRESIDING OFFICER. Does the Senator from Missouri yield to the Senator from Georgia?

Mr. SPENCER. I yield to the Senator from Georgia.

Mr. WATSON of Georgia. I would like to ask the Senator if those ballots were destroyed after the notice of contest was given?

Mr. SPENCER. I think in no case. My recollection is that the testimony showed that they had all either been destroyed by accident—in one case I think the building in which they were contained had burned down—or in the regular course of destruction of the ballots in order to use the ballot boxes for other elections. I may say also in answer to the Senator from Georgia that by the consent of both parties the official returns of the State count in those 93 precincts in which the ballots were lost or not produced were accepted as the accurate count of those precincts and incorporated in the final result.

Mr. WATSON of Indiana. That was done by mutual consent of the parties?

Mr. SPENCER. It was. It might be well to interject here the statement to which I know there will be no dissent, that in the recounting of those ballots and in the making up of the tabulation of the final result, while there was now and then a slight difference of opinion the result was concurred in by the representatives of both parties, and the entire recount went through with a cooperation on both sides that absolutely eliminated any friction in connection with that matter.

I call the attention of the Senate in the first place to the general election. I ask Senators to listen to the charges which were made by Henry Ford under oath in connection with that general election. I do so because the greater part of his petition had to do with the general election, with the fraud, the intimidation, the miscounting of ballots, which he alleged had taken place at that general election and which deprived him of the seat to which he claimed he had been justly entitled. Therefore the committee paid particular attention to the charges of Mr. Ford with regard to the general election. Here are some of them:

The contestant (Henry Ford) alleged in regard to the election—

(a) That there are about 2,200 election precincts or districts in Michigan, and that nearly all of the election boards were composed wholly of Republicans, and great numbers of them were wholly composed of intense partisans of Mr. Newberry, and that only in a comparatively few of them were there at the said election any challengers or others acting in behalf of the Democratic candidates, and that every opportunity existed for election officials who were so inclined to miscount the ballots in favor of Mr. Newberry.

Senators will realize upon the mere reading of that allegation that it is a fundamental charge against the integrity of the election itself. It there were a scintilla of proof to sustain it, it deserved, as it would have received, the careful consideration of the committee first and then of the Senate. Not one word to sustain the charge was ever submitted; and in the brief of the contestant Senators will not find even a reference to this or to the other charges which I will now read in connection with the general election. The charge came with a vehemence and a force that was staggering; the proof was absolutely wanting. The matter ended with the allegation and there has not been the slightest attempt even to sustain it, nor is there a single word with reference to it in the brief that was filed by the contestant or in the report of the minority to the Senate.

Mr. Ford charged further in regard to that general election:

(b) That a large number of ballots were unlawfully counted for said Newberry which in fact and in truth were cast for Henry Ford, namely, at least 10,000.

There was no evidence to sustain that allegation: with regard to a single ballot of the 480,000 ballots and more that we examined in the recount which was conducted in the Senate Office Building.

(c) That large numbers of ballots lawfully cast for petitioner were not counted for him, but were unlawfully rejected by the various precinct election boards when making the counts, and they were not returned for petitioner, as in truth they ought to have been, namely, at least 10,000.

The charge is definite; the proof is absent.

(d) That in many election precincts or districts the count by the election officers and boards was illegal, in favor of Newberry, false and fraudulent, and in violation of the election laws governing the count.

(e) Many of the ballots marked and cast for petitioner were counted and returned for the said Truman H. Newberry.

(f) In many precincts (particularly in the Upper Peninsula of Michigan) the provisions of law enacted to protect the sanctity and secrecy of the ballots and to promote a true and honest vote and count were flagrantly violated, and many important and vital irregularities and departures from such provision occurred, thus vitiating under the law the vote of such precincts—as, for instance, the marking of ballots for voters by an unauthorized third person, the exposure of ballots by the voters, the overseeing of the voting by mine bosses and superintendents and the like, all of which were conducted in the interests of said Truman H. Newberry, and the votes of such precincts should be rejected and thrown out.

This, like every one of the preceding charges, vehement in allegation, was absolutely unsustained by a single word of evidence that has been introduced.

(g) That many ballots in many precincts duly marked and cast for petitioner were rejected by the respective election boards and not counted at all.

(h) That many ballots bearing unlawful distinguishing marks were illegally and unlawfully counted for the said Truman H. Newberry.

(i) Many ballots duly marked and cast for your petitioner were wholly rejected and thrown out by many election boards on the unlawful and fraudulent pretext that they were not duly and properly marked for the petitioner, whereas in fact they were so marked and cast.

(j) Many ballots duly and properly marked and cast for the petitioner were rejected and thrown out by many election boards on the unlawful and fraudulent pretext that they bore distinguishing marks, whereas in fact they did not bear any unlawful distinguishing marks and ought to have been counted for your petitioner.

(k) Many ballots duly and lawfully marked and cast for petitioner were erroneously thrown out and not counted for petitioner by many of the said election boards under erroneous interpretations of their duties.

(l) Many ballots for said Truman H. Newberry were corruptly and unlawfully procured to be cast and counted for him by the unlawful use of money on his behalf.

(m) Large sums of money were unlawfully expended by and in behalf of said Truman H. Newberry to influence said election and cause votes to be cast for him that otherwise would not have been so cast.

There was not one single word of testimony or criticism as to the amount of money or the method of its expenditure, or anything in connection with it, so far as the general election was concerned. There were many charges; there was an absolute failure of proof. The primary election will be discussed when we reach that.

Mr. POINDEXTER. May I ask the Senator a question?

The PRESIDING OFFICER. Does the Senator from Missouri yield to the Senator from Washington?

Mr. SPENCER. I yield.

Mr. POINDEXTER. How about the other charges? The Senator has read a number of charges. The statement he has just made related only to the last one. Is it applicable also to all of the other charges?

Mr. SPENCER. The statement I have just made, as I have already said, though probably the Senator did not hear me, is true in regard to every single one of the charges which I have read in relation to the general election, and is also applicable to the few remaining ones which I shall read.

Not a single charge with regard to the general election, so severely made, was even attempted to be sustained. They were entirely disregarded by the contestant when it became necessary to prove them. Every one of them strikes at the very fundamental rights of the citizen in an election; every one of them is destructive of our Government if true; and anyone who would participate in such acts as are charged has no right not only to be a Member of the Senate of the United States but should be under sentence in the penitentiary which is provided for those who are guilty of these offenses.

I repeat that every one of the charges in regard to the general election which I have read, and that I shall now read, vehement in their character, was absolutely unsustained by a word of evidence. They are not even mentioned in the brief of the contestant, with all its voluminous contents, as being worthy of a single sentence of reference, but in the face of the facts as they were presented dropped absolutely out of sight. The contestant's allegations continue, as follows:

(n) Large numbers of lawful voters were intimidated and prevented from voting at the said election by partisans and supporters of said Newberry who otherwise would have voted at the election and cast their votes for the petitioner, to wit, 5,000 of such voters.

Senators will notice in these charges not only the definite character of the offense but of the exact number of votes which were affected; in some cases 10,000, and in this instance 5,000,

and yet not one solitary witness was produced to sustain the charges.

Mr. POINDEXTER. Mr. President—

Mr. TRAMMELL. Will the Senator permit a question?

The PRESIDING OFFICER. Does the Senator from Missouri yield; and if so, to whom?

Mr. SPENCER. I yield first to the Senator from Washington, and then I will yield to the Senator from Florida, with pleasure.

Mr. POINDEXTER. Mr. President, I desire to ask the Senator from Missouri if the charges which he has recited were sworn to; and if so, by whom?

Mr. SPENCER. They were sworn to by Henry Ford, making the charges, as I recollect, upon information and belief.

Mr. POINDEXTER. The Senator has just stated that anyone who is guilty of the offenses charged ought to be in the penitentiary, and I agree with him in that if the offense was deliberate and proven; but I am of the opinion that any man who makes such charges, impugning the validity of an election, without any ground or any proof, is himself guilty of a very serious offense.

Mr. SPENCER. I yield now to the Senator from Florida.

Mr. TRAMMELL. I desired at the time I rose to ask the Senator a question, but I will not now ask the Senator the question.

Mr. SPENCER. The next charge is as follows:

(c) Large numbers of lawful voters, employees of certain large corporations, were intimidated and unlawfully coerced by employers and their representatives into voting for said Newberry against their wills and preferences who otherwise would have cast their ballots for the petitioner.

(p) In a number of the counties the respective boards of county canvassers made and reported their canvasses without having or examining the poll books and tally sheets nor in any way verifying the number of original votes as cast or the number of voters voting at the respective precincts.

(q) That careful investigation by petitioner's direction has been made by reliable men since the election to ascertain, as far as may be, the detailed facts pertaining to the above statements and as to the conduct of counting in said election—

I digress here to remark that every one of these charges, according to the allegation of Mr. Ford, was by his own agents investigated as to its truth before it was made—

and from such investigations and from other information reaching the petitioner and his representatives he avers the foregoing statements to be true, and he particularly specifies the following counties and election districts therein as the counties and districts where such irregularities, miscounting, and frauds were more flagrantly committed, namely—

Then he mentions 57 counties in the State of Michigan. My understanding is that there are 83 counties in that State. Then it was further charged—

and that such irregularities and miscounts occurred in a more modified degree in nearly all the other counties of the State, and that mistakes, unfavorable to petitioner and in favor of the said Truman H. Newberry, occurred in all of the counties.

(r) That upon a fair and lawful recount of the ballots cast at said election your petitioner would be decided to be duly and lawfully elected Senator from Michigan.

Mr. LA FOLLETTE. Mr. President—

The PRESIDING OFFICER. Does the Senator from Missouri yield to the Senator from Wisconsin?

Mr. SPENCER. I yield.

Mr. LA FOLLETTE. Will the Senator please state the date of the filing or presentation of the petition?

Mr. SPENCER. The first one was filed on January 6, 1919, and again, on May 20, 1919, the charges were presented to the Senate.

Mr. LA FOLLETTE. Are the allegations of the petition filed on the 20th of May the same as the allegations in the petition filed in January?

Mr. SPENCER. My recollection is that they are, although I am not able definitely to state to the Senator whether or not they are precisely the same. My recollection is that the same charges occur in both petitions.

Mr. LA FOLLETTE. At what time in January was the petition filed?

Mr. SPENCER. On January 6, 1919, it was filed in the Senate.

Mr. LA FOLLETTE. That was about 60 days after the election?

Mr. SPENCER. It was about that.

Mr. POMERENE. Mr. President—

The PRESIDING OFFICER. Does the Senator from Missouri yield to the Senator from Ohio?

Mr. SPENCER. I yield to the Senator from Ohio.

Mr. POMERENE. In view of certain questions which have been asked on the floor of the Senate, as well as of me by individual Senators, it would perhaps clear the issue somewhat if I were to say that while it is true that charges were filed relat-

ing to the general election as well as to the primary election, no attempt was made to pursue these charges so far as they related to the general election, except as to the matter of counting the ballots. I think I am entirely accurate about that, as I now recall; but the evidence which was introduced related almost entirely to alleged irregularities and violations of law during the preprimary campaign.

Mr. SPENCER. In answer to the Senator from Wisconsin [Mr. LA FOLLETTE] I will say that all these charges definitely appear in the petition that was filed on May 20, 1919, after there had been ample time for their investigation. Whether they appeared in extenso in the petition filed as of January, I am not now able to state.

Finally it was charged by Henry Ford—

(s) That upon such a fair and lawful recount, and due allowance being made for such frauds, intimidations, and prevention of votes, petitioner would be decided and declared by your honorable body to have been duly and lawfully elected Senator from Michigan.

When we proceeded to take up these charges with regard to the general election the first thing that we took up was the recount. The official count in the State of Michigan gave to Truman H. Newberry 220,054 votes and to Henry Ford 212,487 votes, which gave to Mr. Newberry a plurality of 7,567 votes. On the recount Mr. Newberry received 217,085 votes and Mr. Ford 212,751 votes. Mr. Newberry's plurality was 4,334 votes. The largest difference by far resulted from the finding of 2,226 ballots that had no initials of the election judges upon them. There was every evidence of their legality; there was every evidence that they had been cast by qualified voters; but under an agreement which had been made by both sides before the recount commenced it had been determined that every ballot that did not have upon it the initials of the election officials, as required by the laws of Michigan, should be cast out and not be counted; and the result was, naturally, that the man who had the largest number of votes cast for him suffered the most.

Mr. WATSON of Georgia. Mr. President—

The PRESIDING OFFICER. Does the Senator from Missouri yield to the Senator from Georgia?

Mr. SPENCER. I yield.

Mr. WATSON of Georgia. I should like to inquire of the Senator from Missouri what is the normal strength of the two parties in the State of Michigan, as determined by previous uncontested elections?

Mr. SPENCER. I do not know what it was in the immediately preceding election. There sits before the Senator from Georgia the distinguished senior Senator from Michigan [Mr. TOWNSEND], whose election was some few years ago, but who perhaps can tell us the result.

Mr. WATSON of Georgia. Is the governor of the State a Republican?

Mr. SPENCER. Oh, the State is a Republican State. It has been generally so for years.

Mr. WATSON of Georgia. By about how many?

Mr. SPENCER. It varies in majority, I should say, normally from 30,000 to 50,000. The Senator from Michigan can inform the Senator as to that.

Mr. TOWNSEND. Mr. President, Michigan is a Republican State. It has at several elections during the last 10 or 12 years or more elected a Democratic governor, although the Republicans have carried the State normally by from about 30,000 to 100,000, or even more than that.

Mr. WALSH of Montana. Mr. President—

The PRESIDING OFFICER. Does the Senator from Missouri yield to the Senator from Montana?

Mr. SPENCER. I do.

Mr. WALSH of Montana. I inquire of the Senator from Michigan if Lewis Cass was not the last Democratic Senator from the State of Michigan?

Mr. TOWNSEND. He was.

Mr. LA FOLLETTE. In what year?

Mr. TOWNSEND. He served from 1845 to 1848, and again from 1849 to 1857. He was the first Territorial governor of our State, and after Michigan became a State he was elected a United States Senator from the State. The first governor, however, was Stephen T. Mason. Mr. Charles E. Stuart was also a Democratic Senator from our State, serving from 1853 to 1859.

Mr. LA FOLLETTE. What was the presidential vote in 1912?

Mr. TOWNSEND. In 1912 the State was divided. We had three parties there. Roosevelt carried it, I think, by about 60,000. I am not clear as to the majority. I do not bear those figures in my mind; but he carried it over either one of his opponents.

Mr. LA FOLLETTE. By how much did Mr. Harding carry it?



Mr. TOWNSEND. He carried it by about 300,000.

Mr. SPENCER. It may interest the Senate, in a word, to say that the recount employed a substantial number of people in order to speedily complete the work. It ran from the 4th of January to the 2d of February, with a number of tables, and at each table there was a representative of either side. The cost was many thousands of dollars. The recount was carefully made, with the result, as I have indicated to the Senate in figures, that both sides expressed their approval of the method of the recount and of the accuracy of its final result.

Mr. WATSON of Georgia. Mr. President—

The PRESIDING OFFICER. Does the Senator from Missouri yield to the Senator from Georgia?

Mr. SPENCER. I yield to the Senator from Georgia.

Mr. WATSON of Georgia. As I understand the Senator, the case was virtually abandoned as to the general election.

Mr. SPENCER. The Senator is correct.

Mr. WATSON of Georgia. I should like to follow that question by this: In Michigan in what way is the general election controlled by the primary?

Mr. SPENCER. The Senator from Michigan can answer that question.

Mr. TOWNSEND. Mr. President, we have a general statutory primary law for nominating candidates for the Senate and all other offices in our State. I think now all of them are under that law. The primaries have been held in August. The parties present their candidates at the primaries, and they are nominated under the same provisions of law that govern the election. That is, the same safeguards are thrown around the primary elections that are thrown around the elections generally. The candidate who receives the plurality of votes in his party is placed on the official ticket as the candidate of that party at the election. Is that an answer to the Senator's question?

Mr. WATSON of Georgia. Yes; substantially, it is.

Mr. SPENCER. Mr. President, it is perfectly fair to say that such vehement charges and such an entire absence of proof had a certain effect upon the committee, because these charges were the gravamen of the election contest. There was a reference in the petition to the unlawful expenditure of money in the primary, which I will fully discuss in a moment, but it was made rather more as an incident. Neither in length nor in vehemence was it anywhere near as strong as the allegations that were made in connection with the general election, where the contestant stated that his trusted and tried agents had gone over the entire State of Michigan to establish the truth of the allegations he was making, and upon their investigation and information he made the allegations under oath, and was either unable or unwilling to offer any evidence to sustain any of them.

Mr. KING. Mr. President—

The PRESIDING OFFICER. Does the Senator from Missouri yield to the Senator from Utah?

Mr. SPENCER. I yield to the Senator from Utah.

Mr. KING. I should like to ask the Senator from Missouri if it is not a fact that notwithstanding those general allegations, the gravamen—to use the Senator's expression—of the entire controversy and the offense was this, namely, that Mr. Newberry entered into a conspiracy with Paul King and Cody and others for the purpose of debauching the electorate of the State of Michigan in the primary election, and that pursuant to that conspiracy a large sum of money, in excess of \$250,000 or \$260,000, was expended; and is it not a fact that the issues tried in the court when Mr. Newberry and others were convicted was that particular issue as to whether there was a conspiracy? Then—if I may supplement that question by another, so as not to occupy the time of the Senator—is it not a fact that when the matter came before the Senate committee the question there was, after having disposed of the question of the votes and the count, whether there had been a conspiracy pursuant to which a large sum of money had been expended; and did not the committee content themselves and the parties rest largely upon the proposition on behalf of Mr. Newberry that there was not a large amount of money expended with his knowledge or consent, but admitting that there was a large amount expended, and the attorneys of Mr. Ford insisting that the large amount of money was spent by Mr. Newberry, or with his knowledge and consent, and that it was pursuant to a conspiracy? In other words, was it not the conspiracy charge that was the gravamen of the case before the courts of Michigan, as well as before the Committee on Privileges and Elections?

Mr. SPENCER. I do not think the conspiracy charge was at all before the Committee on Privileges and Elections. The

conspiracy was the main charge that was tried in the court at Grand Rapids, and subsequently before the Supreme Court of the United States; and it is undoubtedly true that the testimony which was heard before the committee had its bearing upon the primary election, and not upon the general election, but the alleged conspiracy was not mentioned before the committee except as the Grand Rapids trial indicated such alleged conspiracy. About that I shall speak now.

Mr. POMERENE. Mr. President—

The PRESIDING OFFICER. Does the Senator from Missouri yield to the Senator from Ohio?

Mr. SPENCER. I yield to the Senator.

Mr. POMERENE. The Senator certainly has not forgotten that the bill of exceptions which was taken before the United States district court and which related to the subject of the indictment, and which was later filed in the United States Supreme Court, was before the Committee on Privileges and Elections as a part of the record; and I now have in my hand that volume, containing nearly 1,000 pages.

Mr. SPENCER. There is no doubt of that. I have it before me.

Mr. POMERENE. Practically all of that testimony, as I now recall—I make that statement with a little reservation, because I know how uncertain one's memory is in dealing with the subject—related to the irregularities said to have taken place at and prior to the primary; and the question of conspiracy was one of the issues involved in the criminal case, all of which testimony was before our committee.

Mr. SPENCER. Mr. President, I am in somewhat of a quandary. What I now have to say deals with the primary, and I realize that a great many Senators are at lunch. Of course, they can not be here during this time, and perhaps they could get the statement better from the printed Record, in any event.

Mr. CURTIS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. Watson of Indiana in the chair). The Secretary will call the roll.

The reading clerk called the roll, and the following Senators answered to their names:

Ashurst	Gooding	McKinley	Simmons
Broussard	Hale	McLean	Smith
Bursum	Harris	McNary	Smoot
Cameron	Harrison	Myers	Spencer
Capper	Heflin	New	Sterling
Caraway	Johnson	Nicholson	Sutherland
Culberson	Jones, Wash.	Norris	Swanson
Cummins	Kendrick	Oddie	Townsend
Curtis	Kenyon	Overman	Trammell
Dial	Keyes	Owen	Walsh, Mass.
Elkins	King	Page	Walsh, Mont.
Ernst	Ladd	Phipps	Watson, Ga.
Fernald	La Follette	Poindexter	Watson, Ind.
Fletcher	McCormick	Pomerene	Williams
France	McCumber	Ransdell	
Frellinghuysen	McKellar	Sheppard	

The VICE PRESIDENT. Sixty-two Senators having answered to their names, a quorum is present.

Mr. SPENCER. Mr. President, the Senator from Wisconsin asked me a question as to whether the definite charges which were made by the petitioner—Henry Ford—were contained in both the petitions for contest, the one filed on January 6 and the one filed on May 20, and I answered him that the one filed on May 20 contained them all. That answer was entirely accurate. I have since learned that the precise charges were also contained in full in the petition as it was filed on January 6.

I have concluded the first point upon which I desired to reply in the presentation of the facts of this case, and that point was that in the general election every charge that was made by the petitioner—Henry Ford—and the charges were of the gravest character, were specific in form, and struck at the fundamentals of the franchise, was without the slightest evidence to sustain it, and not one of them was even mentioned in the brief of the contestant, or in the report of the minority members of the committee to the Senate.

The other allegations in the contest had to do with the primary election, and I shall now devote myself to that phase of the case. May I say, in order to get it out of the way, that if there is any doubt in the mind of any Senator as to the fullness of the examination which was given to the primary election, I call his attention to the fact that never in the history of elections has there been that minute, detailed, comprehensive, persevering examination into every fact in connection with a primary election which characterized the examination into this election in Michigan.

Mr. CARAWAY. Mr. President, I hope the Senator will not think I am impertinent, but right at that point I want to ask him what the objection of the majority of the committee was

to having the contestee appear before the committee and make a statement?

Mr. SPENCER. If the Senator will be good enough to let the answer to his question, which is a perfectly pertinent one, wait until I reach it in logical order, I assure him an answer will be given.

Mr. CARAWAY. There is one other question I want to ask the Senator. What was the objection of the majority of the committee to having the books of the bank which handled the accounts examined?

Mr. SPENCER. If the Senator will wait, it will be true of that as of the former question, and I am in hope the answer will amply satisfy the judgment and the conscience of the Senator from Arkansas.

Mr. CARAWAY. I will wait until the Senator reaches those points, then.

Mr. SPENCER. In the first place, there was a grand jury called in the city of New York to go into the raising of this alleged amount of money, the corruption and bribery with relation to this primary. They made their examination, and without result.

Mr. KING. Mr. President, will the Senator permit an inquiry?

Mr. SPENCER. I yield.

Mr. KING. Was not the lack of result largely due to the fact that witnesses who were subpoenaed refused to appear?

Mr. SPENCER. My recollection of it is that the court found themselves without the power to require the attendance of some of those whom they thought they ought to have before them in order to fully examine into it, and therefore I pay no more attention to the matter than simply to make a passing reference to it.

Then there came an examination at Grand Rapids.

Mr. POMERENE. Mr. President—

The VICE PRESIDENT. Does the Senator from Missouri yield to the Senator from Ohio?

Mr. SPENCER. I yield.

Mr. POMERENE. I think I am accurate in the statement I am about to make. Certain witnesses were subpoenaed on behalf of the Government to testify before the United States grand jury in New York. Those witnesses, under the advice of attorneys representing Mr. Newberry and the witnesses themselves, refused to testify before the grand jury, and then, on the advice of their counsel, the Federal primary law was claimed to be unconstitutional, and these witnesses claimed their privilege. That matter was in the court for some time, and, I think, later got to the Supreme Court. I have not followed that feature of it since that time, but after the attorneys refused to allow these witnesses to testify—in my judgment a most unheard-of proceeding—the investigation was later taken up by the Michigan grand jury.

Mr. SPENCER. The grand jury was called to meet at Grand Rapids, in the State of Michigan. Why it was called to meet at Grand Rapids I have never understood. The defendant Newberry lived at Detroit. Grand Rapids is not as accessible to the different parts of the State of Michigan as is Detroit. Railroad facilities are not as good; but for some reason the grand jury was called to meet at the Federal court in Grand Rapids.

I call the Senator's attention to this significant fact, that before that grand jury was called every man, every paper, every check, every bit of information that had to do with the primary election in the State of Michigan—

[At this point the hour of 2 o'clock arrived and the unfinished business was laid before the Senate, when, on motion of Mr. Watson of Indiana, the Senate proceeded to the consideration of Senate resolution 172.]

Mr. SPENCER. Mr. President, in just a sentence I call the Senate's attention to the fact which I established as my first proposition in the presentation of this case to the Senate, and those Senators especially who are lawyers will see at once the significance of this point in regard to the pending contest, that so far as the general election is concerned, there is no question. There was not a word of testimony to show that the election was not valid and lawful. The election of Truman H. Newberry by the people of Michigan to the Senate is undisputed.

The claim that the petitioner made for his seat in the Senate, the contention that he should be declared elected and that Mr. Newberry should be declared not elected has been dropped. There is no recommendation from either side as to the seating of Mr. Ford. The election of Mr. Newberry is unquestioned. That he received a majority or plurality of the votes of the electors in Michigan in November, 1918, stands uncontradicted. That he has the certificate of election and was admitted to membership in this body is beyond doubt.

There remain to be considered some things which had to do with the events preceding the election and preceding the nomination, and which affect Mr. Newberry's qualifications for a seat in this body. Under the guise of an election contest there is now an inquiry being made into events and circumstances which had entirely to do with the primary, and which affected, not the election but the qualifications of the contestee, the sitting Member, the junior Senator from the State of Michigan.

Questions in regard to the primary were raised, and they must be considered, and when we come to the consideration of them I call the Senate's attention again to the fact, and especially the attention of the Senator from Arkansas, who made an inquiry regarding the absence of certain subpoenas for certain bank books and papers, that every witness, that every paper, that every document, that every book, was before the grand jury in Grand Rapids; that the agents of Henry Ford scoured the State of Michigan for every man who knew anything about that election, to see if perchance there might be some remark, some event, or something unexplained, which, when presented to the grand jury, might look like evidence against Truman H. Newberry; and from that scouring of the State of Michigan 483 men were subpoenaed before the grand jury at Grand Rapids. Every man who had anything to do with the primary election of Truman H. Newberry was subpoenaed, and when they came before the grand jury they came not as culprits, nor as those who believed they had done anything wrong. Every man appeared and was proud of his part in the election of Mr. Newberry. When they entered the first question that was asked of them was, "Do you waive secrecy? Are you willing that anything you may say to the grand jury shall be used at any time in any court of law?" And every one of them said, "Yes; we will waive secrecy. What we have to say you can use at any time and in any place." Six of those witnesses were among the 134 who were indicted, and the statements they made before the grand jury and whose secrecy they consented should be removed were statements that were introduced against them before the petit jury when they came on for trial. Every book, every paper, every witness was before the grand jury in Grand Rapids, and they examined into every detail of the primary election with a degree of particularity that has been unequalled in any similar election proceedings in the history of this land. And everything before the grand jury which was deemed at all relevant was introduced at Grand Rapids, and the entire testimony at Grand Rapids was available to this committee which, on the part of the Senate, examined into this matter.

So that if we hear upon the floor of the Senate anything said about a witness not being present before our committee or about any papers or checks not being presented before our committee, I ask Senators to remember that there were before our committee not only the living witnesses who were—44 in number—examined by the committee but the complete bill of exceptions in the trial at Grand Rapids as it was presented to the Supreme Court, with its summary of the testimony of every one of the witnesses. More than that, there was incorporated in our hearings the testimony of every witness taken at Grand Rapids that either side desired to have put into our record, so that when Senators come to look into the record in this instant case they will find every scrap of evidence in regard to the primary election in Michigan.

There will be something said about the absence of one witness, Emery. May I say a word about it, although it is a little out of time, and then leave it. There was a man named Emery who was identified with the Newberry primary committee in Michigan. He knew more about the transactions than any other man. He is a man whose testimony we ought to have had. He is a man whose testimony we wanted. I am much mistaken if the Senate will not hear many vehement condemnations of the committee for not having him before us.

Here are the facts: He was one of the men indicted at Grand Rapids. While he was gathering together the ballots to be brought here and riding in a Ford machine, the significance of which will appear in a minute, there was an accident. The man's skull was fractured five times. Operation after operation followed. He was tried and convicted in Grand Rapids while he lay in the hospital sick and unconscious. His counsel said, "We have no objection to proceeding if you like," so they tried him and convicted him. From that day to this that man neither mentally nor physically has been able to give testimony.

Mr. WATSON of Georgia. Mr. President—

The VICE PRESIDENT. Does the Senator from Missouri yield to the Senator from Georgia?

Mr. SPENCER. Certainly.



Mr. WATSON of Georgia. Do I understand the Senator to say that in the State of Michigan a man was indicted and tried by a jury when he was not present?

Mr. SPENCER. Indicted, tried, convicted, and sentenced while he was in the hospital. Whatever rights he had, may I say to the Senator from Georgia, were by his counsel waived. They made no point of it. Undoubtedly in the State of Michigan, as in the State of Georgia or Missouri, it would have been impossible to try a man in his absence except he waived his right to be present.

Mr. WATSON of Georgia. As a lawyer, I ask the question of the Senator who now has the floor, what right did his lawyer have to waive that constitutional privilege?

Mr. SPENCER. Pertinent question of the Senator from Georgia; and yet I believe the Senator from Georgia will agree with me before this case is through that, infamous as that circumstance seems, it is negligible compared to what was done in connection with Truman H. Newberry, whom it is sought to unseat from this body.

Mr. WATSON of Georgia. Has that lawyer been disbarred from his profession, may I ask?

Mr. SPENCER. I am unable to give the Senator information. With regard to that witness, we sent out to Michigan to find out about him and we got the certificates of two doctors, and it was the only medical testimony before us about his condition. The counsel for Mr. Ford, whose company is being sued by Mr. Emery for damages because of the injury, first subpoenaed Mr. Emery and then withdrew it and then claimed he was misinformed. One of the physicians said to us that his subjecting himself to examination would cause a collapse and would possibly be fatal.

On the eve of another operation the Assistant Sergeant at Arms of this body who summoned the witnesses and saw him, came back with the statement that mentally as well as physically it was impossible for him to testify, and other witnesses testified to the same effect. No court in the world would have required him to come before it and testify. We said, "We will not subpoena him or compel him to come, and subject him, at the possible expense of his life, to examination in this case."

If I had it to do over again, I would do precisely the same thing. It would have been an inhuman exercise of power to have compelled him, either in Detroit or here, to subject himself to the trial and strain of an examination in a case like this. Therefore, we do not have his testimony. I am free to say I wish we did have it. He knew more about the campaign than anyone else. A little later on I shall speak of a companion witness who also was sick. Oh, how the contestant insisted that we should have him. "Oh," they said, "Henry B. Joy will tell the truth, and we are satisfied that every dollar that Henry B. Joy put into this campaign was the money of Truman H. Newberry. Oh, let us have his testimony."

I will speak of that a little later on, for when we found by the report of the physician that that man's testimony could with reasonable safety be taken, if it was taken in the presence of his doctor and at Detroit, it was so taken by the consent of both parties, and that testimony throws illuminating light upon the allegations that were made in regard to it, and absolutely contradicts every claim which the contestant made in regard to it.

So that I say, and then leave it, that so far as an examination into the facts of this case is concerned, they have been examined with a detail unparalleled and are upon the public records for any man to read who likes.

Now, what are the facts?

Mr. CARAWAY. Mr. President—

Mr. SPENCER. I yield to the Senator from Arkansas.

Mr. CARAWAY. The Senator from Missouri has not answered either of the questions I asked him. He has not answered why they refused to permit the minority to examine the contestee, which the Senator said he would answer.

Mr. SPENCER. I shall, and I hope the Senator from Arkansas will be patient. My answer will be full and fair.

Mr. CARAWAY. He has not answered the question why he would not permit the books of the banks that handled the Newberry accounts to be examined, and I hope he will do that.

Mr. SPENCER. I certainly shall, though I may say in passing that all the books of the Newberry accounts are in the record, and if the Senator from Arkansas seeks to do so he can read them from beginning to end.

Mr. CARAWAY. If the Senator will pardon me, if they are in the record, the witness swore they were not there, and he was the man who was being examined and swore he did not know where they were. Incidentally, if I may be permitted to say it without being impertinent to the Senator from Missouri, the Senator would not even permit counsel for the minority to question Floyd about certain transactions.

Mr. SPENCER. The Senator from Arkansas has mistaken the facts.

Mr. CARAWAY. I will read from the record if the Senator from Missouri disputes it.

Mr. SPENCER. The Senator from Missouri does dispute the inference which the Senator from Arkansas makes. Some of the books and papers—

Mr. CARAWAY. Ah, some of them; but the Senator said they were all there, when the record shows they were not.

Mr. SPENCER. If the Senator would allow me to finish my sentence, perhaps it would clarify matters. Some of the books and papers were destroyed under circumstances which, when I get to it, I shall explain. Every book and paper, before its destruction, was presented to the grand jury, and there sat before our committee, as one of the paid counsel of Henry Ford, the man who conducted the grand jury investigation; and if there had been a single thing omitted he was there to call attention to it. In his own language, if the Senator will look at page 756 of the record, that man, who was the Government attorney at Grand Rapids and the paid attorney of Mr. Ford before our committee, said those books were before the grand jury.

Mr. POMERENE. Mr. President—

Mr. SPENCER. I hope the Senator will allow me to go on with this. I should like to take it in its logical order.

Mr. POMERENE. But clearly the Senator does not wish to make a misstatement of the facts.

Mr. CARAWAY. That is where the Senator is wrong.

Mr. POMERENE. The Senator certainly does not wish to be understood as stating that the Newberry accounts are in this record.

Mr. SPENCER. I do not. I say they were before the grand jury.

Mr. POMERENE. But we are debating this question on the record as it is before the committee, and I feel quite certain that the Senator will thank me for correcting his statement to the effect that the Newberry accounts are in this record.

Mr. SPENCER. There is no correction necessary.

Mr. POMERENE. If that had been done, there would have been less of difficulty and contention between the majority and the minority members of that committee.

Mr. SPENCER. The facts are uncontradicted that every book and paper was before the grand jury. Some of them were since lost, some of them were since burned and destroyed, but if there was a single thing that was necessary for the contestant in this case to produce, the men who knew the grand jury facts were there to call attention to that. It is camouflage to speak now of the production of books and papers which have been lost, and whose loss has been fully accounted for, after they had all been examined in the proceeding before the grand jury, because every fact before the grand jury which the Government desired to bring out was brought out at the trial and the full record of the trial was before the committee.

Mr. CARAWAY. Mr. President, will the Senator again yield to me?

Mr. SPENCER. I yield.

Mr. CARAWAY. Does the Senator intend to say that all the records in the Newberry senatorial campaign were before the grand jury?

Mr. SPENCER. Everything that the grand jury wanted was before the grand jury.

Mr. CARAWAY. That is not what I asked.

Mr. SPENCER. I do not know. I was not there.

Mr. CARAWAY. Why did not the Senator say so?

Mr. SPENCER. But I do know that the grand jury had the power to ask for any paper or witness that threw any light upon the question, and that everything they asked for was presented, and that they asked for everything that Henry Ford or his counsel suggested.

Mr. POMERENE. Now, Mr. President, I do not wish to interrupt the Senator from Missouri unduly—

Mr. SPENCER. I am glad to yield to the Senator from Ohio.

Mr. POMERENE. Surely the Senator will not contend that he has presented a proper picture of the grand jury proceedings. Let me suggest this: The man Fred B. Smith, the confidential attorney in fact of the Newberry interests, went before the grand jury with books, Newberry books. There is not anything in the record showing what the contents of those books were, so far as they might shed light upon this matter. Those books were taken back, and Mr. Smith testified that they were brought back by him. John S. Newberry testified that those books were placed in a barn or stable on the old Newberry estate, and that they had a man and wife living in that barn. Mr. John S. Newberry, when subpoenaed to produce those records

here, said that the capacity in their office was very limited, that they took those books down to the barn where they kept other records, and that he went down to look for them but he could not find anything there except some political campaign literature. That is about the sum and substance of that testimony. Am I right?

Mr. SPENCER. The Senator has stated very much of what, if I had not been interrupted, I should myself have stated.

Mr. POMERENE. I do not care to interfere with the Senator's argument.

Mr. SPENCER. I should have added to what the Senator said that the place where those books were taken by Mr. Smith, who was the confidential man of the Newberrys, was the place where for years all similar books had been taken; that every few months, as the books accumulated, they took them down to this so-called warehouse, which the Senator from Ohio calls a barn, which was in the custody of a man and his wife who lived there, and that later on, after the books had been taken to the grand jury and after the grand jury had learned from them everything that could throw any light upon the primary election, the books were taken back, and later on they could not be found; they had been stolen. That is undoubtedly the fact; but it still remains perfectly true that everything those books contained had been entirely at the disposal of the grand jury, and if there had been anything in those books which would have availed the contestant or which would have aided the Government in its case against Truman H. Newberry it would have come out in the grand jury, for they had all those books, and if anything material had come before the grand jury it would have been presented before the petit jury and it would have been part of the record in that case and would have been before us. It is unfair now to ask, "What must there have been in those books and papers that can not now be found?" If they never had been examined, there would be something in that suggestion; but every one of them was examined and was examined by the bitterest and most vindictive enemies Mr. Newberry or any man ever had and examined with a degree of particularity that was unequalled. They could find nothing from them; the grand jury, therefore, brought out nothing from them; the books were turned back, and then, after they were turned back, they were, as I have said, in some way lost or stolen.

Mr. WALSH of Montana. Mr. President, I understand the Senator from Missouri now to say that the books in question—that is to say, the books that were kept by the confidential agent of Mr. Newberry which could show the contributions made to the campaign fund—were before the grand jury, were examined by the grand jury, and that the grand jury knew all about what was in them. I have before me the only reference to that matter in the record, consisting of a few brief questions and answers. With the permission of the Senator, I should like to read it. It is found on page 756 of the record and is as follows:

Mr. ALFRED LUCKING. Where the records of the payments and contributions and all that are you do not know anything about?

Mr. SMITH. No.

Senator WOLCOTT. Were they put in there?

Mr. SMITH. Oh, yes; they were put in there.

Senator WOLCOTT. Did you put them in there personally?

Mr. SMITH. No; I did not. My cashier put them in there. I do not remember just what time. It seems to me it was either when we came back from the grand jury with the books and papers, or it was after the close of the trial; I do not know which.

Senator WARSON. Were these books and papers at the grand jury hearing and at the final trial in Grand Rapids?

Mr. SMITH. I do not know. I was not subpoenaed. My cashier was subpoenaed.

Mr. SOUTER—

Mr. Souter is the attorney referred to who had been one of the attorneys for the prosecution. Mr. Souter says—

The books were before the grand jury.

Senator WOLCOTT. Do you mean the books and records that this witness kept?

Mr. MURFIN, who was one of the attorneys of Mr. Newberry, says in answer to the question asked by Mr. Wolcott:

Yes; that is right.

Senator WARSON. Were the books and records kept by the Government or were they turned back?

Mr. SMITH. They were turned back.

Mr. MURFIN. The Government subpoenaed the witness from this office to bring the records, and another man took them to the grand jury and was there three or four days. Now, what happened in the grand jury, of course, I do not know. I have never found out yet.

The sum and substance of this testimony is that Mr. Souter, one of the attorneys, says that the books were before the grand jury; that is all there is to it. There is no scintilla of evidence in the record that the grand jury ever looked at the books or had anything to do with them.

Mr. SPENCER. The Senator from Montana is a great lawyer and he will at once understand the significance of the proceedings which he has just read and to which perhaps I should not

have referred if the Senator had not read the record. It is true that the matter is referred to in a very brief manner; it takes up but little space. Here was the strategy of the situation. When they found out that the Newberry books were not now attainable, that they had been lost or stolen and could not be found, they said as, perhaps, any lawyer would have said, "Now we can make any kind of claim we like as to what those lost books contained," and in the building up of that hope they started to make the claim that those books would unearth all kinds of fraud, until they got to that little sentence of Mr. Souter's, who they knew was the attorney for the United States at Grand Rapids, who they knew was in the grand jury room examining witnesses, who they knew was hired to convict Truman H. Newberry, and who they knew, if there had been a single item of evidence from those books which could be used for Mr. Newberry's conviction, would have been brought out before the grand jury. Therefore, when Mr. Souter said—and remember he was representing Mr. Ford before our committee as one of Mr. Ford's paid counsel—"those books were before the grand jury," there was little further investigation about that. It was too evident that the books were barren of evidence to help contestant.

Mr. CARAWAY. Mr. President, will the Senator yield?

Mr. SPENCER. I yield to the Senator from Arkansas.

Mr. CARAWAY. The Senator from Missouri said that they decided to make an issue of the books destroyed. Whom does he include in the word "they"?

Mr. SPENCER. I do not altogether catch the Senator's question.

Mr. CARAWAY. Whom does the Senator include in the pronoun "they"; to whom does he refer?

Mr. SPENCER. In what connection was it used?

Mr. CARAWAY. The Senator from Missouri said that when the books were discovered to have been destroyed "they" decided to make a great issue about the books being destroyed.

Mr. SPENCER. I referred to the counsel for Mr. Ford, who were present at the hearing before the committee as his representatives.

Mr. CARAWAY. May I ask the Senator another question?

Mr. SPENCER. I will be glad to answer any question the Senator may ask.

Mr. CARAWAY. The Senator from Missouri realized that that was going to be used as a circumstance?

Mr. SPENCER. I do not think I quite understand the Senator.

Mr. CARAWAY. I say, the Senator realized that the fact that the books could not be produced was to be used as a circumstance against Mr. Newberry?

Mr. SPENCER. It is perfectly evident.

Mr. CARAWAY. I thought the Senator said that they commenced to make a great issue about the books being destroyed.

Mr. SPENCER. Evidently I did not make myself clear to the Senator from Arkansas. I will repeat what I said.

Mr. CARAWAY. Here is what I want to ask the Senator without having him go back to explain what he has already said. Realizing that people were questioning what these books contained, why did the Senator from Missouri object to having the bankers' books examined which would have reproduced that account?

Mr. SPENCER. Because they would not have reproduced the account. Everything that could have reproduced the account was before the committee either in the bill of exceptions or in the record.

Mr. WALSH of Montana. Mr. President—

Mr. SPENCER. I will ask the Senator from Montana to let me complete the answer to the Senator from Arkansas. Here is a sample of what occurred: A man came from New York and said, "I give (I think it was) \$7,500 to the Newberry campaign." We said to him, "Present your checks," and the checks were sent up to the committee. Then it was insisted that we summon the bank to produce all the transactions of that man for a period of months, when there was not a single scintilla of evidence to contradict the accuracy of his statement. It would have been, I submit as a lawyer, ridiculous to have followed any such proceedings. More than that, when we concluded those hearings, as the Senator will find in the last sentence of the interrogation to which he has referred, Senator Wolcott asked when these men produced their checks or papers if they were not satisfactory, of course we could look into them further, and it was agreed in the committee that the men could be recalled and that further examination could be made if it was at all necessary. It would have been a useless thing and a foolish thing and an unfair thing to the witness and to the bank to have had his private bank account running over a



period of months brought up before the Senate committee in order to show whether or not the payment which he made by a certain check which he produced had actually been made, and which was entirely undisputed by anything in the testimony.

Mr. WALSH of Montana. Mr. President—

Mr. SPENCER. I yield to the Senator from Montana.

Mr. WALSH of Montana. The entries shown on the books appertain to the checks or drafts drawn by John S. Newberry and others on their banks as contributions to the campaign fund. Inasmuch as Fred Smith's records in the matter were lost, of course, the entries could be reproduced by referring to the accounts at the bank and to the checks that were drawn, could they not? Those entries could be reproduced from the records of the bank, could they not?

Mr. SPENCER. The Senator will find the accounts of the bank either in the bill of exceptions or in the record in regard to the John S. Newberry checks. The Senator will find every contribution that John S. Newberry made fully set out in the record.

Mr. WALSH of Montana. There will be found in the Blair report the checks given by John S. Newberry; but that is not the question I asked the Senator. If certain amounts were transferred from the account of the other Newberrys, including Truman H. Newberry, to the John S. Newberry account in order to make up the amount that would be shown by the bank records, would it not?

Mr. SPENCER. Not by the bank records.

Mr. WALSH of Montana. Why not?

Mr. SPENCER. It would have been shown by the book accounts of the Newberry estate. I had planned to discuss that a little later, but I will discuss it now if the Senator desires.

Mr. WALSH of Montana. Why would not the bank's books show a record of checks from Truman H. Newberry to John S. Newberry?

Mr. SPENCER. The evidence shows that John S. Newberry did not draw a single check. There was a man named Fred P. Smith, who was a trusted employee of Truman H. Newberry, of John S. Newberry, of his wife, of a number of his relatives, and some of the corporations in which they were interested. This man had been a trusted employee for years; he had had for years the power of attorney of each one of them to draw checks, to transact the business of the estate, and to handle the accounts which were under his care. He had a power of attorney which was of the broadest character. This is what he did frequently, and what he had done for years: When, for example, any account ran short in cash, he transferred on the books to that account from any one of the other accounts whatever was needed to make the balance in the bank satisfactory, and then in a day or two, when the account to which he had thus transferred money received funds, it, the amount, was transferred to the account from which it was taken. It was a matter of bookkeeping. Neither of those who were directly interested in the respective accounts knew anything about it; neither man whose money was thus handled knew anything about it; it was a detail of bookkeeping in the office; and did not actually transfer a single dollar from one account to another except as a temporary credit to keep bank balances intact.

Mr. CARAWAY. Mr. President—

Mr. SPENCER. If the Senator will allow me to finish the statement, then I will yield. Mr. Smith had done that for years. The testimony in the case shows that when Mr. Smith was upon the stand he said that during the primary campaign when the amounts of money that were being contributed by John S. Newberry were being made and they aggregated a large amount—and I shall go into some detail in regard to that a little later—he found that the account of John S. Newberry at the bank was running a little low, and therefore, without the knowledge of John S. Newberry and without the knowledge of Truman H. Newberry or anyone else, he transferred to John S. Newberry some money to make his balance in the bank satisfactory, and retransferred the amount shortly after to make the accounts correct.

Mr. POMERENE. From where?

Mr. SPENCER. And he said that that money might have come from Truman H. Newberry or from any other person whose account he had. As a matter of fact, he did not know whence it came; and then he said that in the process of time, right away, that was retransferred back, and was a mere item of bookkeeping. There is not one word of testimony, and the Senator can not indicate any testimony to show even inferentially that there was any real transfer of money from one Newberry to another that was known to either of them, or that was not promptly retransferred as a matter of bookkeep-

ing; and that is the molehill out of which it is sought to make a mountain.

Mr. WALSH of Montana. Mr. President, the bank records would have shown just exactly how much money was transferred from the account of Truman H. Newberry to the account of John S. Newberry; would they not?

Mr. SPENCER. Yes; if any such transfer had been made and checks drawn by Mr. Smith had been deposited. It would not show if the transfer was of cash in the office.

Mr. WALSH of Montana. And the committee refused to permit the records to be examined.

Mr. SPENCER. The Senator will remember that the witness was not positive from what account he made the transfer. He said he got it from the account of Truman H. Newberry or of the others. The bank records might have shown it as I have said, but it was not a matter in dispute; there was nothing in it. It was a mere matter of office bookkeeping. There was nothing that would have warranted the committee in summoning a bank, with its books and papers, to give testimony about a fact which, under the admitted statements was uncontradicted. Neither John S. Newberry nor Truman H. Newberry knew anything about it. It was a mere bookkeeping act in the office; and what folly it would have been to subpoena officers of the bank to come to Washington from Detroit and to produce its books and checks for months back in order to establish something that had no probative force and about which there was no dispute. Of course, the committee did not do it. If such a bookkeeping transfer as the evidence shows had been contradicted, there might have been some reason in summoning the bank.

Mr. CARAWAY. Mr. President, will the Senator yield?

Mr. SPENCER. I yield to the Senator from Arkansas.

Mr. CARAWAY. The Senator says that Truman H. Newberry knew nothing about this transfer of accounts. Does the Senator recall the conversation he had with Smith in which he wanted to know when this expense was going to stop, and Smith said he was kicking about the low balances in his account?

Mr. SPENCER. The Senator from Arkansas is again mistaken. There was no such conversation with Smith. There was the passage of a telegram between New York and Detroit when Truman H. Newberry was in New York and Smith was in Detroit.

Mr. CARAWAY. Will the Senator yield further? Does the Senator say that Smith did not have any telephone conversation with Newberry, and then send a telegram saying: "I misinformed you about the date"? And did not Smith there say that Newberry was complaining about this transfer of funds from his account and wanted to know when this expense was going to stop? Did not Smith say that?

Mr. SPENCER. The Senator has now stated the circumstances of the telegram and telephone message but is again mistaken as to what occurred.

Mr. CARAWAY. In substance, did he not say that?

Mr. SPENCER. Here is the fact with regard to that: If the Senator from Arkansas wants the fact, I can give it to him; but I see that he walks away when the mention of a fact is made.

Mr. CARAWAY. I did that because I despaired of getting it.

Mr. SPENCER. I can give the Senator from Arkansas the facts in the case, and here is exactly what they were: Do not let me detain the Senator, however, if he does not care to know the facts.

Mr. CARAWAY. Oh, I hear the Senator.

Mr. SPENCER. Here are the facts in the case: When that primary campaign was waxing warm the newspapers of the State were loudly proclaiming as to the amount of money that was spent. Let no man think that anything was done in secrecy. Every fact was published; and before the primary was completed upon every billboard the alleged illegal and extravagant use of money was put before the people of Michigan as the reason why Truman H. Newberry should not be nominated.

Mr. CARAWAY. Now, may I—

Mr. SPENCER. Will the Senator be good enough to let me finish? When those facts were all before the people of Michigan, they rendered their verdict upon those facts, and here is what the fact was in regard to which the Senator from Arkansas is inquiring:

When all that newspaper notoriety arose, when everybody was crying out as a matter of political argument that great sums of money were being used—and they were, as I shall show in a moment—Truman H. Newberry, in New York, communicating with his confidential man, Mr. Smith, wanted to know when these expenses were going to stop, and Smith told him that the primary would end on a certain date; that the

expenses would cease at a certain time; and then he found that he was mistaken as to the date, and then he telegraphed Mr. Newberry and said:

I was mistaken as to the date. The primaries end upon a certain date, and the expenses, etc., will cease at that time.

There is the fact in the case. Mr. Smith said, "I do not know what the conversation was" as he referred to the long-distance telephone conversation with Mr. Newberry, but Mr. Smith distinctly said (Rec., p. 269) that the conversation was not about the campaign. "He—Mr. Truman H. Newberry—never talked to me about the campaign that I recollect," but the impression of Mr. Smith was that the conversation had some reference "to the drain on the balances in the office," for in the same office the testimony shows that the accounts of John S. Newberry and others were kept. It is this impression of Mr. Smith, in which, as a matter of fact, he was mistaken, that seems to impress the minority members of the committee so strongly. In direct contradiction of that "impression" is the positive, direct, sworn testimony of every witness who frankly and fully testified that the money which was spent in this campaign was their own voluntary contribution, without either solicitation or knowledge of Truman H. Newberry. It is hard to believe that any Senator will place greater weight upon an indefinite impression as against the positive sworn testimony of one whose character and standing are of the highest.

Mr. NORRIS. Mr. President—

Mr. SPENCER. I yield to the Senator from Nebraska.

Mr. NORRIS. I confess that when I read the record I wondered why the committee did not summon the bankers with the books to show the transfers of which the Senator has been speaking; and I want to get a little fuller explanation from the Senator on that point.

One of the claims, as I understand, made by those who are opposed to Mr. Newberry is that he had knowledge of the use of this money, and he claims that he had no knowledge. I think I am right in that.

Mr. SPENCER. Yes.

Mr. NORRIS. The only testimony was that of this confidential agent of Mr. Newberry in regard to these transfers.

Mr. SPENCER. In regard to that transfer.

Mr. NORRIS. It struck me that the bank's books would have thrown additional light upon that question. It was a controverted and I thought a very material point in the case, and it was in dispute. Why did not the committee summon some officer of the bank to bring the books which would show what actually did take place in regard to those transfers from Truman H. Newberry's account, if there be such, to John S. Newberry's account?

Mr. SPENCER. I can tell the Senator from Nebraska precisely the reason. There was not before the committee a scintilla of testimony or of evidence of any kind that indicated any transfer of funds from one Newberry to the other with either the knowledge or the consent of either Newberry. The uncontradicted testimony before the committee was that, as a matter of bookkeeping in the office, the confidential man of the Newberry estate and of several of the heirs frequently transferred money from one account to another for a day or two, and then retransferred it back, and that the parties knew nothing about it. It was a part of his duty, as occasion required, and he had a power of attorney from each interested party to do this very thing with many other powers of management. If that was true, what difference would it make whether the transfer for the day was a thousand or ten thousand dollars?

Mr. POMERENE. Mr. President—

Mr. NORRIS. If that was true—

Mr. SPENCER. Will the Senator allow me to finish the sentence? If there had been the slightest testimony that would have connected Truman H. Newberry with this transfer or if the fact of such transfers had been disputed, of course anything that threw any additional light on it would have been looked into.

Mr. NORRIS. That is the reason why it seemed to me that testimony ought to have been admitted. It seemed to me that if the Senator had been a judge in the trial of a case where that became material he would have said that while there was no other evidence except that of this confidential agent the other side had a right to have such evidence produced; and if it was not within their control the court would compel the production of any evidence that would throw additional light on it. It is true, as the Senator says, that the only evidence of that was the evidence of this confidential man, but that was on the Newberry side of the matter. As a matter of ordinary fairness and as a matter of right, if that had occurred in a court

of justice the other side would have been entitled to the examination of the bank's books, which would have thrown light on it. The production of the books might have added to the conviction that one would have of the truth of the testimony of this witness, but at least that was proper evidence and would have been the natural place where one opposing the contention of this confidential witness would first make his assault in order to ascertain whether any light would be thrown upon the subject by an examination of these books.

Mr. SPENCER. Mr. President, the Senator from Nebraska has been himself a distinguished judge upon the bench, and I submit to him that the only evidence was that Fred Smith drew his check possibly from one account to another, or it may be transferred cash in the office and made the record of it on the books. The express testimony was that the principals knew nothing about it, and that in due course the account was equalized by a retransfer. There was no dispute about it.

Mr. POMERENE and Mr. CARAWAY addressed the Chair.

Mr. NORRIS. There was no dispute, because the only witness who testified about it, and probably the only one who had knowledge of it, was a Newberry witness. Would not the Senator say that the other side had a right to controvert that? They were claiming that Newberry had knowledge of it, or that he had knowledge of certain circumstances that would put him on guard and give him notice. It seems to me that they had a right to go further and get the books of the bank and ascertain whether they would throw any additional light on the matter. Possibly if the books had been examined, if they were right, they might have shown an actual knowledge on his part; or, on the other hand, if the witness was right, they might have corroborated his testimony.

Mr. SPENCER. The witness's testimony was that Mr. Smith drew all checks, and that the principals knew nothing about it.

Mr. NORRIS. Yes.

Mr. SPENCER. It was admitted that Mr. Smith made the transfer of funds from time to time and the principals knew nothing about it. How could Mr. Newberry, in common fairness, be even remotely held responsible for what he knew nothing about?

Mr. CARAWAY. Mr. President—

Mr. POMERENE. Mr. President, will the Senator refer to the part of the record which makes Smith say that these men knew nothing about it? I am astonished at that statement.

Mr. SPENCER. The Senator has no need of great astonishment. I am sure I can relieve his mind of it in a moment.

Mr. POMERENE. I shall be very glad to have it done.

Mr. SPENCER. The whole testimony of Frederick P. Smith, as the Senator from Ohio well knows, was to the effect that he, and he alone, had to do with those accounts, and that he made the entries and the transfers and the deposits and the withdrawals under his power of attorney. Mr. Smith testified, on page 768 of the record, that Mr. Truman H. Newberry never even made any inquiry about the expenses. As a matter of fact, Mr. Truman H. Newberry knew nothing about it. He did not at any time talk with Mr. Smith—his confidential man—about the campaign. (Record, p. 769.) How unfair to attempt to make Mr. Truman H. Newberry—in the East during the entire campaign—responsible for what was thus done in Detroit without his knowledge and in his absence.

I do not mean to say that in express language Frederick P. Smith said, "I did not notify the principals of it." I made the statement that under the uncontradicted testimony of Smith, he was the only man who had anything to do with it; and that is borne out by the fact that one of the principals was in New York and the other of the principals was in the east, both of them in the service of the country, and neither of them in Detroit.

Mr. POMERENE. And telephone lines between the two, and constant conversations about the matter.

Mr. SPENCER. You can not draw a check by telephone.

Mr. POMERENE. No one suggested that. The Senator, of course, can be very facetious about this matter, and perhaps he wants to inject into it some of his very fine humor; but that is not going to enable us to get at the facts.

Mr. CARAWAY. Mr. President, will the Senator yield?

Mr. SPENCER. I yield.

Mr. CARAWAY. I want to show the Senator that he is mistaken; that Truman H. Newberry did know that his money was being transferred; and I have the sworn testimony right here before me, if the Senator will let me read it.

Mr. SPENCER. I shall be glad to have the Senator read it.

Mr. CARAWAY. In the telegram he said:

I misinformed you this morning—

Mr. SPENCER. The telegram that who sent?

Mr. CARAWAY. That Smith sent. I am talking about Smith.



Mr. STERLING. Will the Senator say from what page he reads?

Mr. CARAWAY. Page 24 of the minority report.

I misinformed you this morning—

He is telegraphing now to Newberry, with whom he had had the telephone conversation—

I misinformed you this morning the date of close of regular expenses. Should have said August 27. The circular work, advertising, clerical help, postage, and all regular overhead expenses will naturally continue until primary. Have written.

FRED P. SMITH.

(R., 769.)

Did you send that telegram?

Mr. SMITH. Yes; I did.

Mr. ALFRED LUCKING. Then, it was not about when the primary was; it was when the expenses would cease that you were talking with him and writing him about; is that right?

Mr. SMITH. That is probably it. I do not know what the conversation was, but I had told him July 27. I misinformed him as to the month.

Mr. ALFRED LUCKING. You had been talking to him. He wanted to know when these expenses were going to stop, did he not?

Mr. SMITH. I do not believe so. I think his conversation was about the drain on the balances in the office, and he was complaining about the money that was being spent.

Mr. ALFRED LUCKING. Complaining about the large amount of expenses being drawn?

Mr. SMITH. Or the money that was being spent and drawn from the account all the time and put into his brother's account to keep from being overdrawn.

Mr. ALFRED LUCKING. And his funds as well as his brother's were used?

Mr. SMITH. And everybody else's.

Mr. ALFRED LUCKING. To keep up the amounts that were on the books charged against John?

Mr. SMITH. To keep his account from being overdrawn.

Mr. ALFRED LUCKING. And he wanted to know when this thing was going to end; is that the idea?

Mr. SMITH. I think that is right.

Mr. SPENCER. The Senator has read accurately. It has been already brought to the attention of the Senate several times.

Mr. CARAWAY. Of course, I can do that. Let me read just a little further.

Mr. ALFRED LUCKING. You got the date wrong in your talk, and so you sent this telegram to him?

Mr. SMITH. Yes, sir; that is right.

Mr. ALFRED LUCKING. And you say:

"I misinformed you this morning the date of close of regular expenses. Should have said August 27."

In other words, you should have said that the expenses would then be cut off?

Mr. SMITH. Yes, sir.

Mr. WALSH of Montana. A little bit further.

Mr. CARAWAY. I read again:

Mr. ALFRED LUCKING (reading):

"The circular work, advertising, clerical help, postage, and other regular overhead expenses will naturally continue until primary."

Mr. SMITH. Yes, sir.

Mr. ALFRED LUCKING. And that is what he had been talking with you about over the phone?

Mr. SMITH. He was kicking about the balances.

Yet the Senator says he knew nothing about it.

Mr. SPENCER. The Senator has read correctly again.

Mr. CARAWAY. Yes; I have.

Mr. SPENCER. There is no dispute about the telegram.

Mr. CARAWAY. Why did the Senator say that Newberry knew nothing about it?

Mr. SPENCER. The Senator can draw his premature inferences and form his judgment thereon, if he desires so to do, but I submit that if he will wait until I get through, if he will look at all the facts in the case, there will be no doubt in his mind.

Some grave questions came up in regard to the primary expenses. First, did Truman H. Newberry conduct that primary himself? Was it his money? Was he familiar with the campaign, guiding, directing either the primary itself or the expenditure of the money in connection with which complaint was made?

Senators, here are the facts in regard to Truman H. Newberry's connection with that primary: He was not in the State of Michigan from the beginning to the end of the primary. He went away, enlisting in the Navy of the United States early in the year, and during the whole of that year of the primary election he was not once in the State of Michigan.

I am speaking to Senators of the United States, everyone of whom has had a campaign of his own, both primary and general election, and at the very outset I observe that to suggest that any man could have the management of the details and the control of all the circumstances of a primary campaign when every minute of his time was taken up in the naval service of his country 2,000 miles away is ridiculous upon its face. Undoubtedly he kept himself familiar with the general course of this campaign. Undoubtedly there was sent to him again and again, daily, if you like, information as to what was going on and as to what the prospects were; but the management of that cam-

paign was in the hands of a young man named King, and the testimony shows that he had the undisputed control of that campaign, and he was acting under a voluntary committee of business men who were intensely interested in the election of Truman H. Newberry, and over the acts of this committee Mr. Newberry had no control and its creation was without his direction.

Mr. STANLEY. Mr. President—

The VICE PRESIDENT. Does the Senator from Missouri yield to the Senator from Kentucky?

Mr. SPENCER. I yield.

Mr. STANLEY. The Senator speaks of Admiral Newberry, or whatever he was at that time, being 2,000 miles away. Will the Senator please locate him at the time he was 2,000 miles away from this country during the war?

Mr. SPENCER. I thought, when I said 2,000 miles, that perhaps some Senator more familiar with geography than myself would give me the distance between New York and Detroit. He was located in New York. The election was in Michigan, and the headquarters in Detroit. I ask the Senator from Kentucky how many miles away that is?

Mr. STANLEY. He was about six or eight hundred miles away. Detroit was about six or eight hundred miles from the deck of the wooden ship in Central Park where he had his picture made, as a naval officer 2,000 miles away.

Mr. SPENCER. Was that the purpose of the Senator's interruption?

Mr. STANLEY. My purpose was, Mr. President, to show that this oratorical claim that Newberry was baring his brave breast to the enemy 2,000 miles away, when he was on dry land opening his pockets to a corrupt campaign fund at home, was all "bunk." That was my purpose, and I showed it.

Mr. SPENCER. I think the Senator showed his purpose. The fact remains as a fact that Lieut. Commander—not Admiral—Newberry, who had offered to enlist as a junior lieutenant if there was no other way by which he could give every hour of his service to his country, was enlisted, was commissioned, was in the service, sent by the Government to the State of New York, and that this campaign was in Michigan, and that not once during the campaign, primary or general election, was Mr. Newberry in the State of Michigan.

It is claimed that he controlled that primary election entirely himself. The testimony shows that Paul H. King, a man who had been Newberry's opponent in the Roosevelt campaign, was selected, not by Newberry, but first by Scott, and then by others, as a desirable man to manage the campaign.

Mr. McKELLAR. Mr. President—

The VICE PRESIDENT. Does the Senator from Missouri yield to the Senator from Tennessee?

Mr. SPENCER. I will ask the Senator to bear with me just a moment, and I will then yield to him.

The testimony shows that before King would undertake the work he said, "I have been at outs with Mr. Newberry." As a matter of fact, Mr. King had kept Mr. Newberry out of the Roosevelt State convention in Michigan, out on the steps, not even letting him in the building. In view of this fact Mr. King said: "I do not know whether it would be at all acceptable to Mr. Newberry for me to undertake his campaign, and I will go to New York and find out," and after he had gone to New York and had a talk with Mr. Newberry he undertook the campaign. Again and again, as I will show in a moment, after I yield to the Senator from Tennessee, the big things of the campaign were decided alone by King, and against the known wishes of Mr. Newberry.

Talk about his managing the campaign! He had information as to what was going on, but he had no control or direction of that campaign, and I submit that no man can read that record as it exists and find evidence of any control or management or direction of that campaign by Truman H. Newberry. It was a campaign handled and directed by his friends and not by himself. That will apply also to the money situation, of which I will speak in a moment. Now I yield to the Senator from Tennessee.

Mr. McKELLAR. I wish to ask the Senator from Missouri what amount he admits was actually expended in behalf of Mr. Newberry in this primary campaign?

Mr. SPENCER. I am very glad the Senator asked that question, for within a moment or two, if the Senator will be good enough to have patience, I will take up that question and will show the exact sources of the fund, the exact amount, and the method of its expenditure.

Mr. McKELLAR. I will listen to that with a great deal of interest; but just now I want the Senator to give me an idea of the amount. I think he has it in his mind, having studied this case. I want him to give me his estimate of the total

amount, so that I can ask him one other question. Will the Senator give me the amount he concedes was expended in the campaign?

Mr. SPENCER. The account which was filed showed that there has been collected a little over \$178,000, and that there had been expended a little over \$176,000, and I think there will be shown some additional amounts, though not so large.

Mr. McKELLAR. About how much does the Senator think was collected—as much as \$200,000 altogether?

Mr. SPENCER. I should say between ten and fifteen thousand dollars additional to the amount set out in the report.

Mr. McKELLAR. Say \$190,000, altogether. Does the Senator believe that this body ought to set the precedent of stating that \$190,000 is a reasonable sum for a man to have expended for him in his primary campaign for the Senate? If the Senator believes that, I have been mistaken in my opinion of the Senator.

Mr. SPENCER. I am in hopes, knowing the candor and fairness of the Senator from Tennessee, that before I have finished he will agree with me that, large as was the amount of money, regrettable as is the expenditure of such an amount of money in any case, to unseat Truman H. Newberry under the facts of this case, as the Senator learns them to be, would be the rankest injustice and the arbitrary exercise of power in the absence of right, and I hope the Senator will let me proceed to demonstrate that.

Mr. McKELLAR. Just one other question, and I will not interfere with the Senator's argument further; I know he does not want to be interrupted. Let us put the Newberry matter aside for a moment, for the sake of this question, disregard it entirely, and consider that there is no such case before us. Does the Senator believe that the expenditure of \$190,000 in the primary campaign of a candidate for the United States Senate is a reasonable expenditure?

Mr. SPENCER. Will the Senator be good enough to let me answer that a little later, in its regular order in my argument?

Mr. McKELLAR. I would prefer to have the Senator answer that general question now. It need not apply to the Newberry case, and I would not want to hold the Senator to the Newberry case, but I am just asking the Senator about setting the precedent of the expenditure of \$190,000 in a primary campaign for the Senate, and especially in view of the fact that we had passed a bill declaring a reasonable amount to be \$10,000.

Mr. NELSON. Mr. President—

The VICE PRESIDENT. Does the Senator from Missouri yield to the Senator from Minnesota?

Mr. SPENCER. I yield to the Senator from Minnesota.

Mr. NELSON. I take it that the question propounded by the Senator from Tennessee would depend upon the character of the man the candidate was running against and what his operations were, whether he was running on two tickets. If so, that might have something to do with it.

Mr. SPENCER. Between the Senator from Tennessee and the Senator from Minnesota my speech will be made.

Mr. McKELLAR. I hope the Senator will answer my question and then answer the question of the Senator from Minnesota.

Mr. SPENCER. I intend to take up the question the Senator from Tennessee has asked, and I am sure that he will agree with me, whether he agrees with my answer or not, that I have answered it fully and fairly. First, we had to deal with the management of that campaign, and I have stated, and I repeat, that no man can show by this record, except by the merest inference or suspicion, that the management, direction, or control of that campaign was in Truman H. Newberry. I venture to say that there is not a Senator in this august body to-day who ever had his campaign managed with anywhere near as little direction or control from himself as in the case we are now examining.

Information was furnished to Mr. Newberry. It would have been ridiculous not to have so furnished it. It was a campaign for his own election. Telegrams as to what was going on, as to the prospects, as to circumstances, there were, but there was neither the opportunity nor the time nor the circumstance when Truman H. Newberry could have directed or did manage the campaign either in the numberless details which every Senator knows are incident to such a campaign or in general feature of its control and conduct.

I remember there was some question at the start as to whether Mr. Helm should be encouraged to run on the Democratic ticket, because, Senators, there was a condition in Michigan at that time new to me, and, so far as I know, never paralleled in the history of the United States. With the express sanction of the then President of the United States, as the record shows, Henry Ford was to become a candidate for the

Senate, and to become a candidate for the Senate upon the Democratic ticket with no opponents. If he were a candidate upon the Democratic ticket with no opponents, here was his plan: One hundred votes on the Democratic ticket would nominate him. There was to be no opposition to him on the Democratic ticket. It would leave every other Democrat in Michigan free to vote for Mr. Ford as a candidate on the Republican ticket for Senator from Michigan. And Mr. Ford, while offering himself as a candidate at the Democratic primary, also offered himself at the same time as a candidate at the Republican primary—because in the State of Michigan it is true—not true, I am glad to say, in my State; but it is true in the State of Michigan—that a man can vote at a primary as he likes—that a Democrat can vote at a Republican primary, or a Republican can vote at a Democratic primary.

See how simple the plan was: "Nominate Henry Ford upon the Democratic ticket with no opposition. Let a handful of Democrats vote for him. That will be enough to nominate him because there will be no opposition. Then let him come in on the Republican ticket and seek for the Republican nomination, and he will get a lot of Republican votes. In addition, he will get a lot of Democratic votes, and let us hope that the addition of the Republican and the Democratic votes will nominate him upon the Republican ticket, so that at the general election he can run as a Republican upon the Republican ticket and as a Democrat upon the Democratic ticket at the same time."

When that condition of affairs confronted the friends of Mr. Newberry they said, and it seems to me with great wisdom and propriety, "We must encourage as far as we can some one to run upon the Democratic ticket, so that the Democratic votes shall be cast in the Democratic primary." So Mr. King took up the matter. The record shows that Truman H. Newberry was opposed to interfering with it at all. Certainly that was a crucial point in the campaign. If he had had any control or management of his own campaign, he would have decided what should be done. The record shows that King said, "We must have a Democrat to run on that ticket," so they encouraged the running of Mr. Helm upon the Democratic ticket, whom certain Democrats in Michigan were proposing because of their opposition to Mr. Ford, and this frustrated the original plan of Mr. Ford to secure the Democratic nomination without opposition.

I could go through the record and show here and there these illuminating incidents which will convince any fair-minded man that in the management, control, and direction of that campaign the guiding hand of Truman H. Newberry was not present. He was busy about other things, not about his campaign. There is no foundation in the record for the statement that underneath that campaign, guiding, directing, and controlling it, was the mind and hand and purse of Truman H. Newberry. It was the campaign of his friends, who voluntarily assumed the entire management and independently conducted it.

Now, we get to the money, and this will come near to answering the question of the Senator from Tennessee. Here was the condition that confronted the friends of Mr. Newberry: Originally the record shows that Newberry himself had said, in answer to a letter that had been written to him, away back when they were urging him to become a candidate—for, mark you, Senators, he was not seeking the nomination. The record shows that it was a consensus of the Republicans of Michigan that forced it on him. In that preliminary conversation he said words to the effect that "there must be no barrel campaign, there must be no great expenditure of money in the election," evidencing how he felt about it. Then he said, "If I run, my friends must run the campaign." He had already enlisted in the Navy of the United States, and obviously he could not run the campaign, but there were those in Michigan who thought that the possibility of Henry Ford in the United States Senate was a danger to the country—

Mr. POMERENE. Mr. President—

Mr. SPENCER. I yield to the Senator from Ohio.

Mr. POMERENE. The Senator has just made a statement suggesting two questions to me. The Senator has stated that the Republicans of Michigan were insisting upon Mr. Newberry being a candidate, and that that fact is shown by the record. Will the Senator please refer Senators to the parts of the record which show that to be a fact?

Mr. SPENCER. I can give the Senator the pages. He will find it upon page 479 and following of the record. Does the Senator deny that Mr. Ford was a candidate upon the Democratic ticket and a candidate upon the Republican ticket?

Mr. POMERENE. Oh, Mr. President, I am a lawyer and the Senator from Missouri is a lawyer. The Senator can not answer my question by asking me another question. However, I shall answer him.



The record shows that Ford became a candidate on June 14. There was some little talk about it before that. Mr. Newberry announced his candidacy or at least his organization began in March. The foundation was laid for this financial campaign long before Mr. Ford was considered as a candidate.

Mr. SPENCER. There is no doubt about the fact that Mr. Ford was a candidate upon the Republican ticket and upon the Democratic ticket, I am sure.

Mr. POMERENE. Oh, there is no question about that.

Mr. SPENCER. That is all I said.

Mr. POMERENE. No; but that does not answer the question. Mr. Ford did not become a candidate until about the middle of June.

Mr. WALSH of Montana. The 14th of June.

Mr. POMERENE. And the Newberry account starts on the 6th of March. There were a number of preliminary meetings called by Mr. Newberry at his headquarters in New York for the organization of his committee in March, nearly three months before Mr. Ford became a candidate, and Gov. Osborn called attention to that very fact. When Mr. Newberry sought to give the excuse to the public that there was great danger of Mr. Ford being a candidate, Gov. Osborn called his attention to the fact that his money campaign had begun long before that. Before I get through with my argument I shall read that part of the letter.

Mr. SPENCER. The Senator knows well enough from the testimony that before Mr. Ford formally entered the lists and announced it was known, and long before it was known it was rumored, that he would become a candidate. The Senator speaks of the technical day when an announcement was made. Long before that day it was known what the purpose was in the heart of Mr. Ford, and it was to guard against that that those arrangements were made.

Mr. WALSH of Montana. Mr. President—

Mr. SPENCER. I yield to the Senator from Montana.

Mr. WALSH of Montana. I have searched the record on that particular point with special care, and I am sure the Senator is in error.

Mr. SPENCER. The Senator will find it in the testimony of Paul H. King.

Mr. WALSH of Montana. In the report of the majority and in the brief for Mr. Newberry it is stated that it was generally understood prior to that time that Mr. Ford was to be a candidate. The brief filed by Mr. Newberry refers to the record, and the record is absolutely silent on the subject as to the reference given in the brief. All there is in the record on the matter is that Mr. King, the manager for Mr. Newberry, said that he had always counted that Mr. Ford would be a candidate—not that it was generally understood, but that he, Mr. King, was speculating that Mr. Ford would be a candidate. In another place he said it was rumored that Mr. Ford would be a candidate. That is the state of the record.

Mr. SPENCER. The Senator has referred to that portion of the record to which I had reference. It was a statement of Mr. King that there was a general rumor, and there was that understanding on the part of Mr. King.

Mr. WALSH of Montana. The statement that it was generally understood Mr. Ford was to be a candidate is entirely supported by the record.

Mr. SPENCER. I do not know the difference between a rumor and a general understanding.

Mr. POMERENE. Mr. President, a moment ago I referred to what Gov. Osborn said on the subject.

Mr. SPENCER. If the Senator would save that until he makes his own speech—

Mr. POMERENE. I would be glad to do that, but it is just a sentence or two.

Mr. SPENCER. Very well. I am very glad to yield to the Senator from Ohio.

Mr. POMERENE. Gov. Osborn was a Republican, ambitious to be Senator, and there was some correspondence after the primary, which was August 27. Under date of September 17, 1918, Chase S. Osborn wrote to "My Dear Commander" Newberry as follows:

The plea can not be honestly made that you spent money in excess because you were fighting Ford, because you had begun your reckless campaign long before Ford was mentioned and had already transgressed the law. Nor can you plead "you did not know." That would prove you to be both an ass and a liar, which I choose to think you are not.

Mr. SPENCER. Now, Mr. President, so much for the management and control and direction of the campaign. I proceed to discuss the money side of the matter. I fancy that in the minds of more Senators, of the larger number of Senators, the question of money is the question that is uppermost. I desire to lay before the Senate precisely the facts in regard to the amount of money and the source of it and the reason for

it and the use of it, and then see if it lies in the heart or conscience of any Senator to unseat a man in the face of those facts.

Here was the situation in Michigan: Much has already been stated about the primary tickets. There is no need to refer to that further. Here was a man, Henry Ford, whose name was a household word because of his industrial relationship. Every hamlet had his name over some shop in that vicinity. Ford was known everywhere, and every night of every week all over the State moving pictures, ostensibly with regard to the Ford machine, were calling attention to Ford, Ford, Henry Ford. Everybody knew him by name and picture. Senators know the value in a campaign of the mere knowledge of a name. In my State a man whose name happened to be McKinley received thousands of additional votes, for he ran at a time when that name was especially dear to tens of thousands of people. I know of men, and so do other Senators, who have carried thousands of votes in an election just because of the sound of their name or the approving familiarity of the people with a similar name, irrespective of its application to the candidate. It was an asset which made the friends of Newberry afraid. They said, "Newberry is a man comparatively unknown in Michigan, a man somewhat reserved in his method of life." Mr. Newberry had been Assistant Secretary of the Navy; he was for a little while Secretary of the Navy; but he was comparatively unknown. As one of the witnesses put it, one of the best and wisest known men in the State of Michigan was the senior Senator from Michigan [Mr. TOWNSEND], and compared with him Mr. Newberry was comparatively unknown in Michigan.

Mr. STANLEY. Mr. President—

Mr. SPENCER. I yield to the Senator from Kentucky.

Mr. STANLEY. The Senator, I believe, is maintaining that one of these men was famous or notorious and the other was obscure and unknown. Does the Senator maintain that where two candidates run and one is well known, popular, and distinguished, and the other is obscure and unknown, that the unknown can make up that difference in popularity or distinction by the expenditure of cash?

Mr. SPENCER. If the Senator will listen to me, I will answer that question now, for it was the next thing in my mind.

What I have stated was the situation in Michigan. The friends of Mr. Newberry said, "How can we make known to the people of Michigan what Truman H. Newberry is and what he has done, for when they once know his record and realize the kind of man he is there will be no more doubt about the election?" There is only one way to make that known to the people of a State, as the Senator from Kentucky knows, and that is by publicity.

Mr. STANLEY. By the expenditure of money.

Mr. SPENCER. The Senator has well answered the question in the way I would have answered it in a moment.

Mr. STANLEY. If the Senator will pardon me for just one moment—

Mr. SPENCER. Let me say to the Senator it takes publicity; it takes publicity of speech, of meetings, of newspapers, of circulars, of letters, and, yes, the Senator from Kentucky knows as well as I do that publicity costs money.

Mr. STANLEY. Lots of it.

Mr. SPENCER. Lots of it. And lots of publicity costs lots of money.

Mr. STANLEY. Where a man is obscure and has to buy a bogus fame, it costs by the inch. As I understand, this was a race in Michigan between a "tin Lizzie" and a golden chariot. [Laughter.]

Mr. SPENCER. Is the rule as to the necessity of publicity any different in Kentucky?

Mr. STANLEY. Mr. President, if the Senator will pardon me, I will say "Yes," the rule is different in Kentucky. No man from Kentucky has ever bought a seat in the Senate. My great State has been represented by good men and bad men, wise men and weak men, eloquent men and men who were slow of speech, but Kentucky is incorruptible. It takes a stained State as well as a dirty man to buy or sell a seat in the Senate.

You can not buy fame in Kentucky; you can not buy a seat in the Senate from Kentucky. Kentucky has her faults, but, thank God, that gallant State is as incorruptible as a star and Newberrys do not run in Kentucky. [Manifestation of applause in the galleries.]

The VICE PRESIDENT rapped with his gavel.

Mr. SPENCER. Mr. President, if I may get back to the facts in this case, I desire to join with the Senator from Kentucky in every word of praise he has said about his great State; but

the Senator knows as well as I do that what he has said has no bearing upon this case. In regard to the money that was spent and the condition in Michigan which required publicity, I know Senators have no desire to let their minds wander off from the facts in this case. I know well enough that upon the other side of the Chamber there is not a Senator who consciously wants to do a brutal, cruel, or unjust thing. The difficulty comes in presenting facts to men whose circumstances and inclinations interpose a barrier to the reception of those facts. I would not have a minute's doubt about leaving this case to the Members on the other side of the Chamber sitting as a court if the question of politics and environment were left out of it.

Mr. McKELLAR. Mr. President—

Mr. SPENCER. In a moment I will yield to the Senator from Tennessee. The facts in this case must speak for themselves, and as fairly as I know how to do it I want to present to the conscience and to the judgment of Senators upon this floor what are the actual facts in the case.

When it was found in the State of Michigan that a situation such as I have indicated existed, of a man who was known in every hamlet as against a man who was unknown, they said just what you and I would have said, "The one thing to do is to obtain publicity; let us, by newspapers, by circulars, by letters"—do what? "Present to the people of Michigan what the facts are with respect to Truman H. Newberry." Take this record of expenditures—it is large—

Mr. HEFLIN. Will the Senator yield?

Mr. SPENCER. In a few moments I will yield. These items of expenditure are large, and I will take them up in a moment, but I desire now to say, Senators, that out of an expenditure of \$176,000, as shown by the original report, approximately \$150,000 of it was for newspaper and other publicity, and no one disputes it. Is there anything wrong in that?

Mr. STANLEY. Yes.

Mr. HEFLIN. On that point will the Senator yield?

Mr. SPENCER. Is it wrong—

Mr. STANLEY. If that is a question—it is wrong; yes, infamous.

Mr. SPENCER. Is it wrong to present to the people of a State the facts about a candidate? If it is wrong to present to the people of a State what are the actual facts concerning the candidacy of a man who seeks their suffrage, how can the people be enlightened about the campaign? In sober thought, I submit, there can be doubt in any reasonable mind that full publicity is not only not wrong but exceedingly desirable.

Mr. HEFLIN. Now, will the Senator yield right there?

Mr. SPENCER. In a moment.

Mr. HEFLIN. I want to ask a question right in that connection.

Mr. SPENCER. In a moment I will yield to the Senator from Alabama, but he will bear with me, I am sure, for a moment, because I want to follow the immediate line of thought that is now in my mind.

Under the condition of affairs as I have stated them to exist in the State of Michigan, the friends of Newberry said: "We must have publicity, and publicity costs money." Senators will find from the record that day after day there were printed at length in the newspapers of Michigan facts about Truman H. Newberry; and for this advertising money was necessary. One of the papers which was loudest in its complaint against Mr. Newberry is the paper which itself took in cash for advertising in his behalf more money than they said could be expended in the whole campaign.

Mr. CARAWAY. Mr. President—

Mr. SPENCER. I will yield in a moment to the Senator, but not now. So there was inaugurated a campaign of great publicity over every part of the State of Michigan; but I throw out the suggestion here that Senators may look at the entire record from beginning to end, and they will not be able to find that one dollar was ever used for bribery or corruption or for any purpose that in the conscience of a Senator could be called even improper.

Mr. STANLEY. Has the Senator not just described the corruption of the press itself?

Mr. SPENCER. If the newspapers of Michigan are corrupted because \$100 or \$200 are spent in advertising in those newspapers the facts about a candidate the newspapers of Michigan are different from those in my State, and I do not for a moment believe such a charge with regard to the newspapers of Michigan. It is as unreasonable as it is ridiculous. There is no evidence of corruption of the press. When publicity is so brought about that every man can see what is written and read it for himself in the daily newspapers, it does not bear

upon its face the earmarks of corruption of the press. This publicity campaign was continued. Senators, that was the burden of the cost; and when the final report was compiled it showed that \$176,000 had been expended.

Mr. CARAWAY. Mr. President—

Mr. SPENCER. I will yield to the Senator in a moment. I think that that amount was large; I think it was too large; I regret that at any primary election there should be that much money expended; but, Senators, I call your attention in passing to two facts: First, That not one dollar was spent illegally in connection with the object for which it was used; and, second, it was not, as I shall show in a moment, the money of Truman H. Newberry directly or indirectly. He had nothing to do with this publicity which an independent and voluntary committee was so extensively carrying on.

Mr. CARAWAY. Will the Senator yield now?

Mr. SPENCER. Not now; in a few moments.

Mr. McKELLAR. I desire to interrupt the Senator to call his attention to the facts in that regard.

Mr. SPENCER. I will ask the Senator not to interrupt me now, but will yield in a few moments.

That list of expenditures at the primary election was finally completed, but it was hurriedly compiled, for, as every man familiar with a campaign knows, there are not generally kept in a temporary campaign such books of account as are usual in permanent commercial undertakings; but in this case the testimony shows that every item of expense was carefully kept, largely upon memorandums and voucher checks that were filed. No book ledgers such as are common in industry or in commerce were kept, but every item of receipt and every item of expense was jotted down, and at the end of the campaign they took all of those items of expense, every one of them represented by checks, and they made out a complete record of every check that was given, so that every item of contribution and every item of expense appeared. That was the original book of account. They then filed it. Paul King, the manager of the campaign, said in speaking of that—

Mr. CARAWAY. Mr. President—

Mr. SPENCER. In a moment I will yield; not now. Paul King, in speaking of that account—and he had managed the campaign of the senior Senator from Michigan when he was a candidate for election, and was therefore familiar with political campaigns—said that, in his judgment, it was the most comprehensive, the fairest, and the fullest account that had ever been made in any political campaign.

Senators will find a great deal of criticism made in regard to that account, but I will lay before the Senate the facts as to how it was kept and the Senate may determine whether or not they approve of it.

Mr. CARAWAY. Will the Senator yield?

Mr. SPENCER. Not now, but in a moment I will yield.

Mr. CARAWAY. Before the Senator goes further I should like to ask him a question.

Mr. SPENCER. There are differences of opinion in regard to the wisdom of the method employed in keeping that account. This is the way in which this account was kept: Every dollar that came in was noted as a receipt, and the evidence shows that every dollar of receipts was accounted for, and then, as money was paid out, it was not as a matter of bookkeeping and directly charged to the man who received the money, but charged to the general purpose for which that money was used.

I desire briefly to make this perfectly clear and then I shall leave it. Some criticism has been made in connection with the method of accounting which was thus employed. Here is the way they conducted that accounting. They said, "We will have six general items of expense: First, for advertising and other publicity; second, office expenses, including rent, furniture, light, and clerk hire; third, telephone, telegraph, and other charges; fourth, traveling expenses; fifth, keeping of election registers and the canvassing of voters; and, sixth and last, salaries and compensations not otherwise charged. It seemed to that committee that it would be fairer and more public to make particularly clear just what the exact object was for which every dollar was expended. The name of the recipient was shown on the checks, and could easily be ascertained from an examination of the account. Every dollar of expenditure was charged up under one of those six heads, and it was deemed wiser and fairer to so combine the expenditures with regard to the objects for which they were made rather than with regard to the man to whom they were paid.

Mr. POMERENE. Mr. President—

Mr. SPENCER. In a moment I will yield to the Senator from Ohio. So that if \$100 was paid to John Smith for advertising and other publicity the entry of that expense would be, in the first place, not to John Smith, but to advertising and



other publicity. The check would show that John Smith received the money, but the bookkeeping would charge that account to the object for which it was used, and, therefore, when it came to the combination of all the expenses it would be shown just how much had been expended and for what purpose. Mark you, every dollar of expense is accounted for:

Advertising, \$147,000. (I am omitting the odd amounts.)  
Office expenses, including rent, \$9,000.  
Telephone, telegraph, and other charges, \$1,000. (I am omitting the odd dollars.)  
Traveling expenses, \$9,000.  
Copying of election registers, \$4,000.  
Salaries and compensations, \$4,000.  
The aggregate is \$176,568.08.

After that account was filed, bills came in largely from newspapers, almost entirely from newspapers, which had been overlooked in making up the account. The testimony shows that the committee tried in every way, by letter and telegram, to get in every bill when they filed that account on September 6, when, under the law, it was necessary for them to file it; but though they thought they had every bill in, after the account was filed bills came in from a number of sources, mainly from newspapers, aggregating something between ten and fifteen thousand dollars, so that the aggregate amount of expenses runs up to something between \$190,000 and \$200,000, and of that amount \$165,000 was spent for publicity.

Mr. DIAL. Mr. President—

Mr. SPENCER. I yield, first, to the Senator from Arkansas, as I said I would.

Mr. CARAWAY. Mr. President, if the Senator will pardon me, he was saying that all the money was spent legitimately. The record shows that part of it was spent for beer and part of it for cigars. Does the Senator think that is a legitimate expenditure—liquor and cigars in a campaign?

Mr. SPENCER. This is the first time I have heard about "liquor and cigars." The Senator can not be serious in the matter.

Mr. CARAWAY. If the Senator will read the record he will find out that the witness swore to it; and then another thing: The record shows that they paid \$7 a day to have workers at the polls on primary day, and that they paid some men large sums for their influence. I remember that Senator Tufts was paid \$800 merely for his influence. Is that all necessary in publicity?

Mr. SPENCER. I do not know how cheaply they work in Arkansas, but we have to pay more than \$7 a day in St. Louis for many classes of labor.

Mr. CARAWAY. In Missouri do they pay workers to go to the polls?

Mr. SPENCER. Not in the sense which the Senator seems to infer.

Mr. CARAWAY. Then why does the Senator say that?

Mr. SPENCER. Certainly men have been paid to use their machines on election day to bring in voters in Missouri, and I certainly would do it again, and I have not a particle of doubt that the Senator from Arkansas or his friends have done the same thing.

Mr. CARAWAY. They never did.

Mr. SPENCER. I made that statement from what I had heard in regard to the elections in Arkansas.

Mr. CARAWAY. Whoever told the Senator that did not know anything more about it than the Senator knows about the record in this case.

Mr. SPENCER. That remark does not do the Senator from Arkansas justice.

Mr. CARAWAY. And the Senator thinks that the payment of \$800 to one man for his personal influence was all right?

Mr. SPENCER. It depends entirely upon what he did. I should say it would be a very small payment if he gave his time for many months.

Mr. HEFLIN. Now, Mr. President, if the Senator is ready to yield to me—

Mr. SPENCER. Yes; I agreed to yield to the Senator from Alabama.

Mr. HEFLIN. The Senator said a little while ago that this publicity was necessary by newspapers, by circulars, by meetings. I wondered how he spelled the word "by"—"b-u-y" or "b-y"?

What I wanted to ask the Senator, however, was this: He says: "Is there anything wrong in carrying on this publicity to make this man Newberry known?"

Yes, Mr. President; there is something wrong in it. The statute of Michigan has fixed \$3,750 as the amount that can be expended in primary elections and in general elections. Is not the voice of the sovereign State of Michigan to be considered in

the matter of publicity as well as other things? The United States statute at that time, solemnly enacted by Congress, was in force upon the statute books, making the limit \$10,000; and the Senator admits that they spent many times \$10,000. Is there not to be a limit somewhere? Has not the State the right and has not Congress the right to fix some limit upon these expenditures?

Mr. SPENCER. Do not let the Senator and myself get into a dispute about the facts. The Senator knows just as well as I do that the law—both the law of the United States and the law of the State—limits the amount of money which may be spent by the candidate himself, and that there is no limit whatever as regards the amount of money that may be spent independently of him and by his friends; and the Senator knows that that was the decision of the Supreme Court, and that is the unquestioned law in the case, and is at the same time the common sense of the matter.

I hope, however, that the Senator will let me go on, and that the Senator will make his speech a little later.

Mr. HEFLIN. Just this word, if the Senator will permit me: It resolves itself, then, into this—that a candidate may have a campaign launched for him, and the money put up by Wall Street, maybe, to buy the election, and he know nothing about it, so he says, and come here and take his seat.

Mr. SPENCER. Is the Senator particular that the source shall be Wall Street?

Mr. HEFLIN. Well, \$50,000 of this fund came from Wall Street.

Mr. SPENCER. No; the Senator is mistaken.

Mr. HEFLIN. I have a newspaper clipping in a scrapbook that I expect to look up and to refer to, where two contributions of \$25,000 each were made by two gentlemen in New York to the campaign fund to buy this seat in Michigan.

Mr. SPENCER. I am satisfied that the Senator's only source of information will be his scrapbook and newspaper clippings.

Mr. HEFLIN. That is more information than the candidate whom the Senator is espousing seems to have had. He did not know anything.

Mr. DIAL. Mr. President—

Mr. SPENCER. I agreed to yield to the Senator from Ohio [Mr. POMERENE], and then I will yield to the Senator from South Carolina [Mr. DIAL].

Mr. POMERENE. Mr. President, the Senator made the statement a while ago that the campaign committee distributed the various expenditures under seven different heads. Will the Senator refer to the record which will show that to be the fact? I think the Senator will find that out of this account which was filed by the committee some one connected with the management distributed it in that way for the purposes of explanation to the public.

I want to make another observation here. The record is replete with statements showing the employment of workers at the polls and in the preprimary campaign. There are quite a number of instances—I say "quite a number;" I have in mind at least four or five now, to which I shall advert a moment later—in which the parties testifying said that they spent their money in part for cigars and beer and liquor and treating, the word "treating" being used. Will the Senator advise us under what one of these seven heads or classes of expenditure the various amounts of the character I have indicated were properly distributed?

Mr. SPENCER. Mr. President, I want to say a word in answer to the Senator from Ohio.

It may be that cigars were bought and that treats were given somewhere by some one in some townships of Michigan in connection with this campaign. I do not now recollect the particular witness who did it, if any such there be, but there never has been a campaign in the world when something of that kind has not been done. I have no doubt that the Senator himself, if a cigar had been given to him which he did not care to smoke, might give it to a constituent at a meeting which he held in the State of Ohio. Those incidents are negligible. We are dealing with the right of a Senator of the United States to hold his seat. Is it fair to lay any stress upon the fact that some friend or supporter of Mr. Newberry may have given a cigar or treated some one when it is undoubted that Mr. Newberry did not even know either the event if it happened or the man? Let us get close to what is the great, vital fact.

The money was spent, nearly \$200,000. In the brief of the contestant I notice that they have added up a lot of assumed amounts, that made, I think, \$263,000. The amounts, as the Senators will find out from an examination of the testimony, are fictitious above \$195,000. What difference, however, does it make whether \$195,000 or \$260,000 was expended. Either of the

amounts are too large for a primary election. There is a mere difference in degree, not in principle. It does, however, show the animus back of this whole case when you come to look at the figures by which they seek to arrive at a total of \$260,000. They include, for example, in the total an item of \$20,000 as being paid to a Mr. Oakman. The fact of the case was that a Mr. Montgomery told the grand jury that he once heard Mr. Oakman say something to the effect that it was worth \$20,000 and that he had been promised that sum, but he did not say by whom any such promise was made, and admitted on cross-examination that he did not know whether Mr. Oakman was serious or not; so Mr. Ford's counsel promptly added this \$20,000 as a Newberry expenditure, although there was no evidence whatever that any amount was ever paid to Oakman. More than that, while Milton Oakman's name was on the list of witnesses that they wanted to subpoena, before he ever came his name was canceled by Mr. Ford's counsel, so that his testimony was not heard, but it indicates how the fictitious amount was made up.

I do not care a rap whether the aggregate amount was \$220,000 or \$195,000. As a matter of fact, the amount expended in that election was approximately \$190,000 or \$195,000. It was too large, but who solicited it? Who spent it? Whose money was it, and how was it gathered together, and who was responsible for it? Fortunately, we have a record of every man who contributed to the fund, and we have the testimony of every man who contributed the larger amounts to that fund.

Mr. DIAL. Mr. President—

Mr. SPENCER. Will the Senator excuse me for a moment? These are not witnesses on behalf of Mr. Newberry. These are the witnesses, Senators, who were subpoenaed by Mr. Ford. Every lawyer in this body knows that when a witness is subpoenaed, the party who subpoenas him vouches for his credibility; but there was no need of vouching for the credibility of these witnesses.

The man who gave by far the largest amount for the primary campaign was John S. Newberry.

He was the younger brother—by less than two years—of Truman H. Newberry.

His frankness in answer, his appearance and manner could not fail to convince anyone familiar with the handling of witnesses of the truth of what he said.

He testified that he and Truman H. Newberry had been interested together in many business operations.

The witness left Detroit in the spring of 1918 to enter the United States Naval Reserves and was stationed at the Great Lakes training station, Chicago, and did not even see Truman H. Newberry from February, 1918, until "way along in the fall." Truman H. Newberry was in New York and the witness was on duty in Chicago and other places in the Middle West.

The witness did not even know Paul King, who managed the primary election (R., p. 306), and never had any conversation with Mr. Blair, the treasurer of the committee who managed the primary campaign and whom he only knew by sight.

He had no conversation or cooperation or identification with any of those who were managing the primary campaign, and, as we shall see in a moment, also acted in what he did without any knowledge whatever on the part of Truman H. Newberry as to what the witness was doing.

Some time in March, 1918, shortly before the witness left Detroit, he told Mr. Fred P. Smith, his confidential agent, that he, the witness, wanted to finance the campaign of his brother if his brother should run for Senator.

The question was asked him:

How did you know your brother was going to run at all?

To which he answered:

I did not know. (Record, p. 309.)

I did not know whether he was or not. I never talked to my brother about it. I only knew what I saw in the papers. (Record, p. 318.)

The only knowledge that the witness had was what he learned from the newspapers that his brother's name was being mentioned. When asked for the reason why he wanted to finance the campaign, he said:

He (Truman H. Newberry) has always done a good deal for me, and the love and affection and loyalty I had for him was a sufficient reason to my mind to finance his campaign.

The witness had no connection with the campaign; did not in the slightest degree cooperate by word or act or suggestion. He did not know about any other contributions or about how the money was used or about anything in connection with either contributions or expenditures, and did not even talk or write to Truman H. Newberry at all about the campaign. All that he knew was that because of his love for his brother he wanted, in case his brother should become a candidate and a primary campaign ensue, to finance that primary campaign.

He was asked, "But did not your brother know about it? Did not Truman H. Newberry have some knowledge of it?"

He answered, "He knew nothing about it. I did it voluntarily, because of my love for him."

Mr. McKELLAR. Mr. President, will the Senator yield to me?

Mr. SPENCER. In a moment, if the Senator from Tennessee please. Senators, if your conscience leads you to do it, you can substitute suspicion and inference for the established facts brought out in the testimony, but I challenge you to produce a single line of testimony from a single witness who appeared before us, or who testified at Grand Rapids to the effect that a single dollar of the money which he gave was the product of the suggestion or invitation or solicitation or knowledge of Truman H. Newberry.

I yield now to the Senator from South Carolina.

Mr. DIAL. Senator Newberry was a native of Michigan, was he not?

Mr. SPENCER. I do not know where he was born.

Mr. DIAL. Had he not been Secretary of the Navy before that election?

Mr. SPENCER. For a few weeks, or a day or two. He had been Assistant Secretary of the Navy, as I stated, for a somewhat longer time.

Mr. DIAL. Then, Mr. President, the Senator from Missouri has a poorer opinion of the intelligence of the people of Michigan than I have if he thinks it took all that money to make Mr. Newberry known to the people of Michigan.

Mr. SPENCER. I should not like to ask the Senator from South Carolina who was Assistant Secretary of the Navy even eight years ago.

Mr. DIAL. Mr. Newberry was not Assistant Secretary; he was Secretary of the Navy.

Mr. SPENCER. He was the Assistant Secretary of the Navy. He was Secretary of the Navy for only a very short time—about four months. If the Senator from South Carolina can tell me the name of the Assistant Secretary of the Navy eight years ago, I shall be surprised.

Mr. CARAWAY. Franklin D. Roosevelt.

Mr. SPENCER. Unless the Senator from Florida, who sits next to him, has just told him.

Mr. DIAL. We remember the names of the Cabinet officers who come from our State.

Mr. McKELLAR. Will the Senator yield to me now?

Mr. SPENCER. I yield.

Mr. McKELLAR. The Senator said that Senator Newberry knew nothing about the funds which were being used, and did not contribute to them. I want to call the attention of the Senator to this testimony by Mr. Fred Smith, whom the Senator has just quoted:

Mr. SMITH. Yes, sir. It is a procedure that has been current for years. When one account gets low it is fed from the others.

I will state, in parentheses, that this refers to the transfer of accounts from one member of the Newberry family to another. He continued:

We have 12 different accounts. Of course, we do not feed from the corporations, but the personal ones. I have done it this last week.

Senator WOLCOTT. How many of those personal accounts were there?

Mr. SMITH. There were 10 at that time.

Senator WOLCOTT. Did you transfer funds from Truman H. Newberry's account over to John S. Newberry's?

Mr. SMITH. Yes, sir.

And again, I call the Senator's attention to Senator Newberry's knowledge of the fact.

Mr. SPENCER. The Senator from Tennessee was probably out of the Chamber at the time that was read, commented upon, and explained a while ago.

Mr. McKELLAR. No; I was here. Part of what I am about to call to the Senator's attention was read. This part has been read:

Mr. ALFRED LUCKING. You had been talking to him. He wanted to know when these expenses were going to stop, did he not?

He was referring there to Senator Newberry.

Mr. SMITH. I do not believe so. I think his conversation was about the drain on the balances in the office, and he was complaining about the money that was being spent.

Mr. ALFRED LUCKING. Complaining about the large amount of expenses being drawn?

Mr. SMITH. Or the money that was being spent and drawn from the account all the time and put into his brother's account to keep from being overdrawn.

The question I want to put to the Senator is this: Here is his own witness, Mr. Smith, who testified that he transferred money from Senator Newberry's account to his brother, John S. Newberry's account, and that Senator Newberry was complaining of it. Does not that show absolutely and beyond the peradventure of a doubt that Senator Newberry's money was used, that it was transferred by his own agent to his brother, John S.



Newberry, and that Senator Newberry was complaining of the transaction?

Mr. SPENCER. Mr. President, I said a moment ago that the Senator from Tennessee was probably out of the Chamber, for what he has just read was read earlier in the afternoon; it has been commented upon and explained. That method was a mere method of bookkeeping and there was no permanent transfer from one fund to another. It was a mere temporary expedient to keep bank balances intact and was what the office of the Newberry estate had done frequently, what it had done for years. When one account was low it was supplemented from another account, and the accounts balanced in a day or two by a retransfer of the amount. It was nothing but a mere matter of bookkeeping.

Mr. McKELLAR. Mr. President—

Mr. SPENCER. If the Senator will pardon me, I want to proceed quickly with what I was saying.

Mr. McKELLAR. Very well, if the Senator does not want to yield.

Mr. SPENCER. We have a record of every man who gave any large amount to this campaign. I had said, when I yielded to the Senator from Tennessee, that John S. Newberry was the largest contributor. He gave approximately \$99,000. Did his brother have anything to do with the giving of it? No. Did his brother know about his gift. No. Was there any communication between the two about it? No. What was it? It was the voluntary gift of a brother for the campaign of Truman H. Newberry.

If you like, you can substitute a suspicion and an inference for a fact, but you can never fairly come to the conclusion that Truman H. Newberry knew about, solicited, or consented to the gathering together of this fund which was used in his campaign.

What did he say about it under oath to the Senate? Truman H. Newberry said, "The campaign for my nomination for the United States Senate has been voluntarily conducted by friends in Michigan. I have taken no part in it whatever and no contributions or expenditures have been made with my knowledge or consent."

I sometimes think that many of the members of the minority in this case, for whom I have the greatest esteem, fail to appreciate the consequences into which their position drives them. You have the sworn testimony of every contributor as to how he gave the money and as to how much he gave, and every one of them under oath testified that Truman H. Newberry had nothing to do with it and did not know about it.

Listen to the testimony of John S. Newberry. Read the testimony of Henry B. Joy, who gave \$25,000; of Alfred Victor Barnes, who gave \$25,000; the two items, probably, in the mind of the Senator from Alabama [Mr. HEFLIN], both those individuals being residents of Detroit, Mich., though I understand Mr. Barnes did or does now reside in New York. Read the testimony of Mrs. Joy, who gave \$10,000; of Mr. Brooks, who gave \$2,500, who I think lived in or near New York; of L. D. Smith, who gave \$7,500. There is the bulk of it. The rest was in smaller amounts. Every one of those men was on the stand under oath before the committee, every one of them a man of the highest character, whom you and I would be delighted to meet with socially or to be identified with commercially or industrially.

Those men are not liars. If the minority report is true, every man of them is a perjurer and ought to be in the penitentiary of his State. Truman H. Newberry is not a liar. Those men told the truth. The fact of the case was that the friends of Truman H. Newberry voluntarily said to themselves, "We will manage and finance and run this campaign, and we will see that it is done so that the people of Michigan shall understand the facts about it," and they did it. Truman H. Newberry knew nothing about how much money was being spent, except that such a great scheme of publicity would have indicated to any man that large sums of money were being used. Truman H. Newberry did not know who gave it. Truman H. Newberry did not know the amount, either in any individual case or the aggregate.

Senators, will you unseat a man whose friends loved him enough or believed in him enough to spend for him a sum of money which you and I think is too large?

We can think without difficulty of men in the history of this Republic who could not themselves have furnished from their own resources even the \$3,750 which the statutes of Michigan allow to be spent, an amount which would not permit the sending of a single postal card once to all the citizens of Michigan. We can think of men who could have spent nothing for themselves, and yet who when they ran, if publicity were needed, if money were needed for proper purposes, would have had from us and

from their friends an unlimited amount, and if the need were great enough there would have been no question as to how much we spent.

I fancy that if Gen. Robert E. Lee had ever run for office in the South under conditions which had demanded publicity there would have been no stint from the pockets of the thousands who loved and revered him, and without any solicitation or knowledge of Gen. Lee. In the North, Abraham Lincoln would have had any amount of voluntary assistance to his campaign contributions. If friends voluntarily conduct a campaign that is not illegal under the law and in which there is no taint of injustice or immorality or wrong, will you unseat a Senator because he was fortunate enough to have such friends? Every Senator on this floor knows that the language of the statute of the State of Michigan, as well as the language of the law of the United States, limits the amount of money which a candidate himself can spend; but if his friends, for proper purposes, want to spend money in his campaign, they can spend it in unlimited degree.

If you do not like that law, if I do not agree with that law, if it is unwise, if there ought to be a limitation upon the aggregate amount of money which can be spent by the friends of a candidate, or under any circumstances, let us put it upon the statute books. It is not there now. If it is a wise policy, let us write it into law.

In the name of justice shall we unseat and punish a man because his friends did that which is not illegal? There was not a thing done in the campaign of Truman H. Newberry, either with regard to the primary or with regard to the election, that was illegal or improper. Why not leave camouflage? Let us go for a moment into the Supreme Court of the United States, where camouflage vanishes. Listen to Mr. Justice McReynolds, who is, may I say to my brethren upon the other side of the aisle, one of their political own.

When that case came on for trial Justice McReynolds made inquiry of the attorney representing the Government who was seeking to send Truman H. Newberry to the penitentiary. When the question came up whether it was Newberry's money Mr. Justice McReynolds said to Mr. Frierson:

Mr. Newberry is not charged with spending this of his own money? Mr. FRIERSON. He is charged with causing it to be expended. Justice McREYNOLDS. It was not his money? Mr. FRIERSON. No, sir.

No doubt in the mind of any fair man as to fact, for when the question came before a tribunal, where camouflage ceased, what Frierson admitted is what any lawyer in the Senate would do, and that is to admit the truth. There was not a dollar of Truman H. Newberry's money spent in that primary campaign. Every dollar of money that was spent in that campaign was by the voluntary contribution of friends, some of them bound to Truman H. Newberry by ties of love and affection, some of them by bonds of gratitude because of prior relationship, some of them because they believed that the advent of Henry Ford into the political history of Michigan was a menace to the country, and they could not forget what he had said about the boys who were fighting overseas or about the flag of the United States never to be again put up over his buildings. When we take a combination of those three things—love and affection and patriotism—we have the source of every dollar that was spent in Truman H. Newberry's campaign. Unseat him, when there is not one line of testimony of a single witness to show either that Newberry spent a dollar of his own money or that he knew or consented to a dollar of money that was spent? It is inconceivable in the Senate of the United States, where conscience and judgment reign as they do in this august body.

Mr. WALSH of Montana. Mr. President—

Mr. SPENCER. I yield to the Senator from Montana.

Mr. WALSH of Montana. The statement now made by the Senator is a highly interesting one about how these contributions came to be made from patriotic motives, but if the Senator will turn to the bill of exceptions, page 281, it will be discovered that until the 16th day of August—and, bear in mind, the primary was held on the 27th day of August and the campaign was begun on the 6th day of March—not a dollar was subscribed by man, woman, or child except John S. Newberry. Thereafter large subscriptions were made by Lyman D. Smith, a broker of New York. Subscriptions of no particularly great amount were made by Victor Barnes, of New York. Victor Barnes is a brother of Mrs. Newberry. Large subscriptions were made by one Joy. Mr. Joy married a sister of Mr. Newberry.

I wish the Senator would have the kindness to turn to the list of subscribers and point out those who subscribed because of motives of patriotism and terror about the menace of Henry Ford to the State of Michigan.

Mr. SPENCER. I shall be glad to do it. It is in the record.

Mr. WALSH of Montana. Of the \$99,000 given by John S. Newberry, \$86,000 was actually contributed before anybody else ever gave a dollar.

Mr. SPENCER. I have no doubt of that, and I am wondering why the Senator from Montana, with that judicial ability which characterizes him, thinks that this circumstance is enough to brand with the stamp of perjury every man who gave that money and whose testimony under oath is before us, and to unseat from this body the man whose sworn testimony that he had no part in the management or control of the campaign is on file. The Senator from Montana is a lawyer of distinction. There is not one witness who has been produced who testified that a dollar of that campaign money either belonged to Truman H. Newberry or was solicited, given, or used with his knowledge or consent. Senators may infer and suspicion as much as they like. I am thinking of my own campaign. Perhaps the Senator from Montana may think of his. I have no doubt in the world that if the State of Missouri were raked over as the State of Michigan has been and from every precinct and township anything that any man who might have believed in me or wanted to help my candidacy did or said or gave, that there would be made a record in the aggregate which, though I knew nothing of it—and if I had known of it would never have consented to it—might be difficult of explanation and embarrassing in effect.

That is what we have here—a combination of suspicion and inference, without the testimony of a single sworn witness to substantiate it. I submit that to the judicial mind of the Senator from Montana.

Mr. WALSH of Montana. But the Senator avoids the question which I asked. I asked him to point out the subscriptions that were secured by reason of the patriotic impulses of the subscriber.

Mr. SPENCER. I shall be glad to do so.

Mr. WALSH of Montana. I am reminded that Dr. Johnson once said that "patriotism is the last refuge of a scoundrel." I observe that the brief of Mr. Newberry starts out with an encomium upon his patriotic purposes and impulses and a denunciation of the want of patriotism in his antagonist at the polls. I do not believe, however, that the Senator from Missouri would make an argument along those lines.

Mr. SPENCER. I am sure the Senator from Montana does not himself believe in the cynical quotation which he made. I think it is quoted in one of the briefs, and he and I have often heard it. Patriotism is not the last refuge of a scoundrel. The Senator and I both know that patriotism is the corner stone of this Republic, and any such remark as he quoted (though I am sure he had no such intention) neither tends to promote patriotism nor to exert an influence for good in the United States.

Mr. WALSH of Montana. But modesty characterizes the patriot. He does not capitalize or boast of it.

Mr. SPENCER. No; nor did Truman H. Newberry. I can speak for what he did. I can speak of his sons who were in the service. I can compare him with Henry Ford and Henry Ford's son. The Senator never heard a word of it from Truman H. Newberry and he never will, but it is a fact, and I am free and glad to speak of it.

The Senator asks me as to any contribution that had patriotism back of it. There was one witness about whom I started some time ago to speak, whom the contestant, Henry Ford, by his attorney said we must have before us, that there is "no doubt" about the fact that the money which this witness (Henry B. Joy) gave, and which aggregated \$25,000 in amount, came from Truman H. Newberry personally. Just in proportion as they thought it was impossible to secure the attendance of that witness they became vehement in their demands for his attendance and in their certainty that he would tell the truth and that they could rely upon just what he said, for the record so shows.

Mr. Joy is one of the most important witnesses in this case (Rec., p. 347). We feel it is absolutely essential to have Mr. Joy here (Rec., p. 358). He is an honorable gentleman—he will tell the truth (Rec., p. 347).

It turned out that the man—Henry B. Joy—was sick in the city of Detroit and could not be brought to Washington to testify. We finally ascertained through his physicians that they thought if he was interrogated in the presence of his doctor, without the disturbing elements of a trial or cross-examination, it might be safe. So we said to Mr. Ford's counsel, "Find out everything you want to know, write out your questions, and we will see that they are presented to him in the presence of a notary and of a doctor whom you select, and we will find out what this witness has to say." This was entirely satisfactory

to both sides. I will read for the information of the Senator from Montana some of the evidence of Mr. Henry B. Joy. He will find it set out at page 942 of the record. Mr. Joy put in as one of his answers a letter which he wrote in connection with his contribution, in which he said:

DEAR SIR: Some little time ago Col. Hecker called my attention to the fact that a righteous effort was going on to picture before the people of Michigan the propriety of nominating in the primaries Commander T. H. Newberry instead of Henry Ford for United States Senator. He suggested—

Who? Col. Hecker—

that I make a subscription, which I promptly did, in the sum of \$1,000. Since the discussion in the papers and the statements of Mr. King as to the size, financially, of the task, I feel it my duty to enlarge my contribution if it is needed, as I am sure it must be.

He is writing to the treasurer of the committee:

I inclose you my check, No. 3105, of August 31, 1918, on the National Bank of Commerce for \$5,000 to aid "as the bills come in," as I know they do. If the financing has been covered, I shall cheerfully accept the check back; if not, it's yours for the good work.

Notice the absence of Newberry. Joy was a relative of his.

I have tried to get both Mr. King and Mr. Smith on the phone to ascertain the condition of your "war chest," but both are gone for the day, and, as I am leaving for an absence of several days, I want my feelings known to you.

I feel that Mr. King's work was carried on on a high plane and on a scale none too large, as I judge from his statements in the papers, to overcome the sedition, treason, and pacifism preached by Ford in his million-dollar advertising campaign.

I have spent a good deal of money in this work of "boosting" patriotism and true Americanism in recent years. Now everyone is working at it, and I am glad to be able to furnish some "fuel for the boiler," and I will go further if you want it. That is where I stand. We have got to do this job.

It is not pleasant, but it is necessary.

This good, true State of Michigan must not go on record as indorsing for Senator any man who has ever said, whether for advertising purposes or because he believes it, that the word "murderer" should be embroidered on every soldier's uniform.

I do not think that his son is any dearer to him, or more needed by him, than the sons of others are as supporters and workers to their fathers, mothers, and wives.

If Ford could spend a million dollars in advertising to prevent and delay America's "preparedness" for war, we ought to raise whatever amount is necessary to counteract that vicious, wicked, treasonable campaign against our country's welfare.

I have nothing against my good friend Henry except that he does not think straight.

That he should become the Senator from Michigan now in this time of war, after his attitude as expressed in his public sayings upon matters connected with the war work, would in my judgment be a national disaster.

I see by the paper that he is a candidate at the President's personal request. He will be a hard man to beat, because camouflage is so popular to-day, but if the truth is put straight out to the people of Michigan the State will certainly elect a wiser and more far-seeing man to represent it in the Senate of the United States.

The numbers of sons and brothers and husbands who will die or be maimed or suffer untold tortures from the gas or in the prisons of the Germans, due to the doctrines preached by Henry Ford, because he could not see or think straight, will be legion. They are so dying and suffering to-day.

The people of Michigan will not indorse such a man to be Senator, if his vagaries are exposed. But they must be exposed. And at once.

Your people at home have a task on your hands which must be met.

That is the reason why he contributed; and if I may, I desire to conclude this branch of the discussion with reference to his testimony. When Mr. Joy was asked particularly and repeatedly, "Did Truman H. Newberry solicit a contribution?" "Did he know of your contributing?" "Did he have anything to do with it?" His answer was, "No, sir." And no man can say Henry B. Joy would tell a lie. His character is vouched for expressly by Mr. Ford's counsel himself. His answer was, "No; it was my own suggestion; it was my own act; there were reasons which impelled me to do as I did." Then he recites those reasons, which I have read in part. Now, I say that is substantially the testimony of every witness who contributed to this campaign. Not one dollar—

Mr. WALSH of Montana rose.

Mr. SPENCER. Let me complete the statement, and then I will yield to the Senator from Montana. Not one dollar came from the pocket of Truman H. Newberry; not one dollar was solicited by him; not one dollar was given either with his knowledge or consent. Every dollar that was used was contributed, without solicitation from him, as the voluntary act of individual friends who believed that his election was as necessary for the State as it was for the Nation. These are the facts in regard to the money used in this campaign. To hold Truman H. Newberry responsible for things with which he had nothing to do is so monstrous an injustice as to be inconceivable.

Mr. WALSH of Montana. These are very noble sentiments on the part of Mr. Joy, but the fact remains that he is the brother-in-law of Mr. Newberry.

Mr. SPENCER. There is no doubt about that; I have admitted it; I have just repeated it. John S. Newberry was his



brother and Mrs. Joy was his sister and Victor Barnes, who gave largely, had been his friend and associate for years, during which they had loved and known each other.

Mr. WALSH of Montana. And he was his wife's brother.

Mr. SPENCER. Mr. Barnes was Mr. Newberry's wife's brother. I know all that; but does that make every one of these men a perjurer in the judgment of the Senator from Montana?

Mr. WALSH of Montana. I am referring to those contributions being made from patriotic impulses. I am able to report that of \$178,856, contributed as shown by the report, there came from John S. Newberry, the brother of Truman H. Newberry, from Henry B. Joy and his wife, the sister of Truman H. Newberry, and from Victor Barnes, the brother-in-law of Newberry, \$168,500, leaving \$10,350 from other sources.

Mr. SPENCER. I have no doubt of the correctness of the computation, though I have not followed it; I will admit it without looking at it; but does the Senator from Montana think that we ought to unseat a man who is elected by the people of a State because his brother or his wife's brother saw fit to contribute to his campaign funds?

Mr. WALSH of Montana. Not at all.

Mr. SPENCER. Does the Senator from Montana believe that contributions come from men's enemies?

Mr. WALSH of Montana. Not at all.

Mr. SPENCER. Or from their political opponents?

Mr. WALSH of Montana. Not at all.

Mr. SPENCER. Contributions naturally come from relatives and friends and from social and business and political associates.

Mr. WALSH of Montana. Mr. President—

The PRESIDING OFFICER (Mr. POINDEXTER in the chair). Does the Senator from Missouri yield to the Senator from Montana?

Mr. SPENCER. I yield to the Senator from Montana.

Mr. WALSH of Montana. What the Senator from Montana does contend is that the reasonable inference is that these people contributed for personal reasons rather than from patriotic impulses.

Mr. SPENCER. If by that inference of the Senator he means personal reasons of affection, of confidence, and esteem, I think there is a great deal of merit in the conclusion of the Senator from Montana. I submitted the testimony of Mr. Joy as to how he felt about the campaign and what the reasons were which influenced him, and I think we will agree that patriotism was the controlling motive.

Mr. WALSH of Montana. Contributions are sometimes made because of consanguinity.

Mr. SPENCER. But no man can listen to what I have just read from Henry B. Joy and not believe that patriotism had much to do as the controlling motive with his contribution. There were different motives for the making of contributions; some were because of affection, as I have said; some were because of confidence; some were because of the conviction that his opponent ought not to be elected either for the sake of the State or of the Nation. There we have the whole facts in regard to the money which was contributed in the Newberry campaign.

Senators, I do not want to take up time unduly. There will undoubtedly be some questions asked or statements made which may require some further statement from me; but I want to say, with all the emphasis that I can put into the statement, that the record in this case, whatever else it shows, establishes, first, that there was not a dollar spent for an illegal or an improper purpose.

In the trial at Grand Rapids the fifth count in the indictment charged that money was spent for bribery and corruption, but before the trial was concluded even the judge who presided in that case was compelled to say to the jury that there was not a word of testimony which sustained the charge of bribery or corruption, and he withdrew from the jury the consideration of that count. So all they had to pass upon was the question whether there was a conspiracy between Truman H. Newberry and 134 others to spend more than \$3,750 in connection with his election, for on the only other count which was left for the consideration of the jury, and which charged fraudulent use of the mails, the jury promptly acquitted all the defendants.

Why did not the committee summon the junior Senator from Michigan before them as a witness? The Senator from Arkansas has asked me that question. I can give my version of the matter and state what influenced me as a member of the committee in taking the position that I would not invite or force Mr. Newberry to come before it. No one asked that Mr. Newberry be summoned. The minority of the committee wanted the committee itself, of its own accord, to invite him to come before the committee. This would, of course, have ad-

mitted that the committee believed the record was such as to require the attendance of Mr. Newberry. The committee believed no such thing. Everything that could be said by him had been said under oath in his report to the Senate under the law of the United States. Here was his stand from the beginning: "Not a dollar has been solicited or spent with my knowledge or consent; my friends voluntarily managed the campaign." There was no substantial evidence to contradict this position and there was a vindictive purpose clearly and often manifest in the paid emissaries of Mr. Ford to torture and harass, as only an experienced lawyer knows how to do with a witness. Months of torture had already been endured, and I can see how the Senator from Michigan could have said to himself, "I have said all I can say. If there is no evidence to disprove it, why, for mere purposes of publicity, should I come forward again into the case and undergo examination without anything to be gained by it?" I for one would not require him to do it. He could have done it if he had desired, but his judgment led him not to do it, and I can see the force back of his judgment.

Oh, Senators, you and I look at this case to-day cold-bloodedly in the Senate Chamber. I have sometimes tried to fancy what it would have meant to me if I had been attacked as has the junior Senator from Michigan. There are some upon this floor who know the bitterness of unjust persecution; and shall we expel from the Senate Chamber, with the brand of disgrace upon him forever, a Senator of the United States because his friends voluntarily got together and spent more money than you and I think ever ought to be spent in a primary campaign, and when not a dollar of it was spent for any illegal purpose or for bribery or for corruption?

While the trial was on at Grand Rapids—and which I maintain to-night in its inception, and in its purpose, and in its conduct was malevolent, malicious, and vindictive—there was many a man and woman throughout the United States who, unaware of the true facts, believed that Truman H. Newberry was a corrupter of youth, was a briber of voters, was a menace to the Nation, for the purpose of that trial was to brand him and to stamp disgrace upon his family and himself. He was convicted and sentenced, and it was not until the Supreme Court of the United States finally came to consider the case that justice was done. When the justice of that august tribunal spoke, divided amongst themselves as to the technical effect of the law, the Supreme Court were unanimous in the conclusion that there had been an unfair trial; that the judge had misled the jury and wrongfully interpreted the law, and that the judge gave to the jury charges that had no foundation in right; and when the Supreme Court of the United States thus spoke, the infamy of that trial fell upon the shoulders of those who instigated and conducted it and upon the judge who tried it, where it ought to have rested from the beginning. I can not help but believe that when the Senate of the United States gets through with the spectacular and the camouflage and the mere eloquent oratory of men who will speak and comes to consider the facts in the case, they will, in conscience and in judgment, come to the conclusion that Truman H. Newberry did nothing wrong and that under the law and the evidence he can not be and ought not to be deprived of his seat in this body because friends of his contributed more money than you and I think ought to be contributed.

Most Senators on this floor believe that the sum of money spent in this primary was altogether too large. I think so myself. I doubt if there is much difference of opinion on either side of the Chamber as to that. I remember a statement of the junior Senator from Iowa [Mr. KENYON] when he said, "If sums of money like this are to be expended, no poor man could ever run for office"; and it is true. There are Members of this body who believe that if a candidate, through the instrumentality of his friends or of others, should use a larger sum of money than the law provided, he ought to be punished; that his friends, even without his consent, ought not to be allowed to spend an undue amount in a primary or in a general election. There is merit in that position; but that is not the law to-day. If we want to make it the law, there is a way to do it. It is neither right nor fair to punish a man for something that is not illegal to-day. There is no law to-day upon the statute books that prohibits a voluntary association of friends from contributing any amount of money they like for the campaign of the Senator from Mississippi or of any other Senator, or from making as much of an effort in his behalf as they see fit to make.

Mr. McKELLAR. Mr. President—

The PRESIDING OFFICER. Does the Senator from Missouri yield to the Senator from Tennessee?

Mr. SPENCER. Not now. I will finish in a moment. I can go into any man's State, either for or against him, without his knowledge or consent, and I can make such a campaign as his

friend or his enemy, as I like, and spend as much money for proper purposes as I like, and there is no law against it.

If there are those in this body who think that this ought not to be the law, that under no circumstances ought a larger sum of money to be spent in a primary or general election than a given amount, let us write it into the law; but for God's sake let us not unseat a colleague on this floor for doing something that neither has the taint of illegality in it nor was done with a single unfair, immoral, or illegal purpose.

There can be few Senators whose conscience and whose judgment would lead them to say: "We will punish a man if his friends contribute to his campaign more than we think they ought to contribute; we will punish him, we will brand him and his family with disgrace, and we will oust him from this body." For what? For anything he has done? No. For anything he has consented to? No. For what? Because his friends loved him enough, or thought the emergency was great enough, to contribute and use a sum of money larger than you and I think ought to be used; and, Senators, in conclusion may I say not one dollar of this campaign fund was used for a single improper or illegal purpose during the whole primary campaign or at the general election.

The PRESIDING OFFICER (Mr. POINDEXTER in the chair). The question is on agreeing to the resolution.

Mr. HARRISON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Secretary will call the roll.

The roll was called, and the following Senators answered to their names:

Bursum	Harris	New	Sutherland
Calder	Harrison	Oddle	Swanson
Capper	Jones, Wash.	Overman	Townsend
Caraway	Kenyon	Phipps	Wadsworth
Curtis	Keyes	Poinexter	Walsh, Mont.
Dial	King	Pomerene	Warren
Ernst	La Follette	Sheppard	Watson, Ga.
Fernald	McCumber	Shortridge	Watson, Ind.
France	McKellar	Smith	
Gerry	McLean	Spencer	
Hale	McNary	Sterling	

The VICE PRESIDENT. Forty-one Senators have answered to their names. A quorum is not present. The Secretary will call the names of the absentees.

The reading clerk called the names of the absent Senators, and Mr. HITCHCOCK, Mr. MCKINLEY, and Mr. TRAMMELL answered to their names when called.

Mr. CAMERON, Mr. BALL, Mr. ELKINS, Mr. BORAH, Mr. SMOOT, Mr. KENDRICK, and Mr. NICHOLSON entered the Chamber and answered to their names.

The VICE PRESIDENT. Fifty-one Senators are recorded as present. The question is on agreeing to the resolution.

Mr. POMERENE. Mr. President, the Senate has been in session now since 12 o'clock. Quite a number of us did not even have time to get lunch, but were kept here continuously. This is the first day this matter has been on. I do not feel that I ought to be required to go on to-night, and I want to ask Senators on the other side of the Chamber to consent either to an adjournment or to a recess until to-morrow. I shall be ready to proceed then as expeditiously as I can.

Mr. SPENCER. Mr. President, I very much dislike to inconvenience the Senator, but I have just had a consultation with a number of Senators on this side, and the fact of the matter is that the announcement having been made this morning that we would continue the session to-night, at least for a time, and our information being that there are a number of Senators on both sides who want to be heard at length, the situation of the Calendar of the Senate leads this side to the general impression that we ought to go on at least for a time. I am sorry if it inconveniences the Senator from Ohio.

Mr. POMERENE. Mr. President, why can we not have a recess. There is no use in trying to conceal the real purpose in this matter. The fact is that there was a little bit of feeling because a unanimous-consent agreement could not be had. I was one of those who were willing to enter into that agreement.

Mr. WATSON of Georgia. Mr. President, will the Senator allow me to interrupt him?

Mr. POMERENE. Just a moment, please. Some Senators—I am not finding fault with them at all—have felt that it was unwise at this time to do it. They were within their rights. I am not finding any fault with that. I am simply alluding to the fact. It seems to me that after the long sessions we have had here during the last two or three weeks there is not any reason why at this particular stage of this matter we should be compelled to go on at these unseemly hours. If it should develop later on that there is any disposition to un-

duly prolong the discussion, it will be time for us to take counsel of the situation as it may then develop.

This is a serious matter, whichever view we may take of the question, and there should be a full discussion of it. It is a very grave thing to challenge the seat of a Senator. I think Senators know that I have not been in the habit of unduly prolonging debate or anything of that sort, and I am not going to do it in this case. Necessarily, it is going to take me some time. There is a record here of 2,000 pages. There are questions of law, as well as questions of fact, to be discussed, and I regret that we can not agree as to what this record shows; but it seems that that is the situation, and I make an appeal to the Senate now not to compel me to go on at this particular hour. I will be ready to go on in the morning at any time the Senate may agree upon.

Mr. WATSON of Georgia. Mr. President—

Mr. POMERENE. I yield to the Senator.

Mr. WATSON of Georgia. This is the second or third time that an allusion has been made to the objection raised this morning to a postponement of the case so as to have it run into another year. I thought the case ought to be disposed of now, in justice to the great State of Michigan, in justice to the Senate, in justice to the country, and, least of all, to the Senator who now occupies a seat, and whose seat is contested. We have taken hold of the plow; let us plow the row out. Let us settle the thing now. I am an older man than the Senator from Ohio, and I am willing to come here and stay with it and stay by it. My mind is open on the subject; I make no secret of that, and very probably his argument will decide my opinion; but I am going to try this case like a juror.

Mr. POMERENE. That is right.

Mr. WATSON of Georgia. If I had any bias or prejudice in my mind for or against the accused, I would disqualify myself, and refuse to sit on the case.

Mr. POMERENE. Mr. President, the Senator from Georgia entertains the proper frame of mind toward this case. Every Senator ought to approach its consideration in that way, and I hope that will be so, but I again ask the Senate to either recess or adjourn until to-morrow.

Mr. WATSON of Indiana. Mr. President, personally I am very anxious to accommodate the Senator from Ohio, who is always fair in committee and in the Senate, but to-day the word was passed out that there would be a session to-night. I have taken two-thirds of the Members on this side into the cloakroom and asked their views about it, and they say that they have canceled engagements for one thing or another under the impression that they were to stay here to-night, and they insist on staying.

Therefore, I think the only thing we can do is to go on with the session. I regret very much to say that to the Senator from Ohio, but I have no other alternative, and I am wondering whether some one on the other side can not at this time take the Senator's place in the discussion.

Mr. POMERENE. I am not advised as to that.

Mr. WATSON of Indiana. I have been told that a number of Senators on the other side want to speak, and, knowing that the Senator from Ohio is suffering with a sore throat, I was anxious to see him relieved. I hope that even yet he can find some one over there to take his place during the night discussion. If Senators would fix some time for a vote so that we might know that there would be no undue prolongation of the disposition of this matter we might agree upon a recess.

Mr. POMERENE. I was in hopes that perhaps, if we were to adjourn or recess now, by to-morrow some arrangement of that kind could be made. I think I am justified in saying, from what I have heard within the last hour on this side of the Chamber, that the opportunity of entering into an agreement of that kind is very much better now than it was, and my belief is that by to-morrow we can enter into some unanimous-consent agreement. I hope so, at least.

Mr. WATSON of Georgia. To what effect?

Mr. POMERENE. To fix a time to vote finally upon this case.

Mr. WATSON of Georgia. I do not think we can. I think we ought to settle it right now, before we stop.

Mr. SWANSON. Mr. President—

The VICE PRESIDENT. Does the Senator from Ohio yield to the Senator from Virginia?

Mr. POMERENE. I yield.

Mr. SWANSON. I move that the Senate adjourn, and on that I ask for the yeas and nays.

The yeas and nays were ordered, and the Assistant Secretary proceeded to call the roll.



Mr. McKELLAR (when his name was called). I have a pair for the day with the junior Senator from Ohio [Mr. WILLIS]. I transfer that pair to the senior Senator from Nevada [Mr. PITTMAN] and vote "yea."

Mr. McKINLEY (when his name was called). I have a permanent pair with the junior Senator from Arkansas [Mr. CARAWAY]. I transfer that pair to the junior Senator from Pennsylvania [Mr. CROW] and vote "nay."

Mr. OVERMAN (when Mr. SIMMONS's name was called). My colleague [Mr. SIMMONS] is unavoidably detained from the Chamber. He is paired with the junior Senator from Minnesota [Mr. KELLOGG].

The roll call was concluded.

Mr. CURTIS. I desire to announce the following pairs:

The Senator from Delaware [Mr. DU PONT] with the Senator from Louisiana [Mr. RANDELL];

The Senator from Massachusetts [Mr. LODGE] with the Senator from Alabama [Mr. UNDERWOOD];

The Senator from Pennsylvania [Mr. PENROSE] with the Senator from Mississippi [Mr. WILLIAMS], and

The Senator from New Hampshire [Mr. MOSES] with the Senator from Louisiana [Mr. BROUSSARD].

Mr. GLASS. I have a general pair with the senior Senator from Vermont [Mr. DILLINGHAM], which I transfer to the senior Senator from Texas [Mr. CULBERSON], and vote "yea."

Mr. KENDRICK. Has the senior Senator from Illinois [Mr. McCORMICK] voted?

The VICE PRESIDENT. He has not voted.

Mr. KENDRICK. I have a pair with that Senator, and not being able to obtain a transfer, I withhold my vote.

Mr. FERNALD (after having voted in the negative). I have a pair with the senior Senator from New Mexico [Mr. JONES]. In his absence I transfer that pair to the junior Senator from Oklahoma [Mr. HARRELD], and allow my vote to stand.

Mr. OWEN. I transfer my pair with the Senator from New Jersey [Mr. EDGE] to the junior Senator from Alabama [Mr. HEFLIN], and vote "yea."

Mr. McLEAN (after having voted in the negative). I transfer my pair with the senior Senator from Montana [Mr. MYERS] to the Senator from Connecticut [Mr. BRANDEGEE], and allow my vote to stand.

Mr. SUTHERLAND (after having voted in the negative). I transfer my pair with the senior Senator from Arkansas [Mr. ROBINSON] to the junior Senator from Vermont [Mr. PAGE], and allow my vote to stand.

The result was announced—yeas 25, nays 34, as follows:

YEAS—25.			
Ashurst	Harris	Overman	Swanson
Borah	Harrison	Owen	Trammell
Caraway	Hitchcock	Pomerene	Walsh, Mass.
Dial	Kenyon	Sheppard	Walsh, Mont.
Fletcher	King	Shields	
Gerry	La Follette	Smith	
Glass	McKellar	Stanley	
NAYS—34.			
Ball	France	McNary	Sterling
Bursum	Frelinghuysen	New	Sutherland
Culder	Gooding	Nicholson	Townsend
Cameron	Hale	Oddie	Wadsworth
Capper	Jones, Wash.	Phipps	Warren
Curtis	Keyes	Poinexter	Watson, Ga.
Elkins	McCumber	Shortridge	Watson, Ind.
Ernst	McKinley	Smoot	
Fernald	McLean	Spencer	

#### NOT VOTING—37.

Brandegee	Hefflin	Myers	Robinson
Broussard	Johnson	Nelson	Simmons
Colt	Jones, N. Mex.	Newberry	Stanfield
Crow	Kellogg	Norbeck	Underwood
Culbertson	Kendrick	Norris	Weller
Cummins	Ladd	Page	Williams
Dillingham	Lenroot	Penrose	Willis
du Pont	Lodge	Pittman	
Edge	McCormick	Ransdell	
Harreld	Moses	Reed	

So the Senate refused to adjourn.

The VICE PRESIDENT. The question is on agreeing to the resolution.

Mr. ASHURST. Mr. President, I was appointed a member of the subcommittee on Privileges and Elections and after hearing part of the testimony, but not all of it, I read all of the testimony and submitted what I termed "additional views."

I understand that the majority report and the views of the minority are by order of the Senate to be printed in the Record at the point where the pending resolution was laid before the Senate. I ask that my additional views as I wrote them be printed in the Record in 8-point type.

The VICE PRESIDENT. Without objection it is so ordered.

Mr. SWANSON. Mr. President, I wish to appeal to Senators on the other side, in view of the present situation, to take a

recess or to have some one upon that side of the Chamber consume the time in speaking. The Senator from Ohio [Mr. POMERENE] is prepared to reply to the Senator from Missouri [Mr. SPENCER], but he is not prepared to speak now. He has stated that at the hour to which we may adjourn or take a recess tomorrow he will be prepared to go on.

This is the first day this case has been brought before the Senate. It is the first time in my long experience in the Senate when I have ever seen evidence of any such high-handed proceeding as this. What does it mean? It means that if the other side can not get a unanimous-consent agreement on any measure they bring before the Senate, they intend to hold continuous sessions. That is the substance of it. I have never seen the Senate sought to be coerced in any such way as that before. The first day that this matter is brought before the Senate, the very first day, an effort is made to hold a continuous night session and to force the Senator from Ohio to speak.

It has been stated that Senators on the other side of the aisle are desirous of speaking before this matter is concluded. All we ask is that if we stay here until to-morrow morning you shall occupy the time on your side and permit the Senator from Ohio, who has carefully prepared the case, to speak to-morrow. He has frankly said that he can not proceed to-night, and he does not desire to proceed to-night. I have never known a request of that kind presented in the Senate to be denied before.

I have always been a conservative Senator. I have never tried to be radical; I have never filibustered or done anything tending in that direction. But let it be distinctly understood now that the Senate can not be run by coming in here and stating that if you do not get a unanimous-consent agreement when you want to get legislation through we are going to have continuous sessions.

Any Senator who objected to the unanimous-consent agreement was within his right. That is the substance of your conduct here to-night. If you can not get a unanimous-consent agreement to vote on this measure you propose, the first day it comes before the Senate, regardless of debate, regardless of the convenience of Senators, to force a continuous session. I can understand why you may have objected to a motion to adjourn, because that would have forced a morning hour. So I move that the Senate now take a recess until 12 o'clock to-morrow, and upon that I demand the yeas and nays.

The yeas and nays were ordered, and the Assistant Secretary proceeded to call the roll.

Mr. FERNALD (when his name was called). Making the same announcement as before, I vote "nay."

Mr. GLASS (when his name was called). I transfer my general pair to the senior Senator from Texas [Mr. CULBERSON] and vote "yea."

Mr. KENDRICK (when his name was called). I have a general pair with the senior Senator from Illinois [Mr. McCORMICK], which I transfer to the senior Senator from Missouri [Mr. REED] and vote "yea."

Mr. McKELLAR (when his name was called). Making the same announcement as to my pair and its transfer, I vote "yea."

Mr. McLEAN (when his name was called). Making the same announcement as before, I vote "nay."

Mr. SUTHERLAND (when his name was called). Making the same announcement as to my pair and transfer as on the previous vote, I vote "nay."

The roll call was concluded.

Mr. BORAH (after having voted in the affirmative). I have a pair with the Senator from New York [Mr. CALDER]. In his absence I withdraw my vote.

Mr. OVERMAN. I again announce the unavoidable absence of my colleague [Mr. SIMMONS], who is paired with the junior Senator from Minnesota [Mr. KELLOGG]. I will let this announcement stand for the night.

The result was announced—yeas 22, nays 33, as follows:

YEAS—22.			
Ashurst	Harris	Overman	Swanson
Caraway	Harrison	Pomerene	Trammell
Dial	Kendrick	Sheppard	Walsh, Mass.
Fletcher	King	Shields	Walsh, Mont.
Gerry	La Follette	Smith	
Glass	McKellar	Stanley	
NAYS—33.			
Bursum	Gooding	Nicholson	Sutherland
Cameron	Hale	Norbeck	Townsend
Capper	Jones, Wash.	Oddie	Wadsworth
Curtis	Keyes	Phipps	Warren
Elkins	McCumber	Poinexter	Watson, Ga.
Ernst	McKinley	Shortridge	Watson, Ind.
Fernald	McLean	Smoot	
France	McNary	Spencer	
Frelinghuysen	New	Sterling	

## NOT VOTING—41.

Ball	Edge	McCormick	Reed
Borah	Harreld	Moses	Robinson
Brandeggee	Heflin	Myers	Simmons
Broussard	Hitchcock	Nelson	Stanfield
Calder	Johnson	Newberry	Underwood
Colt	Jones, N. Mex.	Norris	Weller
Crow	Kellogg	Owen	Williams
Culberson	Kenyon	Page	Willis
Cummins	Ladd	Penrose	
Dillingham	Lenroot	Pittman	
du Pont	Lodge	Ransdell	

So the Senate refused to take a recess until noon to-morrow.

Mr. SWANSON. Mr. President, I simply wish to make one more motion, not with any purpose of filibustering but to see if the other side are disposed to treat the Senator from Ohio with any consideration or any fairness. He will be ready to proceed to-morrow morning at 10 o'clock. I have never known a request in an important matter like this to be denied in my long experience in the Senate except where a filibuster had been developed. No one can charge that there is any filibuster involved in this matter.

The Senator from Missouri [Mr. SPENCER] consumed the entire afternoon in speaking on the pending case. It is unfair now to compel a reply to be made to-night, when it is now a quarter after 6, when the Senator who is prepared to make that reply is tired and has stated to the Senate that he does not feel well enough and is not disposed to go on to-night. That Senator from Ohio has studied the matter for this side of the Chamber and for those who are not favorable to the majority report. It is an act of injustice to try to compel him to speak to-night. I am going to make a final appeal to the fairness of Senators on the other side of the aisle. There is no desire to delay, no effort to delay the early consideration of this case.

I move that the Senate take a recess until 10 o'clock to-morrow morning, and on that I ask for the yeas and nays.

The yeas and nays were ordered, and the Assistant Secretary proceeded to call the roll.

Mr. BORAH (when his name was called). I have a pair with the Senator from New York [Mr. CALDER], and therefore withhold my vote.

Mr. McKINLEY (when his name was called). Making the same announcement with regard to my pair and its transfer as heretofore, I vote "nay."

Mr. McKELLAR (when his name was called). Making the same announcement as to my pair and its transfer as on the previous vote, I vote "yea."

Mr. SUTHERLAND (when his name was called). Making the same announcement as before concerning my pair and its transfer, I vote "nay."

The roll call was concluded.

Mr. KENDRICK. I have a pair with the Senator from Illinois [Mr. McCORMICK], which I transfer to the Senator from Nebraska [Mr. HITCHCOCK] and vote "yea."

Mr. McLEAN. Making the same announcement as before with regard to my pair and its transfer, I vote "nay."

The result was announced—yeas 20, nays 34, as follows:

## YEAS—20.

Ashurst	Harrison	Overman	Stanley
Dial	Kendrick	Pomerene	Swanson
Fletcher	King	Sheppard	Trammell
Gerry	La Follette	Shields	Walsh, Mass.
Harris	McKellar	Smith	Walsh, Mont.

## NAYS—34.

Ball	Frelinghuysen	New	Sterling
Bursum	Gooding	Nicholson	Sutherland
Cameron	Hale	Norbeck	Townsend
Capper	Jones, Wash.	Oddie	Wadsworth
Curtis	Keyes	Philpotts	Warren
Elkins	McCumber	Poindexter	Watson, Ga.
Ernst	McKinley	Shortridge	Watson, Ind.
Fernald	McLean	Smoot	
France	McNary	Spencer	

## NOT VOTING—42.

Borah	Edge	Lodge	Ransdell
Brandeggee	Glass	McCormick	Reed
Broussard	Harreld	Moses	Robinson
Calder	Heflin	Myers	Simmons
Caraway	Hitchcock	Nelson	Stanfield
Colt	Johnson	Newberry	Underwood
Crow	Jones, N. Mex.	Norris	Weller
Culberson	Kellogg	Owen	Williams
Cummins	Kenyon	Page	Willis
Dillingham	Ladd	Penrose	
du Pont	Lenroot	Pittman	

So the Senate refused to take a recess until 10 o'clock to-morrow morning.

Mr. TRAMMELL. Mr. President, I am impressed with the fact that this method of transacting business is neither in the interest of the country nor for the benefit of the American people. It is merely for the purpose of trying to maintain some little party advantage which our friends upon the other

side feel that they might have by forcing us into a night session. I see no use of getting so very busy all at once when Congress, controlled and directed by a Republican majority, has loafed along here a great deal during the past year and has failed to give attention to important public business, and yet, when we come to this election case, which has been pending here for a year or two, we have got to crowd it practically into one day's session and stay here with it into the night. This election case has been pending here for about a year and a half, I am informed.

I am always anxious to expedite the public business when it is for the public interest, but I do not see any reason why we should be forced to go ahead at this time, and I move that the Senate recess until 11 o'clock to-morrow morning.

The VICE PRESIDENT. The question is on the motion to take a recess until 11 o'clock to-morrow.

Mr. SWANSON. I ask for the yeas and nays.

The yeas and nays were ordered, and the Assistant Secretary proceeded to call the roll.

Mr. BORAH (when his name was called). I have a pair with the Senator from New York [Mr. CALDER]. I transfer that pair to the Senator from Nebraska [Mr. HITCHCOCK] and will vote. I vote "yea."

Mr. FERNALD (when his name was called). Making the same announcement as heretofore in regard to my pair and its transfer, I vote "nay."

Mr. McLEAN (when his name was called). Making the same announcement as to my pair and its transfer as heretofore, I vote "nay."

Mr. STERLING (when his name was called). Making the same announcement as heretofore concerning my pair and its transfer, I will vote. I vote "nay."

The roll call was concluded.

Mr. McKELLAR. Making the same announcement as to my pair and its transfer as heretofore made, I vote "yea."

Mr. CURTIS. I desire to announce the following pairs:

The Senator from Vermont [Mr. DILLINGHAM] with the Senator from Virginia [Mr. GLASS];

The Senator from Delaware [Mr. DU PONT] with the Senator from Louisiana [Mr. RANSDELL];

The Senator from New Jersey [Mr. EDGE] with the Senator from Oklahoma [Mr. OWEN];

The Senator from Massachusetts [Mr. LODGE] with the Senator from Alabama [Mr. UNDERWOOD];

The Senator from New Hampshire [Mr. MOSES] with the Senator from Louisiana [Mr. BROUSSARD];

The Senator from Minnesota [Mr. KELLOGG] with the Senator from North Carolina [Mr. SIMMONS];

The Senator from Pennsylvania [Mr. PENROSE] with the Senator from Mississippi [Mr. WILLIAMS]; and

The Senator from Illinois [Mr. McCORMICK] with the Senator from Wyoming [Mr. KENDRICK].

The result was announced—yeas 21, nays 34, as follows:

## YEAS—21.

Ashurst	Harris	Pomerene	Trammell
Borah	Harrison	Sheppard	Walsh, Mass.
Caraway	King	Shields	Walsh, Mont.
Dial	La Follette	Smith	
Fletcher	McKellar	Stanley	
Gerry	Overman	Swanson	

## NAYS—34.

Ball	Frelinghuysen	New	Sterling
Bursum	Gooding	Nicholson	Sutherland
Cameron	Hale	Norbeck	Townsend
Capper	Jones, Wash.	Oddie	Wadsworth
Curtis	Keyes	Philpotts	Warren
Elkins	McCumber	Poindexter	Watson, Ga.
Ernst	McKinley	Shortridge	Watson, Ind.
Fernald	McLean	Smoot	
France	McNary	Spencer	

## NOT VOTING—41.

Brandeggee	Harreld	McCormick	Reed
Broussard	Heflin	Moses	Robinson
Calder	Hitchcock	Myers	Simmons
Colt	Johnson	Nelson	Stanfield
Crow	Jones, N. Mex.	Newberry	Underwood
Culberson	Kellogg	Norris	Weller
Cummins	Kendrick	Owen	Williams
Dillingham	Kenyon	Page	Willis
du Pont	Ladd	Penrose	
Edge	Lenroot	Pittman	
Glass	Lodge	Ransdell	

So the Senate refused to take a recess until 11 o'clock to-morrow morning.

Mr. HARRISON. Mr. President, may I ask the other side of the Chamber if it is really the intention to go on to-night, and not to recess or adjourn? Will you not really open up your hearts and adjourn over until to-morrow, in view of the circumstances?

Mr. SPENCER. Mr. President, the Senator accused us this morning of starting many times and doing nothing, and never



completing any program. We announced this morning that this matter ought to be kept before the Senate to-night. I do not think there is any intention upon this side to keep it before the Senate unduly, to a very late hour; but if there are as many Senators who want to speak as the Senator from Mississippi thinks, I felt on this side that we ought to make progress with this matter. Of course, we all recognize how important it is. If the Senator felt that we could vote to-morrow night or Friday morning, there would be no question about fixing the hour to suit the Senator.

Mr. SWANSON. Mr. President, if the Senator will permit me, is it the intention of the Senator, if nobody on this side wants to speak to-night, to proceed to a vote at once?

Mr. SPENCER. Oh, if there is no Senator ready to speak on the other side, and no one cares to speak on this side, obviously there is only one thing to do, and that is to vote.

Mr. SWANSON. Then, unless the Senator from Ohio or some other Senator on this side wants to speak to-night, your purpose is to have a vote, as I understand?

Mr. SPENCER. I can not say that to the Senator from Virginia, because I do not know who may want to speak on this side; but certainly if there is no one—

Mr. SWANSON. I want to ask the Senator for his idea of fairness. He has charge of this matter, I understand.

Mr. SPENCER. I think there ought to be ample opportunity for discussion on both sides.

Mr. SWANSON. Just as a question of fairness, senatorial courtesy, and proper dealing between Senators, does the Senator from Missouri think it is fair for him to consume four or five hours in presenting this case on the affirmative side to-day and compel the Senator from Ohio [Mr. POMERENE] to follow him at this late hour, without supper, almost without lunch, when the Senator has consumed all day? I just want to know if that is the Senator's idea of fair discussion in the Senate.

Mr. NEW. Mr. President—

Mr. SWANSON. I did not ask the Senator from Indiana. I asked the Senator from Missouri, who has charge of this matter, whether he thinks that is fair. I should like to get his idea of fairness.

Mr. SPENCER. I think the Senator from Virginia will realize that a good part of the time that was ostensibly charged to me was taken up by the questions and the remarks upon the other side. Certainly I have no disposition in the world to interfere with a full discussion of this case. The announcement has been made that there are 25 Senators upon the other side who want and intend to be heard. Why can not some of them be heard now? I do not want to impose upon the Senator from Ohio—who is my personal friend, and whom I admire—the duty of making a speech if he does not feel able to do it; but there are 25 other Senators on the other side, so we have been informed, who intend to speak. Why can not some of them speak?

Mr. SWANSON. I do not know any of the 25 who are going to speak. The only question to-night is whether or not you are going to compel the Senator from Ohio to proceed. Does the Senator think it is fair to compel him now to do it when he states that he is not prepared—he is not well enough? I should like to know if the Senator thinks that is proper courtesy to be extended to the Senator from Ohio—to compel him to go on to-night or else to vote on this matter?

Mr. WATSON of Indiana. Mr. President—

Mr. SWANSON. I am asking the Senator from Missouri. I am not asking the Senator from Indiana. I simply want to find out his idea of fairness.

Mr. SPENCER. I have answered the Senator's question as fully as I can.

Mr. WATSON of Indiana. Mr. President, will the Senator yield to me while I ask a question?

Mr. SWANSON. I will.

Mr. WATSON of Indiana. Why can we not have a unanimous-consent agreement to take a vote on this matter next Friday afternoon?

Mr. SWANSON. Mr. President, I am tired, for one Member of this body, the first day a matter is brought before the Senate, of having a demand made for unanimous consent for a vote. You have been trying to coerce us by having night sessions. I am tired of being coerced in that way myself.

Mr. McKELLAR. And we are not going to do it.

Mr. SWANSON. You come here to-night and say you are going to have a continuous session and compel a vote on this case to-night unless you can get a unanimous-consent agreement.

SEVERAL SENATORS. Vote!

Mr. McKELLAR. Oh, no; you have not a chance to get a vote. We are not going to have a vote to-night.

Mr. HARRISON. Mr. President, I thought I had the floor.

Mr. WATSON of Indiana. I trust that everybody will keep in good humor about a proposition of this kind.

Mr. McKELLAR. I think this is almost a case where a Senator is justified in losing his good humor. I think it is carrying it to a very, very excessive extent. The improper attitude that the majority has taken toward the Senator from Ohio is something that I have not seen here on either side since I have been here. I regret very, very much to see it, and I want to say in all frankness that we are not going to have a vote to-night.

Mr. KING. Mr. President, may I say to the Senator from Indiana, apropos of his suggestion that we take a vote on Friday, that the beer bill will be voted on upon the 18th, and I am told that a number of Senators intend to argue legal phases of the question, particularly in reply to the very able legal argument submitted by the Senator from Minnesota [Mr. NELSON] and one or two other arguments that have been submitted upon the other side. I know that a number of Senators upon this side intend to speak upon that subject, and, as the Senator knows, by unanimous consent entered into some time ago, that matter will be voted upon on the 18th; so the Senator can see that it would not be quite fair—and I know that he wants to be fair—to suggest, even, that we vote at so early a date as that.

Mr. WATSON of Indiana. I forgot that.

Mr. HARRISON. Mr. President, did the junior Senator from Indiana want to ask me a question?

Mr. NEW. No. My colleague said what I was about to say.

Mr. HARRISON. So it is understood that we must go on to-night?

Mr. NEW. Is the Senator addressing that question to me?

Mr. HARRISON. I was addressing it to all of the other side.

Mr. NEW. So far as I am concerned, I am ready to answer that question, if it is addressed to me.

Mr. HARRISON. The Senator was included. I consider him one on that side.

Mr. NEW. All right. If I am included, I am ready to answer for one Senator. I say, let us proceed with the consideration of this question now.

Mr. President, this is all fatuous. It is nonsense and worse to talk about an attempt to rush this case through. It has been before the Senate of the United States for two years. It has been through the Supreme Court of the United States to a conclusion. It has been before a committee of this body for months and months officially, and now it is brought here, and every effort is made by the minority to delay it. Motion after motion is made on the other side, the same thing over and over again, except with a difference that is almost imperceptible, for the very purpose of delaying consideration of this case.

Mr. CARAWAY. And we are going to keep it up.

Mr. NEW. Mr. President, I for one am tired of that way of conducting the business of the Senate of the United States. Moreover, I am here to say that the country is tired of it.

Mr. HARRISON. We are going to let the Senator rest.

Mr. NEW. All right. The Senator from Indiana will be here for some time; let the Senator from Mississippi make no mistake about that; but he asked me a question, and I have answered it.

Mr. TRAMMELL. Mr. President, will the Senator from Indiana yield? I should like to know why it is after you have delayed bringing this matter in here for a year or two that you then want to speed it up and finish it all in one day?

Mr. NEW. Mr. President, it does not make any difference what question is brought into the Senate; efforts are made by those who are opposed to it to prevent a vote on it at all—to prevent the settlement of the question. What I want, and what I insist upon, is the settlement of a question that is once before the Senate, and not to have it deferred by all sorts of dilatory motions.

Mr. HARRISON. Mr. President, the Senator says this matter has been before a committee of the Senate for two years. That is an indictment against the Senator's own party in the management of affairs here upon the floor. It should have been out sooner. It should have been taken up sooner. A good many people would criticize a Senator for voting with a sword like this hanging over him, so I am sorry, too, that it has been here for that long; but the Senator can not fuss with us about that. He must quarrel with the distinguished Senator from Missouri [Mr. SPENCER], who this afternoon made a very long speech, and a very eloquent speech, and a very able speech from his standpoint, after which he was congratulated by most of the Senators over there, and a love feast was held on that side.

The Senator, though, in stating that this matter had been before the committee and before the Senate for a long time, failed to tell us that it had also been before a jury—a jury in Michigan; a jury composed, perhaps, of Republicans and of

Democrats, peers of the distinguished Senator who now sits here and upon whom we are soon to vote—and that jury after full consideration passed a verdict. I think in Michigan a verdict must be passed unanimously. I do not think they have the three-quarters rule up there. I have not heard about it; so evidently 12 men, all of them who heard the evidence, said that he was guilty; and then the presiding judge—I take it he must have been a Republican, too, because there are very few Democrats up in Michigan—passed judgment on it and the penalty; so the Senator should have alluded to that also.

We are not trying to delay this matter unnecessarily. We merely ask that it be put off so that the Senators who have not had access to the record may study it in an orderly way, like other cases such as this which have come before the Senate before. It seems, however, that the leadership over there would cram it down our throats. They desire not to be courteous to the distinguished Senator from Ohio [Mr. POMERENE], the ranking Democrat on the committee. They want to force him to-night to speak, when he perhaps is not physically able to speak. He will be ready to-morrow to speak.

Those are the tactics that you have adopted over there. You know that you will not get anywhere to-night. I look at the pleasing countenances of my friends there. You can retire to the cloak room. You can sing songs, as you did the other night when you passed that iniquitous tax bill which the people will condemn you for the first opportunity they get, and so to-night you can retire if you please, unless you want to stay here, because I am going to read some of the testimony. You have not seen it before—only a few of you. Few of you have read the report that has been filed. Few of you have read the briefs of counsel, and so, if you insist on this, we are going to read it to you and try to inform you and inform ourselves, because that is about the only opportunity and way in which we can inform ourselves about this matter.

Mr. NEW. I am glad to know that the time of the Senator from Mississippi will be so well occupied.

Mr. HARRISON. The Senator's time will be well occupied if he will sit here, because no doubt he has not read a line either of the reports or of the testimony.

Mr. FLETCHER. Mr. President—

The VICE PRESIDENT. Does the Senator from Mississippi yield to the Senator from Florida?

Mr. HARRISON. In one moment. There was a poll taken over there, so I am informed, and only six Senators over there said that they were going to vote against the sitting Senator, and eight, as I understand by the poll, said, "Well, we want to hear the testimony; we want to sit as jurors," and would not commit themselves; but you think you have enough votes to seat the distinguished Senator from Michigan without reading the record, many of you, or the report.

Now I yield to the Senator from Florida.

Mr. FLETCHER. Mr. President, I simply wanted to suggest that the Senator from Indiana stated that the case had been before the Senate for some two years. As a matter of fact, we know that it has been tied up in committee, and that it has only been before the Senate for five hours. That is the length of time that it has been here—just five hours. All the other time has been spent in whatever was going on in the committee room.

Mr. HARRISON. They finally got the consent of their conscience, but they had quite a wrestle with it before they did.

Mr. President, this report is quite illuminating. I hope Senators will sit here and listen to it as I carefully, slowly, and accurately read it; and I promise you that if you do not sit here to-night and hear it, we will see that you are brought here, so that the public business can be transacted. If I read too slowly at times, call my attention to it and I will rush it up, maybe, a little bit; but catch the words, because this report was written and drafted by Senators who heard the testimony, who gave full and fair consideration to the question, and their views will be quite influential if you are fair and just in the matter, with open minds to render a real verdict in this matter.

The first report I want to read is the report containing the views of the minority. That was filed by the distinguished Senator from Ohio [Mr. POMERENE], who will to-morrow speak on this question. I do not blame Senators upon the other side for not wanting him to speak to-morrow.

Mr. SHORTTRIDGE. Mr. President—

The VICE PRESIDENT. Does the Senator from Mississippi yield to the Senator from California?

Mr. HARRISON. I yield.

Mr. SHORTTRIDGE. Let me ask the Senator a direct question.

Mr. HARRISON. I will be glad to answer it, if I can.

Mr. SHORTTRIDGE. What is the reason, the candid, frank, and, of course, the true reason, why the distinguished Senator from Ohio does not open up and proceed with his argument? I assure the Senator from Mississippi and I assure the Senator from Ohio that I shall be very attentive to his argument. What is the reason? What is the true reason?

Mr. HARRISON. I am sure the Senator asks that question in all sincerity.

Mr. SHORTTRIDGE. I do.

Mr. HARRISON. I am sorry that the Senator was not in the Senate this afternoon, when for about four hours that proposition was discussed, and when the Senator from Ohio explained why he could not speak to-night.

Mr. SHORTTRIDGE. In a word, what was the reason?

Mr. HARRISON. The Senator from Ohio says that his throat is in such a condition to-night that he can not go ahead; that he is tired; that as this matter is one of great importance he concentrated his thoughts when listening to the able speech of the Senator from Missouri this afternoon, which was quite lengthy and went quite into detail. To-morrow the Senator from Ohio will feel refreshed and can go on, feeling that he can deal with this subject as the subject should be dealt with.

Mr. SHORTTRIDGE. May I then make this observation: That being so—and I am not questioning the accuracy or the truthfulness of the statement—why is it that among the many able Senators on the other side not one can, so to speak, come to the rescue or to the aid and proceed with thoughtful argument of the matter we have here to consider and determine? May I say here that I have voted upon these several motions, as against adjournment and as against recessing. Requests have come to this side, but according to my notion each and every request has been accompanied by an insult. Gentlemen seek adjournment, or seek a recess, and along with the words expressing their wishes, those of us who have voted as against their wishes are accused of wrong purposes and an attempt to rush or to jam this proposition forward to a conclusion.

In all sincerity, without any desire to indulge in irony or sarcasm or make any point one way or the other, I do not say that Senators upon the other side who think, as their words indicate, contrary to me ought to be ready and willing to proceed, but it does seem to me that among them there should be at least one or more who could take up the burden of the argument. If it be that we are judges, if we are going to be governed by the evidence, persuaded or convinced by argument, is there not one among you who can go forward?

Mr. HARRISON. Has the Senator now finished his question?

Mr. SHORTTRIDGE. I am through; but I say this because I voted in the negative on those questions. I have not done so to embarrass anybody or to offend anybody.

Mr. HARRISON. The Senator could not be guilty of offending or embarrassing anybody.

Mr. SHORTTRIDGE. I thank the Senator, but I do not wish to have it imputed to me that my motives are other than what I have indicated.

Mr. HARRISON. Whatever was said against the other side the Senator is exculpated.

Mr. SHORTTRIDGE. Why can not some Senator on the other side go forward and spend an hour or two in legitimate argument? If I desired to, I could say more; but I merely wished to give expression to these thoughts.

Mr. HARRISON. I would be very glad to have the Senator continue.

Mr. SHORTTRIDGE. No; I have said this in the hope that some gentleman over there would take up the argument and go ahead.

Mr. HARRISON. May I ask the Senator, before he takes his seat, because I am very anxious to know if he heard the explanation of the Senator from Montana [Mr. WALSH], another member of the Committee on Privileges and Elections, on yesterday, as to why he did not desire to proceed at this time?

Mr. SHORTTRIDGE. I do not recall that I did.

Mr. HARRISON. I am sorry the Senator was not here, because that was quite fully discussed, and the Senator from Montana said that he had not yet had time to study the matter as he desired, and that he preferred that it be put off a few days so that he could discuss it fully. That is the reason why Senators on this side are not now ready to proceed, except the Senator from Ohio, and I have stated the reasons why he does not desire to proceed at this time. I might propound the same question to the Senator from California which he has propounded to us; why does not some Senator on the other side proceed to discuss the proposition to-night, in view of the situation? I would be glad to yield the floor.



Mr. SHORTRIDGE. I can imagine a very good reason. We have listened this afternoon to an elaborate discussion of the matter by the Senator from Missouri [Mr. SPENCER]. There were a good many interruptions, questions, and observations, which consumed some time. But the case of Senator NEWBERRY has been presented. It would naturally follow, in the order of discussion and debate, that those opposing the views expressed by the Senator from Missouri should take up the burden of the argument.

Mr. HARRISON. I agree with the Senator.

Mr. SHORTRIDGE. It seems to me that is the logical and natural order of procedure.

Mr. HARRISON. I agree with the Senator, and for that reason we desire that the Senator from Ohio, the ranking member of the minority of the committee, shall proceed to-morrow, when he is fresh, and when we hope that he can convince, perhaps, the Senator from California, who, of course, has not prejudged the matter, because the Senator is always open-minded and fair. But since no one else is to proceed, and since the other side seem to want to jam the proposition through to-night, we have to utilize the time, and I know of nothing which would contribute more to the edification of the Senators who could not read the testimony than to read it to-night, or to read the reports, or the briefs of counsel. I am sure the Senator from California will agree with me on that.

Mr. SWANSON. Does the Senator contemplate reading those now?

Mr. HARRISON. I do.

Mr. SWANSON. I think there ought to be a quorum present when those are read, and I raise the point of no quorum.

Mr. WADSWORTH. Mr. President, has any business been transacted since the roll call showed a quorum present?

Mr. SWANSON. A point of no quorum has not been made this evening.

Mr. HARRISON. There was a vote on a motion to recess.

Mr. WADSWORTH. But that roll call showed a quorum present, and as no business has been transacted since, I make the point of order against the point raised by the Senator from Virginia. I would like to have the point of order passed upon.

Mr. WALSH of Montana. Mr. President, I would like to say a word in relation to the point of order. The Senator from New York, I dare say, will not contend that if a vote is taken on a matter pending, and that vote shows a quorum present, subsequent thereto the suggestion of the absence of a quorum can not be made, and that the presumption obtains for an indefinite period thereafter that a quorum is present. The Presiding Officer will certainly not hold that way, for that would be a most unfortunate ruling.

The fact that a quorum voted upon business is of no consequence at all. The question is, was business done, and of course no business could be done unless a quorum were present. So the argument of the Senator from New York would destroy the opportunity to suggest the absence of a quorum.

Mr. SWANSON. In connection with this point of order, I will say that it has been repeatedly decided that after a quorum has been disclosed, a point of no quorum can not be made until business has intervened. If a point of no quorum is made, and a quorum is disclosed, business must intervene before the point can again be made, for the simple reason that if the rule were otherwise the time of the Senate might be consumed in continually calling the roll to ascertain whether a quorum were present. It has been held that debate is not intervening business. The Senate has transacted business since the point of the lack of a quorum was last made. Action on a motion to adjourn or a motion to recess is the transaction of business, and consequently this is not the repetition of the point before the transaction of business. After a motion to adjourn has been voted down, another motion to adjourn can not be made until there is intervening business.

The VICE PRESIDENT. The Chair is prepared to rule that it is in order to make the point of no quorum at this time. The Secretary will call the roll.

The reading clerk called the roll, and the following Senators answered to their names:

Ashurst	Harris	Nicholson	Sterling
Bursum	Jones, Wash.	Norbeck	Sutherland
Cameron	Keyes	Oddie	Swanson
Capper	King	Phipps	Townsend
Curtis	McCumber	Polindexter	Wadsworth
Ernst	McKellar	Pomerene	Walsh, Mont.
Fernald	McKinley	Sheppard	Watson, Ga.
Frelinghuysen	McLean	Shortridge	Watson, Ind.
Gooding	McNary	Smoot	
Hale	New	Spencer	

The PRESIDING OFFICER (Mr. FRELINGHUYSEN in the chair). Thirty-eight Senators having answered to their names,

there is not a quorum present. The Secretary will call the roll of absentees.

Mr. SWANSON. Mr. President, pending that I move that the Senate adjourn.

Mr. WADSWORTH. Is that motion in order?

The PRESIDING OFFICER. It is not in order. The Secretary will call the roll of absentees.

The reading clerk called the names of absent Senators.

Mr. ELKINS and Mr. FRANCE entered the Chamber and answered to their names.

The PRESIDING OFFICER. Forty Senators have answered to their names. There is not a quorum present.

Mr. CURTIS. I move that the Sergeant at Arms be directed to request the attendance of absent Senators.

Mr. SWANSON. Mr. President, pending that I move that the Senate adjourn.

The PRESIDING OFFICER. The Senator from Virginia moves that the Senate do now adjourn.

Mr. SWANSON. On that I ask for the yeas and nays.

The yeas and nays were ordered, and the reading clerk proceeded to call the roll.

Mr. McKELLAR (when his name was called). Making the same announcement as before, I vote "yea."

Mr. McLEAN (when his name was called). Making the same announcement as before, I vote "nay."

Mr. OVERMAN (when his name was called). I have a general pair with the senior Senator from Wyoming [Mr. WARREN]. In his absence I withhold my vote.

Mr. SUTHERLAND (when his name was called). Making the same announcement as before with reference to my pair and its transfer, I vote "nay."

The roll call was concluded.

Mr. BALL. Has the senior Senator from Florida [Mr. FLETCHER] voted?

The PRESIDING OFFICER. That Senator has not voted.

Mr. BALL. I transfer my pair with that Senator to the junior Senator from Maryland [Mr. WELLER] and vote "nay."

Mr. McKINLEY (after having voted in the negative). Has the Senator from Arkansas [Mr. CARAWAY] voted?

The PRESIDING OFFICER. That Senator has not voted.

Mr. McKINLEY. Making the same announcement as before with reference to my pair and its transfer, I will allow my vote to stand.

Mr. STERLING (after having voted in the negative). Has the Senator from South Carolina [Mr. SMITH] voted?

The PRESIDING OFFICER. That Senator has not voted.

Mr. STERLING. I have a general pair with that Senator, which I transfer to the Senator from Oregon [Mr. STANFIELD], and let my vote stand.

Mr. McCUMBER (after having voted in the negative). I transfer my general pair with the junior Senator from Utah [Mr. KING] to the senior Senator from Minnesota [Mr. NELSON] and allow my vote to stand.

Mr. FERNALD. Making the same announcement as before with reference to my pair and its transfer, I vote "nay."

The result was announced—yeas 6, nays 33, as follows:

YEAS—6.			
Harris	McKellar	Sheppard	Swanson
La Follette	Pomerene		
Ball	Frelinghuysen	New	Sterling
Bursum	Gooding	Nicholson	Sutherland
Cameron	Hale	Norbeck	Townsend
Capper	Jones, Wash.	Oddie	Wadsworth
Curtis	Keyes	Phipps	Watson, Ga.
Elkins	McCumber	Polindexter	Watson, Ind.
Ernst	McKinley	Shortridge	
Fernald	McLean	Smoot	
France	McNary	Spencer	
NOT VOTING—57.			
Ashurst	Gerry	McCormick	Simmons
Borah	Glass	Moses	Smith
Brandegge	Harrell	Myers	Stanfield
Broussard	Harrison	Nelson	Stanley
Calder	Heflin	Newberry	Trammell
Caraway	Hitchcock	Norris	Underwood
Colt	Johnson	Overman	Walsh, Mass.
Crow	Jones, N. Mex.	Owen	Walsh, Mont.
Culberson	Kellogg	Page	Warren
Cummins	Kendrick	Penrose	Weller
Dial	Kenyon	Pittman	Williams
Dillingham	King	Ransdell	Willis
du Pont	Ladd	Reed	
Edge	Lenroot	Robinson	
Fletcher	Lodge	Shields	

So the Senate refused to adjourn.

The PRESIDING OFFICER. The roll call failing to disclose a quorum, the Secretary will continue the roll call.

Mr. CURTIS. I renew my motion that the Sergeant at Arms be directed to request the attendance of absent Senators.

The motion was agreed to.

The PRESIDING OFFICER. The Sergeant at Arms will execute the order of the Senate.

Mr. KENYON, Mr. LADD, Mr. NELSON, Mr. BALL, Mr. BRANDEGEE, and Mr. CUMMINS entered the Chamber and answered to their names.

After some delay Mr. ROBINSON, Mr. MCCORMICK, Mr. RANSELL, and Mr. HARRISON entered the Chamber and answered to their names.

The PRESIDING OFFICER (Mr. JONES of Washington in the chair). Fifty Senators having answered to their names, there is a quorum present. The question is on the adoption of the resolution.

Mr. HARRISON. Mr. President, in the rush on the other side of the Chamber to jam this matter through, I would like to observe that there are now nine Republican Senators in their seats. I notice that they are now coming out of the cloak-room, of course, to augment the number, and there seems to be a difference of opinion as to the number present. Some suggest that there may be as many as 11.

Mr. WADSWORTH. The Senator has just commenced to speak, and, of course, he would expect them to come in now.

Mr. HARRISON. No; the Senator can go out if he desires.

Mr. WADSWORTH. It is my intention to stay.

Mr. HARRISON. I wish to read to the Senate the report, which doubtless the Senator has not read.

Mr. WADSWORTH. Oh, yes; I have read it. I am on the committee.

Mr. HARRISON. The Senator has read both the minority report and the majority report. I wonder if the Senator has read the testimony?

Mr. WADSWORTH. Is the Senator from Mississippi cross-examining me?

Mr. HARRISON. No; I would not cross-examine the Senator, but the Senator said that he had read the report. That is what I understood. Of course the Senator need not stay in the Chamber while I am reading the report.

Mr. WADSWORTH. I had hoped to stay to listen to the dulcet tones of the Senator from Mississippi.

Mr. HARRISON. That is very sweet of the Senator. He is very kind. The Senator is always agreeable.

Mr. President, this is the report which was filed by the minority members of the committee that investigated the charges preferred against the Senator from Michigan [Mr. NEWBERRY], and it is with reference to those that the resolution is now offered by the Senator from Missouri [Mr. SPENCER].

The senior Senator from Ohio [Mr. POMERENE] presented the minority report. I am glad the senior Senator from Kansas [Mr. CURTIS] is going to listen to it. I note that the Senator from West Virginia [Mr. ELKINS] is present, and I hope he will remain so that he may listen to it also.

Certain Senators signed this report. The Senator from Arizona [Mr. ASHURST] filed a separate report. The Senator from Ohio [Mr. POMERENE], the Senator from Utah [Mr. KING], and the Senator from Arizona [Mr. ASHURST] signed the report, with additional views presented by Mr. ASHURST.

Mr. President, I would like to have quiet in the Chamber while I am reading this important document.

The PRESIDING OFFICER. The Senate will be in order.

Mr. HARRISON. The report states that—

The undersigned members of the committee dissent from the report of the majority for the following reasons:

In 1918 there were 83 counties in Michigan, containing 2,320 voting districts or precincts.

The primaries were held on August 27. Mr. Truman H. Newberry was nominated by the Republicans, Mr. Henry Ford by the Democrats.

At the November election, according to the official returns, 432,541 votes were cast. Of these Truman H. Newberry received 220,054, and Henry Ford, 212,487. Mr. Newberry's plurality, according to the official returns, was 7,567.

Upon the recount a total of 429,836 ballots were examined, with the result (including the returns in the few precincts where the ballots were not available and where the official count was accepted) that Mr. Newberry received 217,085 votes and Mr. Ford 212,751 votes, Mr. Newberry's plurality being 4,334.

#### PRIMARY ELECTION.

The record shows the charges in detail, and it is not necessary to repeat them here. We desire to call attention specifically to the following assertions set forth in the report of the majority:

"First. The clear result of all the testimony is that there is no evidence whatever to sustain the charge of improper use of money at the primary or general election.

"Second. There was expended in the primary election in the interest of Truman H. Newberry approximately \$195,000, which was largely contributed by John S. Newberry, a brother, and other relatives and friends of Truman H. Newberry. Such contributions were not solicited by Truman H. Newberry, nor was the fact that they were given or were to be given or used known to him.

"Third. Truman H. Newberry was absent from the State of Michigan continuously during the entire time from the early spring of 1918 until late in the fall of 1918, and long after the primary election had

been held. He took no part whatever either in the financial or other features of the primary campaign or its direction or control.

"Fourth. He was kept fully informed from time to time as to the progress of the campaign in Michigan, but he had no knowledge of the financial management of the campaign. He did not know the amount of money being expended, nor by whom contributions were made, nor the purposes for which the money was used.

"Fifth. From his general knowledge of the character of the campaign that was being conducted in Michigan and the extent of publicity given to his candidacy through the newspapers, it is presumed that he had a general idea that a large sum of money was necessarily being spent.

"Sixth. The evidence shows conclusively that the financial cost of the campaign was voluntarily borne by relatives and friends of Truman H. Newberry, and was entirely without solicitation or knowledge upon his part.

"Seventh. The amount of money spent at the primary was large—too large—but there was no concealment whatever with regard to it."

The report filed by the Newberry senatorial committee showed contributions aggregating \$178,856 and expenditures of \$176,568.08.

"Eighth. Later on some bills which had been delayed in presentation, mainly for advertising, amounting to between ten and fifteen thousand dollars, were presented and were paid by the Newberry campaign committee. But the fact that approximately \$195,000 was used in the primary was frankly and freely admitted, and nothing in the testimony has materially changed this admission."

The report further says:

On the contrary, it is claimed by the contestant's attorneys, and, we think, with very great force, that the proved expenses totaled very much more, the exact amount of which can not be ascertained from the record because of the indefiniteness of much of the testimony and the incompleteness of the records kept by the Newberry campaign committee. The amount of proven expenditures, as claimed by the attorneys for the contestant, amount to \$263,060.67.

And yet the leadership here would jam through this proposition within a few hours after it is presented.

Mr. MCKELLAR. Mr. President—

The PRESIDING OFFICER (Mr. WADSWORTH in the chair). Does the Senator from Mississippi yield to the Senator from Tennessee?

Mr. HARRISON. I yield.

Mr. MCKELLAR. Incidentally they are setting the precedent that a reasonable price to be paid for a United States senatorship is the sum of \$263,000. I do not know how it strikes other Senators, but I am afraid there would be some of us who could not raise that much money if such a price were fixed.

Mr. HARRISON. Why, Senators, do you believe that the American people, in the first place, would sanction action upon your part even in voting to seat a Senator who had expended \$263,000 in a primary election? But when you drive it through with spur and whip without giving a small minority the opportunity of studying the record or time even to read the reports of the minority and the majority, keeping us here night and day and only granting us permission to listen to the chairman of the subcommittee which investigated the matter present his side of the proposition, do Senators think that is fair? If they do, they are not in accord with the public opinion of the country. They had better make a survey of the situation.

The American people, in the first place, do not believe in allowing an expenditure of \$263,000 by a candidate for the United States Senate at a primary election. They will condemn that. Already a jury has condemned it. But when you Republicans take upon yourselves the responsibility of not allowing a free and full discussion of the proposition and choose a time of your own liking when, because of the peculiar circumstances confronting the country, as the disarmament conference is now meeting and people's minds and hearts are wrapped up in the consideration and result of that conference and the papers are naturally desirous of feeding to the people the news that the public is interested in to a greater extent than anything else or any other matter, you know that this case and the facts in the case will not go to the people; and for this, when it is known, the people will condemn you in stronger terms.

I have an interest in your party. I do not desire to see you go on the rocks too quickly. I do not want the people to exercise the recall on you in those States which have the recall. I like a fair fight. I would like to have it done in an orderly way and I want it to come about next November when we have our regular election. What we will do to you when that election comes around will be a plenty.

The election in New York the other day will not compare with it. I hope that the distinguished Presiding Officer [Mr. WADSWORTH in the chair] agrees with me in that. A little while ago there was an election in New Mexico and next day we heard much talk about it; but we have not heard Republicans saying anything about the election the other day. Even the city of Marion, that is famed now throughout the world for having during the last presidential campaign entertained Al Jolson, the black-face comedian, and other actors and great baseball players, whose expenses were paid by Mr. Wrigley, the chewing-gum man, who contributed liberally to the Republican campaign fund and offered to the Republican campaign com-



mittee last year all the electric signs in all the cities to be transformed from "Wrigley's" to "Harding and Coolidge," and whose services the Finance Committee rewarded so liberally in the consideration of the tax bill by taking off the tax on chewing gum, which action was sanctioned and approved by a majority in this Chamber—I say that the city of Marion, which was made famous by Al Jolson and Wrigley and George Harvey, who sat around the front porch advising and counseling and who since has disgraced America, and which was made famous also by being the home of the President of the United States, the other day turned out a Republican and went Democratic by a big vote. We did not hear anything about that from the other side.

Mr. McKELLAR. Not a word was published about it in any Washington paper. We had to go outside of the Washington papers in order to get the news.

Mr. HARRISON. I know that was not sweet news to Senators on the other side of the Chamber. The tide is turning against them really too rapidly, but I ask them not by their actions in the Newberry case to exercise their power to such an extent as will compel the people of those States where the recall may be exercised to have the recall invoked against them. We want them to wait until the next election, because we shall fix them then.

So I read further:

Ninth—

Mr. WADSWORTH. The Senator is leaving out a sentence of the report, is he not?

Mr. HARRISON. I am mighty glad that that struck the eagle eye of the Senator from New York.

Mr. McKELLAR. Mr. President—

Mr. HARRISON. I yield to the Senator from Tennessee.

Mr. McKELLAR. Evidently the Senator can get but little out of the reading of this report if the Senator leaves out anything, and I ask him to yield to me in order that I may make a motion to adjourn. Mr. President, I move that the Senate do now adjourn.

Mr. CURTIS. Mr. President—

The VICE PRESIDENT. The question is on the motion of the Senator from Tennessee.

Mr. HARRISON. I ask for the yeas and nays, Mr. President.

The VICE PRESIDENT. Is the demand for the yeas and nays supported?

The yeas and nays were not ordered.

The VICE PRESIDENT. Senators in favor of the motion to adjourn will say "aye."

Mr. McKELLAR. Mr. President—

Mr. WADSWORTH. No debate is in order.

Mr. McKELLAR. One-fifth of the Senators present may call for the yeas and nays—

Mr. WADSWORTH. No debate is in order pending a motion to adjourn.

Mr. McKELLAR. I think it is proper to call the attention of the Chair to the fact that there are not 25 Senators present and that—

Mr. WADSWORTH. Nothing is in order pending a motion to adjourn.

Mr. McKELLAR. I rise to a point of order. The rules of the Senate provide that one-fifth of the Senators present—

Mr. WADSWORTH. I respectfully suggest that the Senator from Tennessee is out of order.

The VICE PRESIDENT. The Senator is out of order. The question is on the motion to adjourn. The yeas seem to have it.

Mr. HARRISON. I ask for a division, Mr. President.

The question being put on a division, the motion to adjourn was rejected.

Mr. McKELLAR. As I counted them, there are 23 Senators present. I suggest the absence of a quorum.

Mr. HARRISON. A parliamentary inquiry.

Mr. McKELLAR. I suggest the absence of a quorum.

The VICE PRESIDENT. Does the Senator from Tennessee say that business has been transacted since the last roll call?

Mr. McKELLAR. A motion to adjourn has been made and voted upon.

The VICE PRESIDENT. The Secretary will call the roll.

The principal legislative clerk called the roll, and the following Senators answered to their names:

Ball	Dial	Hale	McKinley
Brandegee	Elkins	Harris	McLean
Bursum	Ernst	Hitchcock	McNary
Cameron	Fernald	Jones, Wash.	Nelson
Capper	Fletcher	Keyes	New
Caraway	France	Ladd	Nicholson
Cummins	Frelinghuysen	McCumber	Norbeck
Curtis	Gooding	McKellar	Oddie

Phipps  
Poindexter  
Ransdell  
Sheppard

Shortridge  
Smoot  
Spencer  
Sterling

Sutherland  
Townsend  
Wadsworth  
Warren

Watson, Ga.  
Watson, Ind.

Mr. HARRISON. I desire to announce that the Senator from New Mexico [Mr. JONES] is necessarily absent on account of illness.

The VICE PRESIDENT. Forty-six Senators have answered to their names. A quorum is not present. The Secretary will call the names of the absent Senators.

The Assistant Secretary called the names of the absent Senators, and Mr. KENYON and Mr. ROBINSON answered to their names when called.

Mr. HARRISON answered to his name.

The VICE PRESIDENT. Forty-nine Senators have answered to their names. A quorum is present.

Mr. HARRISON. Mr. President—

The VICE PRESIDENT. The Senator from Mississippi.

Mr. HARRISON. A parliamentary inquiry.

The VICE PRESIDENT. The Senator will state his parliamentary inquiry.

Mr. HARRISON. There is a rule, of course, that no Senator can speak more than twice on the same matter on the same day. If I should yield for a motion to be made, it might count against me in the record. I just want to get the status of the proposition. The parliamentary inquiry is, Can I, holding the floor, make a motion, and if action is taken on the motion, would that preclude me then from continuing the discussion? I take it that there is no question that if I should yield to some Senator to make a motion, it would; but if I have the floor and make the motion, as I have interpreted the rule—and I think that is correct—I do not yield the floor.

The VICE PRESIDENT. Does the Senator say that he can keep the floor while the Senate is deciding his motion? Suppose the roll were called?

Mr. HARRISON. I am propounding the parliamentary inquiry.

The VICE PRESIDENT. The Chair will answer the Senator for the time being—understanding that it is a question that has been decided both ways heretofore by the same Presiding Officer—that if the Senator makes a motion the Chair will understand that he has yielded the floor for the purpose of having the motion decided.

Mr. HARRISON. I have seen a ruling the other way.

The VICE PRESIDENT. The Senator, having been put on notice, of course, will suffer no inconvenience. If the Senator had not been put on notice, then perhaps the Chair might give the Senator the benefit of the doubt, always intending to rule so that debate can proceed.

Mr. HARRISON. So I made a mistake in propounding the parliamentary inquiry. [Laughter.] I notice in the precedents that it was ruled by Mr. Clarke, of Arkansas, that a Senator may not be taken from the floor by another Senator asking a question and then making a motion; and I had hoped that the Presiding Officer would follow that ruling, because I have some motions that I shall perhaps want to make to-night.

The Chair understands that I am occupying the floor now merely to propound a parliamentary inquiry.

Mr. McKELLAR. Mr. President—

The VICE PRESIDENT. Does the Senator yield?

Mr. HARRISON. I was just propounding a parliamentary inquiry. I was not taking the floor in my own right at this time.

The VICE PRESIDENT. The Senator's inquiry has been answered.

Mr. HARRISON. Yes.

The VICE PRESIDENT. Does the Senator yield?

Mr. HARRISON. I have not taken the floor. The Senator from Tennessee is claiming the floor in his own right.

The VICE PRESIDENT. The Chair thought the proposition of the Senator was that he kept the floor while the motion was being decided.

Mr. HARRISON. That was the parliamentary inquiry; but, in view of the answer of the Chair, I have not the floor. I may have it later.

Mr. McKELLAR. Mr. President—

The VICE PRESIDENT. The Chair recognizes the Senator from Tennessee.

Mr. McKELLAR. Continuing the reading of the minority report—

The report filed by the Newberry senatorial committee showed contributions aggregating \$178,856 and expenditures \$176,568.08.

Mr. WADSWORTH. Mr. President, will the Senator say where he is reading?

Mr. McKELLAR. On page 2.

Mr. WADSWORTH. Has not that been read once?

Mr. McKELLAR. I understood that it had been; but when the Senator from Mississippi overlooked it, his attention was called to it by the Senator from New York, as I recall.

Mr. WADSWORTH. No; I want to have this thing absolutely accurate, because the Senator from Mississippi assured the Senate that he would read the report just as it was, and wanted us all to listen. The Senator from Mississippi left off a little farther down, beginning in the middle of the next paragraph. He ended with the numerals "\$263,060.67."

Mr. McKELLAR. In order that there may not be any mistake about it, I will continue it from where I started.

Mr. ROBINSON. I suggest that the Senator read it all again.

Mr. McKELLAR. No; there is plenty of it here, and it is all very excellent reading. There is plenty of it here to keep us until, say, 4 or 5 o'clock in the morning.

Mr. WATSON of Indiana. Go to it.

Mr. McKELLAR (reading):

Eighth. Later on some bills which had been delayed in presentation, mainly for advertising, amounting to between ten and fifteen thousand dollars, were presented and were paid by the Newberry campaign committee. But the fact that approximately \$195,000 was used in the primary was frankly and freely admitted, and nothing in the testimony has materially changed this admission.

I stop here long enough to say that this is an admission in the report of the majority that I am reading. They frankly and freely admit that \$195,000 was paid for this senatorship—a very goodly sum—to which I called the attention of the Senator a while ago, and stated that if the price were fixed at that sum there were some of us who were not well off in this world's goods who would be unable to keep up the pace, and the result would be that we would soon have a Senate composed exclusively of those who were able to buy their places in this body. If there were no other reason, as it seems to me, why this majority report ought not to be concurred in by the Senate, there is the reason that we ought not to fix the price of a senatorship at \$195,000. I do not know how many Senators here would be able to keep up that pace. I do not know how many are able to pay or even with their friends would be able to pay \$195,000, if you are going to fix that as the price for the future; and if we do fix it as the price, so that it is perfectly right and proper and honest and patriotic and American to pay that much for a senatorship, of course those who are able to buy in the future will buy.

There are a great many people in this country who would be willing to pay \$195,000 for a seat in this body. Whether they ought to be here or not is another matter, but I doubt if this body ought to set the precedent. If everything else were stripped from this case, here is a man who admits that \$195,000 was paid for the senatorship that he has in this body, and that ought to be sufficient.

Then the minority go on to say:

On the contrary, it is claimed by the contestant's attorneys, and we think with very great force, that the proved expenses totaled very much more.

It has even been claimed by many newspapers—I have seen the claim put forward, with how much truth I do not know—that \$800,000 was paid in this case for the senatorship from first to last. I merely know what the newspapers have stated about it.

Quoting from the majority report:

Ninth. Your committee—

The majority—

condemns the use of such a large sum of money in any primary campaign—

I stop here long enough to say that the majority of the committee condemn the use of this money, and yet they want you to vote to make it a fair and an honest and an upright and a straight thing to do. They condemn it and at the same time uphold it by their votes—condemn it in their words and uphold it in their actions. The truth is that no man can defend it. No man can defend the expenditure of \$267,000 in a campaign for a senatorship in any State in this Union. He can not defend his vote for it, even if he does condemn it with his words; and it will be a harder thing for him to defend his vote after having condemned it in his words.

Continuing:

but there is not the slightest foundation to connect Truman H. Newberry with its solicitation, its acquisition, or its use, or to condemn him because of the amount. While the aggregate was large, it was not spent for any purposes that were in themselves illegal or improper, and its use was wholly managed by a campaign committee entirely free either in its selection or control from Truman H. Newberry.

Tenth. That with the exception of a few Democratic newspapers advertising was placed in practically every newspaper, daily, weekly, and monthly, published in the State of Michigan.

I notice that the Senator from Missouri [Mr. SPENCER] complained that one of the newspapers that accepted a large sum for advertising afterwards took the position that it was not right; and, as I understood the Senator, he condemned the newspaper for its change of front.

I continue reading:

That a series of 13 advertising announcements covering the entire 13 weeks of the primary campaign were carried in upward of 500 papers and publications and going into every portion of the State. (R., pp. 422, 639.)

Eleventh. In addition to this a very general and systematic plan of publicity was carried on through correspondence; thousands and thousands of form letters being sent into every county in the State; the names of the persons to whom sent being alphabetically arranged in card indexes. (Record, p. 644.)

Twelfth. More than 80 per cent of the money spent in the primary campaign was, according to the evidence, spent for advertising and other publicity.

The majority report further declares:

"Thirteenth. Two facts which are decisive of the present case stand out clearly in the record as entirely established:

"First. That none of the money spent in the primary election, large as was the amount, was spent for corrupt, illegal, or improper purposes. It was spent for publicity and for ordinary campaign purposes, and expenditures which are perfectly familiar to every man who has ever been a candidate for office, and which are generally regarded as necessary and proper."

Mr. President, I stop here long enough to add something to the report. It is said that this money was spent legally, and yet the laws of Michigan, to which these candidates owed obedience, prohibited the expenditure of any more than \$3,750 by any candidate in such a campaign. They put a limit upon campaign expenditures of that sum, and yet the State law was disregarded. No action seems to have been taken, but Mr. Newberry was indicted in the Federal court for Michigan, and he was tried before a Republican judge and jury. I am informed that 11 of the 12 jurors were Republicans, and that the presiding judge of the court was a Republican. Those 12 jurors held that Mr. Newberry had violated the law, and found him guilty, and the judge held that the verdict of the jury was right and proper, and entered a judgment upon it. It is true that that case was appealed to the Supreme Court of the United States. The Supreme Court did not hold that Mr. Newberry's conduct was proper; it did not hold that as a matter of right that case should have been reversed. The Supreme Court did not hold that there was a right and proper expenditure of money, but it held that the effort of Congress when it passed the law was nugatory, and that the law was unconstitutional.

Mr. WADSWORTH. Is that all it held?

Mr. McKELLAR. That was the principal thing it held. At all events that is what caused the court to reverse the case. It was reversed on account of the unconstitutionality of the act.

Mr. WADSWORTH. Was nothing else held by the court?

Mr. McKELLAR. There was a good deal to the opinion.

Mr. WADSWORTH. Will the Senator not state what the court held?

Mr. McKELLAR. I can not state it from memory.

Mr. WADSWORTH. The Senator has a very convenient lapse of memory.

Mr. McKELLAR. I have not the book before me; but that was the principal thing it held, and that was the point on which the case was reversed. If the Senator can recall the other points decided by the court in that case, I will yield to him for the purpose of stating them.

Mr. WADSWORTH. Did not the court have some observations to make as to the fairness of the trial?

Mr. McKELLAR. I do not recall.

Mr. WADSWORTH. I thought the Senator would not recall.

Mr. McKELLAR. I do not recall.

Mr. WATSON of Georgia. Mr. President—

The VICE PRESIDENT. Does the Senator from Tennessee yield to the Senator from Georgia?

Mr. McKELLAR. Certainly.

Mr. WATSON of Georgia. When President Wilson and his noble wife contributed to the campaign fund of Gov. Cox, does the Senator think they did so upon the idea that the money would be improperly used in buying votes?

Mr. McKELLAR. I never heard of a charge that any votes were bought for Gov. Cox.

Mr. WATSON of Georgia. Then what is the Senator's idea of the use of the \$8,000,000 which were spent in Gov. Cox's campaign?

Mr. McKELLAR. If the Senator will excuse me, I do not know that there was that much used.

Mr. WATSON of Georgia. The reports are that they used that much, and the campaign committee still owes \$130,000.

Mr. McKELLAR. I have heard that.

Mr. WATSON of Georgia. I have, too.



Mr. McKELLAR. And I have heard that the Republicans used several times that amount; but I do not know that that has anything to do with a case of this kind, where a candidate for office was indicted, tried, and convicted—

Mr. WATSON of Georgia. Under an illegal statute.

Mr. McKELLAR. He was convicted under a statute which was declared unconstitutional by the Supreme Court, as it had a right to do; but it was a statute which this body had passed.

Mr. WATSON of Georgia. Mr. President, I gave half as much to the campaign fund of Gov. Cox as the President did, and my wife gave an amount equal to that given by Mrs. Wilson. The Senator would not imply that we were trying to corrupt the Government and the electorate, would he?

Mr. McKELLAR. Quite the contrary. I feel absolutely sure that the Senator and his wife are both of the highest type of honesty, just as I believe that former President Wilson and Mrs. Wilson are two of the best people in the land, perfectly honest and sincere in their convictions, and that the money was given for a proper cause. I have no doubt that the Senator's money and his wife's money, as well as the former President's money and his wife's money, was absolutely, honestly, and faithfully spent in the campaign of Gov. Cox.

Mr. WATSON of Georgia. What did they do with it?

Mr. McKELLAR. I really do not know. Of course, if the Senator knows what they did with his money and with the former President's money and his wife's money, I should be glad to have him state it to the Senate. I will not at all hurry him but will yield to him for that purpose.

Mr. WATSON of Georgia. I do not know.

Mr. McKELLAR. Nor do I; so that settles it. I know that no charge of wrongdoing was ever made about it of any kind, nature, or description.

Mr. WATSON of Georgia. They were so badly beaten that it was not worth while.

Mr. McKELLAR. Probably so; probably that is right. For all that, Mr. Newberry got off on a technicality. The reversal of the case by the Supreme Court was on a technicality. This body fixed the maximum amount which might be used by a candidate in a campaign for the Senate in a primary and in the election at \$10,000. They thought that was a proper amount—that all proper expenses could be brought within that sum. The Congress felt that way, and so provided in the law.

This is a case where they admittedly spent in the neighborhood of \$200,000. The minority of the committee contend that it was some \$286,000, the majority that it was \$195,000. It makes no difference whether it was \$195,000 or \$286,000. Certainly either sum is much more than the amount provided even in the State statute, \$3,750, or the amount fixed in the United States statute, \$10,000.

The Senate, at all events, fixed a rule of conduct for candidates for seats in this body, and the Senate thought it was passing a constitutional act. They fixed on that sum as the reasonable sum, and though under our Constitution the Supreme Court has declared that particular law unconstitutional it does not change the rule which this body established. This body established the rule that the maximum amount properly to be spent by a candidate in a campaign for election to the Senate was \$10,000. This Senator came in after an expenditure of \$195,000, as claimed by the majority of the committee.

Mr. WADSWORTH. Expended by himself?

Mr. McKELLAR. I do not know. I judge from Mr. Smith's testimony that a very large part of it was paid by himself. Mr. Smith's testimony was read here this afternoon, and I gathered from his testimony that it was something to this effect: It seems that the Newberry family, being a very wealthy family, had one of these interchangeable accounts, so that whenever one account would run down a check would be drawn on another account to bring up the one which had gone down. I believe there were 10 of those accounts. Mr. John Newberry paid the first seventy thousand and odd dollars of the campaign fund, and thereupon Mr. Smith began to transfer the funds of Mr. Truman Newberry over to Mr. John Newberry's account. How much he transferred was not stated before the committee. There is no evidence as to that.

If he had not transferred any, what man under the face of the shining sun would know it better than Mr. Truman Newberry? The man above all other men in the world who would know whether or not he spent any money in this campaign was Truman H. Newberry. He did not come before the committee and, as I understand it, he did not go before the jury which tried him.

Mr. WADSWORTH. Did he not file his statement of expenditures under oath?

Mr. McKELLAR. That may be true.

Mr. WADSWORTH. Is it not true?

Mr. McKELLAR. I am inclined to think it is. I have never seen the statement, but I am inclined to think that is so.

Mr. WADSWORTH. The Senator must be a little bit more than inclined to think it is true. Is it not true?

Mr. McKELLAR. If the Senator says he has seen that statement, filed here in the record or in the office of the Secretary of the Senate, I take his statement, and will say it is true, because I know what the Senator would say would be true; but I say that this candidate for the Senate, the contestee in this case, had two opportunities to tell how much of his own money he spent and he did not take advantage of either one of them. He had the right to go before a jury of his peers in Michigan, and he did not go before them. He submitted his case without testifying. He stood mute when the charges were made against him. There is not a Senator in this body who, if confronted with a similar charge, so far as I know or believe, would not go before a jury and testify to the facts.

So, when the case came before the committee he did not himself say that he was innocent. He is asking you gentlemen to do something for him which he would not do for himself. He had an opportunity to come before the committee and to say exactly how much money he had spent. No one knew the facts better than he did. Why did he not come before the committee? He is asking you to do something for him which when the crisis came he would not do for himself.

Is that exactly fair? How do we know what the fact is? If he was innocent of the expenditure of this money, why did he not say so? He had the power of speech. Nobody had a gag on him; nobody had a handkerchief over his mouth. He was here in the Capitol. He was invited to come before the committee. Are you going to find a man innocent who will not himself say that he is innocent? Are you going to say something for him by your votes which he was not willing to say for himself?

Senators, this principle is wrong. I think there was another senate in ancient times, that flourished as long as honesty and patriotism flourished, but when those senatorships began to be sold to the highest bidder then it was that that senate went down and down and finally sunk into ruin and oblivion. Oh, Senators, do not let us permit the United States Senate to be a place where a membership in it can be bought.

I continue to read:

If the testimony contained in the record sustained the facts as stated by the report of the majority, we would be compelled to come to their conclusion touching the merits of this case.

#### CLAIMS OF MINORITY.

We affirm, however, that the conclusion of facts as stated by the majority is not sustained by the record.

On the contrary, it shows clearly:

First. That Mr. Truman H. Newberry participated in, if he did not dictate, the organization of his campaign committee.

Second. He knew in advance that this campaign would cost "his friends" at least \$50,000.

Third. Reports almost daily were made to him by his campaign manager, Mr. Paul King, and others.

Fourth. Almost daily reports were made to him by his attorney in fact, Fred P. Smith, as to the business and financial affairs of himself, his brother, John S. Newberry, the chief contributor to the campaign fund, and of 10 other Newberry interests. He knew that Fred P. Smith, who was acting under his power of attorney, was checking money out of the bank accounts of Truman H. Newberry and other Newberry interests and depositing them to the credit of John S. Newberry and then issuing checks on this fund payable to the Newberry campaign fund committee as its demands might require.

I stop here long enough to make this comment: It is claimed for Mr. Newberry that he did not pay any of the campaign funds, and yet the undisputed proof is that his agent, Mr. Fred P. Smith, had the right and did, as a matter of fact, put Mr. Truman Newberry's money to the credit of his brother, Mr. John S. Newberry, and that Mr. John S. Newberry drew checks against that fund and turned them over to the Newberry campaign committee, and they were thus expended. Can any grown man with the power of thinking at all be deceived into believing that that was not an expenditure of Mr. Truman H. Newberry's money?

Mr. WATSON of Georgia. Mr. President—

THE VICE PRESIDENT. Does the Senator from Tennessee yield to the Senator from Georgia?

Mr. McKELLAR. Certainly.

Mr. WATSON of Georgia. The Senator I am sure desires to be fair. I have always kept my own mind open on the question. However, I have studied the Pomerene report more closely than I have the Spencer report, and the Senator will find on page 69 of the Pomerene report that Mr. Newberry swore, according to the laws of his State—

I have taken no part in it—

That is, the campaign—

whatever, and no contributions or expenditures have been made with my knowledge or consent.

That is what he swore to. Let us be fair to the man.

Mr. McKELLAR. That is a vague and general statement made in a report to the Senate.

Mr. WATSON of Georgia. Oh, no; Mr. President, that is made according to the laws of his own State.

Mr. WADSWORTH. Mr. President, I hope the Senator from Tennessee does not think that all Senators make vague and general reports to the Senate.

Mr. McKELLAR. I read what he said and I want to show how vague it is.

Mr. WADSWORTH. Is that the Senator's idea of the report which he himself makes, that it is vague and general?

Mr. McKELLAR. No; the Senator may look at mine and he will see how very carefully it is prepared, just as I know the Senator's is carefully prepared; there is no doubt about it. But listen to this—

Mr. WADSWORTH. Just a moment. Had the Senator made a similar report in exactly the same language as that made by the Senator from Michigan, would he regard it as vague and general?

Mr. McKELLAR. I am reading this. I do not know. I have not looked at mine. One question does not answer another. I will read from page 69, which was referred to by the Senator from Georgia. He said the report was not made to the Senate, and I read just exactly what it says there:

True, Mr. Newberry, in his sworn statement filed with the Secretary of the Senate—

Filed with the Secretary of the Senate! That is just the statement I made—

says the campaign was voluntarily conducted by "his friends."

And then it goes on to say, in quotations:

I have taken no part in it whatever—

Meaning no part in the campaign—

and no contributions or expenditures have been made with my knowledge or consent.

Listen to that. I am glad the Senator called my attention to that. Let us examine it for a moment.

Mr. WATSON of Georgia. Look at the preceding page.

Mr. McKELLAR. I am reading from page 69. That is the one I am talking about. The Senator called my attention to that. Let me reply to it, and then I will meet him on the other. Here is what Mr. Newberry said:

I have taken no part in it whatever, and no contributions or expenditures have been made with my knowledge or consent.

That does not say that none were made by him.

Mr. WADSWORTH. They could not have been made by him without his knowledge and consent.

Mr. McKELLAR. Just a moment. One would have to repudiate practically all the evidence in this case before coming to the conclusion that this statement made by the contestee is a correct statement of the facts. Why? Because his principal witnesses, Mr. Smith and Mr. King and other witnesses, as shown by the undisputed evidence, stated time after time that they had daily telephonic and telegraphic communication with Senator Newberry, and that they kept him advised. Mr. Smith testified that when Senator Newberry found these amounts were being taken from his account and turned over to his brother he complained of it and said that the expenditures ought to stop. That is what the undisputed proof is here, and yet this candidate said:

I have taken no part in it whatever, and no contributions or expenditures—

Not "some may have been made by my friends," as is now claimed by him; not "some may have been made by my family," as is now claimed for him; but what he said is:

No contributions or expenditures have been made with my knowledge or consent.

Is there any Senator so ignorant of the record that he believes that statement to be a correct statement of fact? The Senator from Georgia [Mr. Watson] called my attention to the fact that it was sworn to. How was it sworn to? It was sworn to in the report that he may or may not have written, but probably signed without looking at it. There was no chance of cross-examination. He has not put himself in a place where he could be cross-examined. He would not go before the jury when he was tried for this offense under the law.

Mr. NEW. Mr. President—

Mr. McKELLAR. In one moment I will yield. He would not go before a committee of Senators, a majority of whom were members of his own party, and I have no doubt every one of whom felt most kindly toward him personally, because we all know he is a most likeable man. Every man on the committee feeling exceedingly friendly to him, no doubt would have been

glad to have given him opportunity to acquit himself of the charges that were made, but instead of doing it he stood mute and did not go before the committee.

I yield to the Senator from Indiana.

Mr. NEW. I merely desired to ask the Senator from Tennessee if he thought a Senator would tell the truth only under cross-examination?

Mr. McKELLAR. No; but has the Senator read the record?

Mr. NEW. Yes. Has the Senator from Tennessee read it?

Mr. McKELLAR. Yes. I will ask the Senator if he takes this statement to be correct from his reading of the record, and this is Mr. Newberry's statement:

I have taken no part in it whatever, and no contributions or expenditures have been made with my knowledge or consent.

Mr. NEW. I am quite certain that it is true.

Mr. McKELLAR. Then, what does the Senator do with the testimony of Mr. King and Mr. Smith, the confidential friends and managers of Mr. Newberry, who swore that they reported almost daily to Commander Newberry? What does the Senator do with that testimony?

Mr. NEW. They did not testify that they reported details of expenditures or anything of that kind.

Mr. McKELLAR. It has been read two or three times, and I will read it again, because it is important. I will give it to the Senator again in a moment. We have plenty of time.

Mr. WATSON of Georgia. Suppose the Senator starts at page 3?

Mr. McKELLAR. I will take that up again in a moment.

Mr. WATSON of Georgia. Borrow my copy and look at page 3.

Mr. McKELLAR. I am looking for Mr. Smith's testimony here. I have a copy of the report which has not been marked by me. I will look in my desk and see if my marked copy is there.

Mr. President, I shall have to read that when I get to it. I will proceed further with the reading of the claims of the minority of the committee.

Fifth. He aided in the preparation of the publicity material—

Not knowing anything about it, yet he aided in the preparation of the publicity material—

received constant reports concerning it, and regarded himself responsible to Mr. Templeton, Mr. King, and Mr. Oakman "for actual travel and publicity costs."

Citing the page of the record—

Sixth. He knew for weeks in advance of the primary that the extravagant expenditure of money had gone to such an extent as to be a common scandal in the State, and that he was the beneficiary thereof.

Almost every newspaper in the State was publishing the reports of these vast expenditures of money in favor of this candidate for the Senate, and yet the candidate himself, as is now claimed, did not know anything about the expenditure, although he was complaining to Mr. Fred Smith, one of his managers, and to Mr. King, another of his managers, that the funds were taken from his account and put to the credit of his brother, and in that way passing to the Newberry committee.

Seventh. This extravagant expenditure of money was called to his attention not only by the public press of his State but by letters written to him personally by some of Michigan's most honored citizens.

Eighth. A careful study of this record will show that the campaign committee was composed of his close personal and business friends, and that they were in fact his very "alter ego," or at least they were so closely allied with him, and he was in such close touch with every phase of the campaign that it does not lie in his mouth to claim the usufruct of their work and deny the responsibility for the way in which it was brought to his door.

Ninth. With all of this knowledge brought to him in the way disclosed by this record, we fail to see how Mr. Newberry could honorably say, as he did in his affidavit of August 14, 1918, filed with the Secretary of the Senate:

"The campaign for my nomination for United States Senator has been voluntarily conducted by friends in Michigan. I have taken no part in it whatever, and no contributions or expenditures have been made with my knowledge or consent."

Mr. WATSON of Georgia. Will the Senator read the next statement?

Mr. McKELLAR. Certainly; it is as follows:

Tenth. Nor do we understand how, in his further affidavit filed with the Secretary of the Senate on August 29, 1918, he could honorably say—

His statements, I digress long enough to say, were in the form of affidavits, where there was no opportunity for the other side to ask questions about the matter. His affidavit in part says:

The following is a true and itemized account of all moneys and things of value given, contributed, expended, used, or promised by me, or by my agent, representative, or other person for or in my behalf with my knowledge or consent.

None with my knowledge or consent.

I have read the general published statement of Paul H. King concerning expenditures made by a volunteer committee of my friends, but these were made without my knowledge or consent.



Mr. WATSON of Georgia. If the Senator will allow me in that very connection, I desire to say there was a statement made under the statute law of Michigan by the manager of the campaign which showed the full amount spent at the time.

Mr. McKELLAR. Yes; and it was upon that, or it was upon information similar to that cited in the report which caused the grand jury in Michigan to indict Mr. Newberry, which caused a jury of Mr. Newberry's peers to convict him in Michigan, and which caused the judge of the court to sentence him.

Mr. WATSON of Georgia. And which caused the Supreme Court to do what?

Mr. McKELLAR. The Supreme Court, as I have heretofore said, reversed the decision in the case on the ground that the law was unconstitutional.

Mr. NEW. Mr. President—

Mr. McKELLAR. I yield to the Senator from Indiana.

Mr. NEW. I should like to ask the Senator from Tennessee if the decision of the Supreme Court did not go very much further than to hold that the law was unconstitutional? I should like to ask the Senator, if he will permit me, if there were not two important points in that decision; the first of which went to constitutionality of the law, which the court held was unconstitutional; and the other that the trial court committed so many errors in the course of the trial that the case was reversed upon error; and that, as a matter of fact, the decision of the Supreme Court was that the whole trial was a judicial outrage?

Mr. McKELLAR. Mr. President—

Mr. WATSON of Georgia. Mr. President, I wish to call the attention—

Mr. McKELLAR. One moment.

Mr. WATSON of Georgia. If the Senator will yield—

Mr. McKELLAR. Very well; I yield.

Mr. WATSON of Georgia. I wish to call his attention to one item of expenditure, in order to show the range of expenditures. It appears from the views of the minority, submitted by the Senator from Ohio [Mr. POMERENE], that Mr. Newberry had to pay \$5,000 for circulating his pictures.

Mr. McKELLAR. He was a very handsome man. I do not know why it should have cost all that money to circulate his pictures.

Mr. WATSON of Georgia. I expected the Senator to say just that, Mr. President.

Mr. McKELLAR. Yes; I think that has just the same bearing on this case as have the other suggestions which have heretofore been made by the Senator.

Mr. WATSON of Georgia. There was certainly nothing corrupt in circulating a picture.

Mr. McKELLAR. If the Senator from Georgia thinks there is nothing corrupt in paying about \$200,000 for a seat in the Senate, he is entitled to his opinion. I have very grave doubt about it.

Mr. WATSON of Georgia. If I may answer the Senator in the same spirit, I will say that there is nothing of moral turpitude in him unless he was a party to it.

Mr. McKELLAR. I was not a party to it, so I plead not guilty; but if I were charged with being a party to it, I assure the Senator from Georgia and all other Senators that I would go before the jury and testify that I was not guilty.

Mr. WATSON of Georgia. I certainly did not mean the Senator from Tennessee. I meant the Senator from Michigan [Mr. Newberry].

Mr. McKELLAR. I misunderstood the Senator. It is all right.

I was asked about the opinion of the Supreme Court. I have the entire opinion here and will read the concluding paragraph of it:

We can not conclude that authority to control party primaries or conventions for designating candidates was bestowed on Congress by the grant of power to regulate the manner of holding elections. The fair intendment of the words does not extend so far; the framers of the Constitution did not ascribe to them any such meaning. Nor is this control necessary in order to effectuate the power expressly granted. On the other hand, its exercise would interfere with purely domestic affairs of the State and infringe upon liberties reserved to the people.

It should not be forgotten that, exercising inherent police power, the State may suppress whatever evils may be incident to primary or convention. As "each House—

I call the especial attention of the Senate to the fact that after reversing the case on the sole ground of the unconstitutionality of the act, the justice delivering the majority opinion of the court makes this suggestion, which is similar to that made by me earlier in the evening:

As "each House shall be the judge of the elections, qualifications, and returns of its own Members," and as Congress may by law regulate the times, places, and manner of holding elections, the National Government is not without power to protect itself against corruption, fraud, or other malign influences.

The judgment of the court below must be reversed and the cause remanded for further proceedings in conformity with this opinion.

The opinion is stronger than I had intimated. The court proceeded to reverse the case upon the sole ground of the unconstitutionality of the act in that the Congress had no authority to legislate in regard to party primaries; that is the sole ground of the decision; and then, as if implying that, in the opinion of the court, the Senator was guilty, it proceeds to say that it must not be forgotten that the Senate has the power to decide as to the qualifications and election of its own Members. That is an intimation that this and not the Supreme Court is the body that was to decide that matter; in other words, there is no suggestion in the opinion of the majority such as has been stated. I had forgotten for the moment—I have not read the opinion for some time—that it had the other matter in it, but if it has, if such a statement is in the opinion, and I have no doubt it may be in the opinion of some member of the court, in a dissenting opinion or otherwise—

Mr. WADSWORTH. The Senator desires, of course, to indulge in a comprehensive discussion of the question, and as he has quoted from a portion of the opinion of the Supreme Court, may I suggest that the Senator read the opinion of the Chief Justice, or at least a portion of it, which can be found on pages 19 and 20, in which certain observations are made about the charge delivered to the jury by the judge who presided at the trial?

Mr. McKELLAR. I suppose that this opinion is almost as interesting as the report from which I have been reading, and I will be delighted to read what the Chief Justice said. The important thing, of course, is the majority opinion of the court which was rendered by Mr. Justice McReynolds, and which concluded with the words which I have read. It is possible that in concurring or dissenting opinions other justices, including the Chief Justice, may have said something along different lines. The Senator from New York calls my attention to the opinion of Chief Justice White, which was a dissenting opinion concurring with a modification in the judgment of reversal, but, as a dissenting opinion, evidently it was not the opinion of the court on this subject, for, if what is contained in Chief Justice White's opinion was the law as determined by the court it would not have been in a dissenting opinion; it would have been in the opinion of the majority of the court. What the Senator from New York has in mind, however, is not found in the opinion of the majority of the court; it is the view of the Chief Justice. It is entitled to respect, just as the opinion of any other member of the court is entitled to respect and as the opinion of any Senator is entitled to respect. Now, if the Senator will point out where he wants me to read I will be glad to accommodate him.

Mr. WADSWORTH. I am making the suggestion in order that the Senator may have complete information about the matter concerning which he is talking. On pages 19 and 20 the Senator will find the Chief Justice recites certain instructions delivered by the judge to the jury. Then he comments upon those instructions and reaches a conclusion which, to say the least, is not complimentary to the manner in which was conducted the trial as a result of which the junior Senator from Michigan was convicted.

I make this suggestion to the Senator because he has emphasized with considerable spirit and fire the fact that a jury convicted this man of a felony; that he was sentenced to prison as the result of that act; and I, therefore, suggest that the Senator from Tennessee inform himself as to what the Supreme Court thought of that trial.

Mr. McKELLAR. The Senator is entirely mistaken about what the Supreme Court thought of that trial. The judgment of the majority of the Supreme Court determines—not what an individual member of that court states in a dissenting opinion.

Mr. SHORTRIDGE. Mr. President—

Mr. McKELLAR. I yield.

Mr. SHORTRIDGE. The Supreme Court granted a new trial, did it not?

Mr. McKELLAR. Why, of course. That is old news. That has been done for nearly a year. I thought everybody knew that.

Mr. SHORTRIDGE. Upon what ground did they grant the new trial?

Mr. McKELLAR. On the ground that the act was unconstitutional, not on the ground that Mr. Newberry was innocent.

Mr. SHORTRIDGE. Upon the ground that there was an unfair trial.

Mr. McKELLAR. Oh, no; the Senator is totally mistaken. The Senator is reading a dissenting opinion. He is not reading the opinion of the court. I have read the opinion of the court which states the grounds, and the Senator will find it at the bottom of page 10 if he has the opinion before him.

Now, I want to read what Mr. Chief Justice White said about it:

Coming to deal with the statute, the court, after pointing out in the most explicit terms that the limitation on the amount which might be lawfully contributed and expended or caused to be contributed and expended in the case at hand was \$3,750 (that being the limitation imposed by the laws of Michigan)—

Let me finish this anyway. I know the Senator is tired. We ought to have adjourned long ago—

\*adopted by the statute of the United States just quoted), then proceeded, over objections duly reserved, to instruct as to the significance of the statute, involved in the prohibitions, (a) against giving, contributing, expending, or using, and (b) against causing to be given, contributed, expended, or used, money in excess of that permitted by the statute, saying on these subjects as follows:

"(a) It is important, therefore, that you should understand the meaning of the language employed in this corrupt practices act, and that you should understand and comprehend the effect and scope of the act, and the meaning of the language there employed, and the effect and scope and extent of the prohibition against the expenditure and use of money therein contained.

"The words 'give, contribute, expend, or use,' as employed in this statute, have their usual and ordinary significance and mean furnish, pay out, disburse, employ, or make use of. The term 'to cause to be expended, or used,' as it is employed in this statute, means to occasion, to effect, to bring about, to produce the expenditure and use of the money.

"The prohibition contained in this statute against the expenditure and use of money by the candidate is not limited or confined to the expenditure and use of his own money. The prohibition is directed against the use and expenditure of excessive sums of money by the candidate from whatever source or from whomsoever those moneys may be derived.

"(b) The phrase which constitutes the prohibition against the candidate 'causing to be given, contributed, expended, or used excessive sums of money' is not limited and not confined to expenditures and use of money made directly and personally by himself. This prohibition extends to the expenditure and use of excessive sums of money in which the candidate actively participates, or assists, or advises, or directs, or induces, or procures. The prohibition extends not only to the expenditure and use of excessive sums of money by the candidate directly and personally, but to such use and expenditure through his agency, or procurement, or assistance.

"To constitute a violation of this statute knowledge of the expenditure and use of excessive sums of money on the part of the candidate is not sufficient; neither is it sufficient to constitute a violation of this statute that the candidate merely acquiesces in such expenditures and use. But it is sufficient to constitute a violation of this statute if the candidate actively participates in doing the things which occasion such expenditures and use of money and so actively participates with knowledge that the money is being expended and used."

Let me stop there long enough to say that that is what the jury found to be the fact. That was the charge of the court, and that is what they found to be the fact.

The Chief Justice then proceeds:

Having thus fixed the meaning of the prohibitions of the statute, the court came to apply them as thus defined to the particular case before it, saying:

"(c) To apply these rules to this case: If you are satisfied from the evidence that the defendant, Truman H. Newberry, at or about the time that he became a candidate for United States Senator was informed and knew that his campaign for the nomination and election would require the expenditure and use of more money than is permitted by law and with such knowledge became a candidate, and thereafter by advice, by conduct, by his acts, by his direction, by his counsel, or by his procurement he actively participated and took part in the expenditure and use of an excessive sum of money, of an unlawful sum of money, you would be warranted in finding that he did violate this statute known as the corrupt practices act."

I stop here long enough to say that the corrupt practices act of Michigan was by the law of Congress made a part of the law of Congress, and it was under that law that this indictment was had against Senator Newberry in the Federal court. The Supreme Court in its judgment did not have anything to say about that being an improper charge to the jury; but Mr. Chief Justice White, one of the members of that court, in a dissenting opinion, said this:

Whether the instructions marked (a) and (b), if unexplained, were, in view of the ambiguity lurking in many of the expressions used therein, prejudicially erroneous, I do not think necessary to consider, since I see no escape from the conclusion that the instruction marked (c), which made application of the view of the statute stated in the previous passages (a) and (b), were in clear conflict with the text of the statute and were necessarily of a seriously prejudicial nature, since in substance they announced the doctrine that under the statute, although a candidate for the office of Senator might not have contributed a cent to the campaign or caused others to do so, he nevertheless was guilty if he became a candidate or continued as such after acquiring knowledge that more than \$3,750 had been contributed and was being expended in the campaign. The error in the instruction plainly resulted from a failure to distinguish between the subject, with which the statute dealt—contributions and expenditures made or caused to be made by the candidate—and campaign contributions and expenditures not so made or caused to be made, and therefore not within the statute.

It is true that that was the opinion of the Chief Justice of the United States, but that was not the judgment of the court. The judgment of the court was simply what? That the statute was unconstitutional, and that the Senate ought to deal with the corruption if they found it to be corruption.

The jury, it will be found—and I am glad the Senator from New York called my attention to it—

Mr. WADSWORTH. I hope the Senator will read the rest of the opinion.

Mr. McKELLAR. All of it?

Mr. WADSWORTH. Yes; put it in the Record.

Mr. McKELLAR. I will put the whole opinion in the Record a little later.

Mr. WADSWORTH. No; just the remainder on page 20.

Mr. SWANSON. Mr. President, would the Senator just as soon conclude his speech to-morrow morning, or would he rather continue to-night?

Mr. McKELLAR. It depends. I want to ask unanimous consent to put in the Record the remainder of this dissenting opinion, just as if I had read it. If the Senator will excuse me a moment, however, I will yield to him in a little while. I want to read it. I understand that we are to be here all night, so there is no use in being in a hurry. The Senator from New York wants this dissenting opinion of Mr. Chief Justice White read into the Record; and as it is probably a little more favorable to the defendant than the majority opinion of the court, the real judgment of the court, I am delighted to read it.

There can be no doubt—

Continues Mr. Chief Justice White—

when the limitations as to expenditure which the statute imposed are considered in the light of its context and its genesis, that its prohibitions on that subject were intended, not to restrict the right of the citizen to contribute to a campaign, but to prohibit the candidate from contributing and expending or causing to be contributed and expended, to secure his nomination and election, a larger amount than the sum limited as provided in the statute.

There is no finding here that the facts found by the jury were incorrect.

To treat the candidacy, as did the charge of the court, as being necessarily the cause, without more, of the contribution of the citizen to the campaign, was therefore to confound things which were wholly different, to the frustration of the very object and purpose of the statute. To illustrate: Under the instruction given, in every case where to the knowledge of the candidate a sum in excess of the amount limited by the statute was contributed by citizens to the campaign, the candidate, if he failed to withdraw, would be subject to criminal prosecution and punishment. So, also, contributions by citizens to the expenses of the campaign, if only knowledge could be brought home to them that the aggregate of such contributions would exceed the limit of the statute, would bring them, as illustrated by this case, within the conspiracy statute and accordingly subject to prosecution. Under this view the greater the public service and the higher the character of the candidate, giving rise to a correspondingly complete and self-sacrificing support by the electorate to his candidacy, the more inevitably would criminality and infamous punishment result both to the candidate and to the citizen who contributed.

As it follows from the considerations which I have stated that the judgment below was, in my opinion—

Not in the opinion of the court, but in the opinion of Mr. Chief Justice White, the dissenting opinion—

clearly wrong and therefore should be reversed, it is not necessary that I should go further and point out how cogently under the case presented the illustrations just previously made apply to it. For the reasons stated, although I dissent from the ruling of the court—

Why, Mr. Chief Justice White dissented from the ruling of the court on the constitutionality of the act.

For the reasons stated, although I dissent from the ruling of the court as to the unconstitutionality of the act of Congress, I, nevertheless, think its judgment of reversal should be adopted, qualified, however, so as to reserve the right to a new trial.

"So as to reserve the right to a new trial." In other words, the sum and substance of the dissenting opinion of Mr. Chief Justice White was that he thought technical errors had been made by the judge in giving the charge to the jury.

Mr. WADSWORTH. Why does the Senator say "technical error"?

Mr. McKELLAR. I have read exactly what he said.

Mr. WADSWORTH. Does he say that it was technical?

Mr. McKELLAR. He says it might have been confusing to the jury to have stated in section (c) what seems to be contradictory of sections (a) and (b). Anyone who has had experience with juries all his life, as I have, knows beyond the shadow of a doubt that those jurors never had any such consideration in their minds. What they had in their minds were the facts which were adduced before the jury, and upon the facts they found Mr. Newberry guilty as charged in the indictment, and all that the Supreme Court of the United States did was to declare the act of Congress unconstitutional, and he escaped only because it was declared unconstitutional. The opinion of the court does not give any other reason for the reversal of the case except the unconstitutionality of the act.

Mr. SWANSON and Mr. WATSON of Georgia addressed the Chair.

The VICE PRESIDENT. Does the Senator yield; and if so, to whom?

Mr. McKELLAR. I promised to yield to the Senator from Virginia, who wants to make a motion; but if the Senator from Georgia desires to propound an inquiry, I will yield first to him.

Mr. WATSON of Georgia. Has not the evidence as so ably discussed by the Senator been confined to propaganda, campaign literature, articles published in newspapers, pictures, lithographs, and things of that sort? Is there any suggestion what-



ever that one dollar was used to corrupt a voter, that whisky or other undue influences were used to corrupt a voter, or did corrupt him?

Mr. McKELLAR. The record shows there was a lot of money used for treating. I forget how many thousand dollars were spent for that purpose, but I believe three thousand. If I am mistaken about it, I hope some Senator will correct me; but my recollection is that there were either three or seven thousand dollars used for treating. I do not know whether Michigan was a dry State at that time, but I think it was, and to use even such a sum of money as that for treating purposes in a dry State is "going some." I do not know whether the Senator would consider that illegal in Georgia or not, but I believe it would be considered illegal generally. As the distinguished Senator from Kentucky [Mr. STANLEY], who knows about such things, says to me, it depends upon the quality of the goods which are sold and drunk.

Mr. WATSON of Georgia. It also depends on whether it is done before or after the election.

Mr. McKELLAR. I do not know how it is in Georgia. It is immaterial in Tennessee, where I come from, whether it is done before or after the election.

Mr. WATSON of Georgia. Sometimes people celebrate, you know.

Mr. McKELLAR. I do not know very much about that. We have a dry State, and we do not do much celebrating these days; we did none at all at the last election. I now yield to the Senator from Virginia.

Mr. SWANSON. Mr. President, I move that the Senate adjourn, and on that I ask for the yeas and nays.

The VICE PRESIDENT. Does the Senator from Tennessee yield the floor?

Mr. McKELLAR. I yield.

The yeas and nays were ordered, and the principal legislative clerk proceeded to call the roll.

Mr. FRELINGHUYSEN (when his name was called). I transfer my general pair with the Senator from Montana [Mr. WALSH] to the junior Senator from Maryland [Mr. WELLER] and vote "nay."

Mr. WARREN (when his name was called). I have a general pair with the junior Senator from North Carolina [Mr. OVERMAN], which I transfer to the junior Senator from Wisconsin [Mr. LENROOT], and vote "nay."

The roll call was concluded.

Mr. CURTIS. I desire to announce the following pairs:

The Senator from New York [Mr. CALDER] with the Senator from Idaho [Mr. BORAH];

The Senator from Vermont [Mr. DILLINGHAM] with the Senator from Virginia [Mr. GLASS];

The Senator from Minnesota [Mr. KELLOGG] with the Senator from North Carolina [Mr. SIMMONS];

The Senator from Massachusetts [Mr. LODGE] with the Senator from Alabama [Mr. UNDERWOOD];

The Senator from Rhode Island [Mr. COLT] with the Senator from Florida [Mr. TRAMMELL];

The Senator from New Hampshire [Mr. MOSES] with the Senator from Louisiana [Mr. BROUSSARD];

The Senator from New Jersey [Mr. EDGE] with the Senator from Oklahoma [Mr. OWEN]; and

The Senator from Illinois [Mr. MCCORMICK] with the Senator from Wyoming [Mr. KENDRICK].

Mr. FERNALD. Making the same announcement as before of my pair and its transfer, I vote "nay."

Mr. RANDELL. I have a general pair with the junior Senator from Delaware [Mr. DU PONT]. I transfer that pair to the Senator from Nebraska [Mr. HITCHCOCK] and vote "yea."

Mr. McKELLAR. I have a pair for to-day with the junior Senator from Ohio [Mr. WILLIS], which I transfer to the senior Senator from Texas [Mr. CULBERSON], and vote "yea."

The result was announced—yeas 12, nays 38, as follows:

#### YEAS—12.

Caraway	Harris	Myers	Sheppard
Dial	Heflin	Ransdell	Smith
Fletcher	McKellar	Robinson	Swanson

#### NAYS—38.

Ball	France	McNary	Spencer
Brandeggee	Frelinghuysen	Nelson	Sterling
Bursum	Gooding	New	Sutherland
Cameron	Hale	Nicholson	Townsend
Capper	Jones, Wash.	Norbeck	Wadsworth
Cummins	Keyes	Oddie	Warren
Curtis	Ladd	Philpps	Watson, Ga.
Elkins	McCumber	Poindexter	Watson, Ind.
Ernst	McKinley	Shortridge	
Fernald	McLean	Smoot	

#### NOT VOTING—46.

Ashurst	Calder	Culbertson	Edge
Borah	Colt	Dillingham	Gerry
Broussard	Crow	du Pont	Glass

Harrell	La Follette	Page	Trammell
Harrison	Lenroot	Penrose	Underwood
Hitchcock	Lodge	Pittman	Walsh, Mass.
Johnson	McCormick	Pomerene	Walsh, Mont.
Jones, N. Mex.	Moses	Reed	Waller
Kellogg	Newberry	Shields	Williams
Kendrick	Norris	Simmons	Willis
Kenyon	Overman	Stanfield	
King	Owen	Stanley	

So the Senate refused to adjourn.

Mr. HARRISON. Mr. President, I move that the Senate proceed to the consideration of Senate bill 2170, to encourage the development of the agricultural resources of the United States through Federal and State cooperation, giving preference in the matter of employment and the establishment of rural homes to those who have served with the military and naval forces of the United States.

This is a very important measure. It is a bill which was reported out of the very important Committee on Irrigation and Reclamation by its chairman, the Senator from Oregon [Mr. McNARY]. It proposes to encourage the development of the agricultural resources of the United States through Federal and State cooperation, giving preference in the matter of employment and the establishment of rural homes to those who have served with the military and naval forces of the United States.

I have made this motion because it seems to me that if there is any piece of legislation which is important, and which should be enacted at a very early date, before this Congress adjourns, it is a measure to provide rural homes for the soldiers of the late war, or at least present an avenue of approach for them, so that they may be given some preference in the matter of the location of homes.

We have during the present Congress done really very little for the soldiers of the country. Senators on the other side have not forgotten, and we have not forgotten, and the country has not forgotten, the promises which were made to the people by President Harding, by a great many Senators, and by other standard bearers, at the time when the campaign was on, and to the soldiers particularly, that if the Republican candidates should be elected, they would see to it that some favors were shown to the soldiers. Indeed, they went so far as to say that they would pass an adjusted compensation bill, or a measure popularly known as the bonus bill. Some said they did not believe in that, but that they did believe that a plan of insurance might be provided for the soldiers.

Various schemes were suggested. The distinguished Senator from Utah [Mr. SMOOT], powerful in the councils of the Republican Party and upon the great Committee on Finance, thought some time ago that it would be well if Congress could provide homes, or a land-settlement plan, for the soldiers.

Mr. President, if the Senate at this time desires to take a recess, I will just leave my motion pending, and let it go over until morning. I understand a motion will be made to take a recess.

RECESS.

Mr. SPENCER. Mr. President—

The VICE PRESIDENT. Does the Senator from Mississippi yield?

Mr. HARRISON. I yield to permit the Senator to make a motion that the Senate take a recess.

Mr. SPENCER. I move that the Senate take a recess until 11 o'clock to-morrow morning.

The motion was agreed to; and (at 10 o'clock p. m.) the Senate took a recess until to-morrow, Thursday, November 17, 1921, at 11 o'clock a. m.

## HOUSE OF REPRESENTATIVES.

WEDNESDAY, November 16, 1921.

The House met at 12 o'clock noon and was called to order by the Speaker.

The Chaplain, Rev. James Shera Montgomery, D. D., offered the following prayer:

Our Father in Heaven, we bow at Thy mercy seat, which is eternal in the heavens and forever in the hearts of Thy believing children. The work of life is too long and too arduous to be borne alone. The yoke of toil shall be made easy and its burdens shall be made light with Thy help. May nothing be allowed to weaken or weary our strength. O, behind the cloud and the care, where so often the definite outlines of duty are dimmed by the rush of the elements, bestow Thy counsel and lead with Thy wisdom. May our power to sacrifice and our willingness to labor become our great strength for the good of our fellow men and for the help of the world, through Jesus Christ our Lord. Amen.

The Journal of the proceedings of yesterday was read and approved.

## REFERENCE OF A BILL.

Mr. WILLIAMSON. Mr. Speaker—  
The SPEAKER pro tempore (Mr. WALSH). For what purpose does the gentleman from South Dakota rise?

Mr. WILLIAMSON. Mr. Speaker, I rise for the purpose of asking unanimous consent to have Senate bill No. 2210, which has been referred to the Committee on Claims, transferred to the Committee on Indian Affairs.

The SPEAKER pro tempore. The gentleman from South Dakota asks unanimous consent that the bill (S. 2210) be referred from the Committee on Claims to the Committee on Indian Affairs. The Clerk will report the title of the bill.

The Clerk read as follows:

S. 2210. An act for the relief of Lucy Paradis.

Mr. GARRETT of Tennessee. Mr. Speaker, reserving the right to object, I would like to ask the gentleman if the matter has been submitted to the chairmen of the respective committees?

Mr. WILLIAMSON. Mr. Speaker, for the information of the gentleman from Tennessee I will say that this bill is identical with the bill I introduced in the House on July 17, 1921, which was referred to the Committee on Indian Affairs. It was introduced in the Senate about the same time by Senator STERLING and there referred to the Committee on Indian Affairs. It passed the Senate on Monday, but under the rules of the House I understand it has been referred to the Committee on Claims on account of the bill's providing that Paradis may present his claim to the Court of Claims for adjudication. There is no claim in this bill for the committee to pass upon. The facts are all on file with the Committee on Indian Affairs and it should go to that committee, because that is the committee which has had the bill under consideration. I understand there is no objection from either committee.

Mr. GARRETT of Tennessee. If this goes to the Committee on Indian Affairs will it have to go to the Committee on Claims again?

Mr. WILLIAMSON. No; I understand not.

Mr. MONDELL. Mr. Speaker, I did not understand the gentleman's request.

The SPEAKER pro tempore. The request of the gentleman was that Senate bill 2210, the title of which has been read, be rereferred from the Committee on Claims to the Committee on Indian Affairs.

Mr. MONDELL. Mr. Speaker, I shall have to object to that for the present.

The SPEAKER pro tempore. Objection is heard.

## ENROLLED BILLS SIGNED.

Mr. RICKETTS, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills of the following titles, when the Speaker signed the same:

H. R. 2232. An act in reference to a national military park on the plains of Chalmette, below the city of New Orleans;

H. R. 8298. An act to amend section 1044 of the Revised Statutes of the United States relating to limitations in criminal cases;

H. R. 7108. An act authorizing a per capita payment to the Chippewa Indians of Minnesota from their tribal funds held in trust by the United States;

H. R. 7051. An act to authorize the Secretary of the Interior to execute deeds of reconveyance for certain lands in the city of Mount Pleasant, Isabella County, Mich.; and

H. R. 8442. An act to amend an act entitled "An act to authorize the President of the United States to locate, construct, and operate railroads in the Territory of Alaska, and for other purposes," approved March 12, 1914, as amended.

ENROLLED BILL AND JOINT RESOLUTION PRESENTED TO THE PRESIDENT FOR HIS APPROVAL.

Mr. RICKETTS, from the Committee on Enrolled Bills, reported that this day they had presented to the President of the United States, for his approval, the following bill and joint resolution:

H. R. 8643. An act to extend the tariff act approved May 27, 1921; and

H. J. Res. 151. Joint resolution to provide that deferred grazing fees received prior to December 31, 1921, shall be considered as receipts of the fiscal year 1921.

## EXTENSION OF REMARKS.

Mr. BROWNE of Wisconsin. Mr. Speaker—

The SPEAKER pro tempore. For what purpose does the gentleman from Wisconsin rise?

Mr. BROWNE of Wisconsin. Mr. Speaker, I desire to submit a unanimous-consent request. I ask, Mr. Speaker, that I have unanimous consent to extend my remarks in the Record

by inserting a speech made by George C. Hazelton, at Chester, N. H., on the occasion of the memorial service of Corpl. Forsaith, who fell in battle in France, and whose body was brought back for burial in his native town. I want to say, Mr. Speaker, that Mr. Hazelton represented Wisconsin in this body with distinction, being a Member of Congress over 40 years ago, and delivered a very eloquent speech on the occasion mentioned. I therefore ask permission to extend my remarks by inserting this speech in the Record.

The SPEAKER pro tempore. The gentleman from Wisconsin asks unanimous consent to extend his remarks in the Record by inserting a speech made by former Representative Hazelton on the return of the body of Corpl. Forsaith to his native town in New Hampshire. Is there objection? [After a pause.] The Chair hears none.

## CALL OF THE HOUSE.

Mr. GARRETT of Tennessee. Mr. Speaker, I make the point of order there is no quorum present.

The SPEAKER pro tempore. It is clear there is no quorum present.

Mr. MONDELL. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The Clerk called the roll, and the following Members failed to answer to their names:

Ansorge	Faust	Kitchin	Riordan
Anthony	Fenn	Knight	Roach
Bacharach	Fess	Kreider	Rosenbloom
Bell	Fish	Kunz	Rucker
Bixler	Fitzgerald	Langley	Ryan
Bland, Ind.	Flood	Lee, N. Y.	Subath
Bond	Free	Linthicum	Schall
Brand	Gahn	Lyon	Sears
Briggs	Gallivan	McFadden	Shelton
Brinson	Garrett, Tex.	McKenzie	Snell
Britten	Gorman	Mann	Snyder
Buchanan	Gould	Mansfield	Stiness
Burke	Graham, Pa.	Merritt	Stoll
Cable	Griest	Michaelson	Sullivan
Campbell, Pa.	Hays	Mills	Sweet
Carter	Herrick	Morin	Tague
Cockran	Himes	Mott	Taylor, Colo.
Connolly, Pa.	Hoch	Mudd	Tilson
Copley	Hukriede	Nolan	Tinkham
Crowther	Husted	Oliver	Treadway
Cullen	Jeffers, Nebr.	Parrish	Tyson
Dale	Johnson, Ky.	Patterson, Mo.	Vare
Davis, Minn.	Johnson, S. Dak.	Patterson, N. J.	Walters
Doughton	Kahn	Periman	Wason
Drane	Kelley, Mich.	Peters	Weaver
Echols	Kendall	Petersen	Winslow
Edmonds	Kennedy	Porter	Zihlman
Elston	Kless	Rainey, Ala.	
Fairfield	Kindred	Rainey, Ill.	

The SPEAKER pro tempore. On this call 317 Members have answered to their names. A quorum is present.

Mr. MONDELL. Mr. Speaker, I move to dispense with further proceedings under the call.

The motion was agreed to.

## CONTRACTS CONNECTED WITH PROSECUTION OF WAR.

The SPEAKER pro tempore. The Doorkeeper will open the doors. It being Calendar Wednesday, the unfinished business in order is the bill S. 843, which the Clerk will report by title.

The Clerk read as follows:

A bill (S. 843) to amend section 5 of the act approved March 2, 1919, entitled "An act to provide relief in cases of contracts connected with the prosecution of the war, and for other purposes."

The SPEAKER pro tempore. At the time of adjournment on last Calendar Wednesday the previous question had been demanded. The question now is on ordering the previous question. The previous question was ordered.

The SPEAKER pro tempore. The question now is upon agreeing to the amendment.

The question was taken, and the amendment was agreed to.

The question then being on ordering the bill to be engrossed and read a third time, it was accordingly engrossed and read the third time.

The question then being on the passage of the bill S. 843, the question was taken, and the Speaker pro tempore announced that the yeas seemed to have it.

Mr. BLACK. Division, Mr. Speaker.

The SPEAKER pro tempore. Division is demanded.

Mr. BLACK. Mr. Speaker, I demand the yeas and nays.

The SPEAKER pro tempore. The gentleman from Texas demands the yeas and nays. Those in favor of ordering the yeas and nays will rise and stand until counted. [After counting.] Forty-eight gentlemen, not a sufficient number, have risen.

Mr. STAFFORD. Mr. Speaker, I demand tellers.

Mr. BLANTON. Mr. Speaker, I ask for the other side so that the Chair may determine the number of Members present.

The SPEAKER pro tempore. The gentleman from Texas demands the other side. The Chair will state that the call of the



House disclosed the presence of a quorum, 317 Members being present, and that in order to secure a vote by the yeas and nays it would have to be demanded by one-fifth of the number present.

Mr. BLANTON. Mr. Speaker, I make the point of order that the fact that a quorum was disclosed several minutes ago, since which other business has been transacted, is no reason for holding that 317 Members are present.

The SPEAKER pro tempore. The Chair overrules the point of order. The Chair assumes that, the call of the House disclosing a quorum, a quorum is present until its presence is doubted.

Mr. STAFFORD. Mr. Speaker, I demand tellers on the demand for the yeas and nays.

The SPEAKER pro tempore. The gentleman from Wisconsin [Mr. STAFFORD] demands tellers upon the question of ordering the yeas and nays.

Mr. McARTHUR. Mr. Speaker, I make the point of order that that is too late.

Mr. STAFFORD. I was demanding it right along, Mr. Speaker.

Mr. WINGO. The gentleman was demanding it.

The SPEAKER pro tempore. The Chair thinks that the gentleman from Wisconsin was on his feet and demanding tellers.

Mr. LEHLBACH. Mr. Speaker, a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. LEHLBACH. The rule, as I understand, provides that the yeas and nays may be demanded by one-fifth of those present. If the original number of those present pass through the tellers upon the call for the other side, or the negative of the proposition, as the case may be, nevertheless that does not demonstrate that one-fifth present demand a roll call. It only demonstrates that one-fifth of those voting, which is not what the rule says.

The SPEAKER pro tempore. The gentleman from New Jersey does not state a parliamentary inquiry.

Mr. LARSEN of Georgia. Mr. Speaker, a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. LARSEN of Georgia. It is too late to demand a division?

The SPEAKER pro tempore. The Chair will state that a division was demanded and about to be had when the gentleman from Texas [Mr. BLACK] demanded the yeas and nays. Forty-eight gentlemen rose to support the demand for the yeas and nays, which the Chair stated was not a sufficient number. Thereupon the gentleman from Wisconsin [Mr. STAFFORD] demanded tellers on the question of ordering the yeas and nays.

Mr. MONDELL. That is not in order. It is for the Speaker to decide whether a sufficient number demanded the yeas and nays, and the Speaker has decided that a sufficient number has not demanded the yeas and nays.

Mr. SANDERS of Indiana. The precedent—I do not remember what it is—is that whenever there is a demand for tellers it is in order to definitely ascertain whether the count is correct, and the demand for tellers may be made on the question of whether it is or not.

The SPEAKER pro tempore. Does the gentleman from Wyoming [Mr. MONDELL] make the point of order that the demand of the gentleman from Wisconsin is not in order?

Mr. MONDELL. I do.

Mr. STAFFORD. I believe that the Chair will find precedents which hold it is within the discretion of the Chair to allow the demand for tellers. The purpose of tellers is to ascertain definitely whether or not there is a sufficient number demanding the yeas and nays. Here we had a large number of Members rising and then taking their seats, some rising even after the Chair had looked over one side of the Chamber, and therefore failed to count them. There was much confusion. It is only fair that the teller vote be had to determine whether there is a sufficient demand for the yeas and nays. The demand for the yeas and nays is a constitutional privilege. The demand for tellers is not for the purpose of indulging in filibustering tactics. It is merely to ascertain the sense of the House as to whether the yeas and nays are desired by those present, a bona fide demand being made where confusion has resulted in the demand for the yeas and nays.

The SPEAKER pro tempore. The House will be in order. Has the gentleman from Wisconsin concluded his argument?

Mr. STAFFORD. I have.

Mr. HICKS. Mr. Speaker, I disagree entirely with the gentleman as to the purpose of the demand. It is very clear the rule states that the call can be had only when one-fifth of those present demand it. Now, the vote by tellers will not disclose whether one-fifth voted or not, because many men may not go through between the tellers. Therefore that vote will

not disclose the total number who are sitting in this Hall. In my opinion the only question is for the Chair himself by actual count to find out how many men are here, and then whether one-fifth of those demand the yeas and nays.

The SPEAKER pro tempore. The Chair is ready to rule. In the judgment of the Chair a sufficient number not having arisen to support the demand for the yeas and nays vote, if a sufficient number arises in support of the demand for tellers, the Chair's count is subject to verification by the House, if he so desires, and the Chair overrules the point of order. As many as are in favor of seconding the demand for tellers on the question of ordering the yeas and nays will rise. The Chair will count all gentlemen standing. [After counting.] Sixty-seven gentlemen have risen, a sufficient number.

Tellers were ordered.

The SPEAKER pro tempore. The gentleman from Missouri [Mr. RHODES] and the gentleman from Wisconsin [Mr. STAFFORD] will take their places as tellers. Those in favor of ordering the yeas and nays on the vote on the passage of the bill will pass between the tellers and be counted.

Mr. WINGO. Mr. Speaker, a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. WINGO. Had the Chair announced on the viva voce vote that the "noes" appeared to have it, or that the "noes" had it?

The SPEAKER pro tempore. The Chair announced that the "noes" appeared to have it.

The House divided, and the tellers reported—ayes 95.

The SPEAKER pro tempore. The Chair would state that 95 gentlemen having passed between the tellers in favor of taking the yeas and nays, a sufficient number supporting the demand, it is not necessary for those opposed to pass between the tellers.

The yeas and nays were ordered.

The SPEAKER pro tempore. The question is on the passage of the Senate bill 843, to amend section 5 of the act approved March 2, 1919, entitled "An act to provide relief in cases of contracts connected with the prosecution of the war, and for other purposes. The yeas and nays being ordered, those in favor of the passage of the bill will, when their names are called, answer "yea"; those opposed will answer "nay."

The question was taken; and there were—yeas 177, nays 137, answered "present" 1, not voting 117, as follows:

## YEAS—177.

Ackerman	Dupré	Leatherwood	Riordan
Almon	Echols	Lee, Ga.	Robertson
Anderson	Ellis	Lehlbach	Rodenberg
Andrews, Nebr.	Favrot	Lineberger	Rosdale
Arentz	Fields	Little	Sandlin
Aswell	Fish	Logan	Scott, Tenn.
Atkeson	Fisher	Luhling	Shreve
Barbour	Focht	McArthur	Sinnott
Beedy	Fordney	McCormick	Sisson
Blakeney	French	McDuffie	Slemp
Bland, Va.	Fuller	McLaughlin, Nebr.	Smith, Idaho
Bowers	Garrett, Tenn.	McLaughlin, Pa.	Smithwick
Brennan	Gensman	McPherson	Stevens
Brinson	Glynn	Maloney	Stevenson
Britten	Goodykoontz.	Mapes	Strong, Kans.
Brooks, Ill.	Green, Iowa	Martin	Strong, Pa.
Brooks, Pa.	Griffin	Mead	Summers, Wash.
Brown, Tenn.	Hadley	Michener	Swank
Bulwinkle	Hammer	Miller	Swing
Burdick	Hardy, Colo.	Millsbaugh	Taylor, Ark.
Burtness	Harrison	Mondell	Taylor, Tenn.
Cable	Hawes	Montague	Temple
Cantrill	Hawley	Montoya	Ten Eyck
Carew	Hayden	Moore, Ill.	Tillman
Chandler, Okla.	Hersey	Moore, Ohio	Timberlake
Clague	Himes	Moore, Va.	Upshaw
Clark, Fla.	Hudspeth	Moore, Ind.	Valle
Clarke, N. Y.	Hull	Mudd	Vinson
Classon	Humphreys	Murphy	Ward, N. Y.
Codd	Jacoway	Newton, Minn.	Ward, N. C.
Cole, Iowa	Jeffers, Ala.	Newton, Mo.	Watson
Collier	Johnson, Wash.	O'Brien	Weaver
Colton	Jones, Pa.	O'Connor	Webster
Connell	King	Oldfield	Williamson
Cooper, Wis.	Kinkaid	Osborne	Wilson
Crago	Kirkpatrick	Overstreet	Wingo
Crisp	Kissel	Padgett	Wise
Curry	Kline, N. Y.	Parks, Ark.	Woods, Va.
Dallinger	Knutson	Pou	Wright
Darrow	Kunz	Pringley	Wyant
Deal	Lankford	Raker	Yates
Denison	Larsen, Ga.	Ransley	Zihlman
Dickinson	Larson, Minn.	Reece	
Driver	Lazaro	Rhodes	
Dunbar	Lea, Calif.	Riddick	

## NAYS—137.

Andrew, Mass.	Blanton	Campbell, Kans.	Coughlin
Anthony	Boies	Cannon	Cramton
Appleby	Bowling	Chalmers	Davis, Tenn.
Bankhead	Box	Chindblom	Dempsey
Barkley	Browne, Wis.	Christopherson	Dominick
Beck	Burroughs	Clouse	Dowell
Begg	Burton	Cole, Ohio	Drewry
Benham	Butler	Collins	Dunn
Bird	Byrnes, S. C.	Conna'ly, Tex.	Dyer
Black	Byrns, Tenn.	Cooper, Ohio	Elliott

Evans	Kelly, Pa.	Parker, N. Y.	Stafford
Foster	Kincheloe	Perkins	Steagall
Frear	Klecza	Quin	Steenerson
Frothingham	Kline, Pa.	Radcliffe	Summers, Tex.
Fullmer	Kraus	Ramseyer	Sweet
Gerner	Lampert	Rankin	Taylor, N. J.
Gilbert	Lanham	Rayburn	Thomas
Goldsborough	Lawrence	Reavis	Tompson
Graham, Ill.	Layton	Reber	Tinker
Greene, Mass.	Longworth	Reed, N. Y.	Tinkham
Greene, Vt.	Lowrey	Reed, W. Va.	Towner
Hardy, Tex.	McClintic	Ricketts	Underhill
Haugen	McFadden	Robison	Vestal
Hicks	McLaughlin, Mich.	Rogers	Volk
Hill	MacGregor	Rose	Walsh
Hogan	Magee	Rosenbloom	Wheeler
Houghton	Morgan	Rouse	White, Kans.
Huddleston	Nelson, A. P.	Sanders, Ind.	White, Me.
Hutchinson	Nelson, J. M.	Sanders, N. Y.	Williams
Ireland	Norton	Scott, Mich.	Winslow
James	Ogden	Shaw	Wood, Ind.
Jones, Tex.	Olpp	Siegel	Woodruff
Kearns	Paige	Sinclair	
Keller	Park, Ga.	Speaks	
Kelley, Mich.	Parker, N. J.	Sproul	

ANSWERED "PRESENT"—1.

Luce

NOT VOTING—117.

Ansorge	Flood	Kopp	Rucker
Bacharach	Free	Kreider	Ryan
Bell	Freeman	Langley	Sabath
Bixler	Funk	Lee, N. Y.	Sanders, Tex.
Bland, Ind.	Gahn	Linthicum	Schall
Bond	Gallivan	London	Sears
Brand	Garner	Lyon	Shelton
Briggs	Garrett, Tex.	McKenzie	Smith, Mich.
Buchanan	Gorman	McSwain	Snell
Burke	Gould	Madden	Snyder
Campbell, Pa.	Graham, Pa.	Mann	Stedman
Carter	Griest	Mansfield	Stiness
Chandler, N. Y.	Hays	Merritt	Stoll
Cockran	Herrick	Michaelson	Sullivan
Connolly, Pa.	Hickey	Mills	Tague
Copley	Hoch	Morin	Taylor, Colo.
Crowther	Hukriede	Mott	Tilson
Cullen	Husted	Nolan	Treadway
Dale	Jeffers, Nebr.	Oliver	Tyson
Davis, Minn.	Johnson, Ky.	Parrish	Vare
Doughton	Johnson, Miss.	Patterson, Mo.	Voigt
Drane	Johnson, S. Dak.	Patterson, N. J.	Volstead
Edmonds	Kahn	Perlman	Walters
Elston	Kendall	Peters	Wason
Fairchild	Kennedy	Petersen	Woodyard
Fairfield	Ketcham	Porter	Wurzbach
Faust	Kless	Purnell	Young
Fenn	Kindred	Rainey, Ala.	
Fess	Kitchin	Rainey, Ill.	
Fitzgerald	Knight	Roach	

So the bill was passed.

The following pairs were announced:

Mr. GRAHAM of Pennsylvania with Mr. FLOOD.  
 Mr. HUKRIEDE with Mr. SEARS.  
 Mr. FREE with Mr. SANDERS of Texas.  
 Mr. ROACH with Mr. RUCKER.  
 Mr. SNYDER with Mr. TAGUE.  
 Mr. DAVIS of Minnesota with Mr. BELL.  
 Mr. KENNEDY with Mr. TYSON.  
 Mr. TREAWAY with Mr. GARNER.  
 Mr. FAIRFIELD with Mr. CULLEN.  
 Mr. KRIEDER with Mr. STOLL.  
 Mr. EDMONDS with Mr. GALLIVAN.  
 Mr. SHELTON with Mr. BRIGGS.  
 Mr. MADDEN with Mr. KITCHIN.  
 Mr. FESS with Mr. GARRETT of Texas.  
 Mr. WALTERS with Mr. SULLIVAN.  
 Mr. KLESS with Mr. CAMPBELL of Pennsylvania.  
 Mr. FAUST with Mr. DOUGHTON.  
 Mr. GORMAN with Mr. MCSWAIN.  
 Mr. MORIN with Mr. LONDON.  
 Mr. PORTER with Mr. COCKRAN.  
 Mr. PATTERSON of Missouri with Mr. SARATH.  
 Mr. FAIRCHILD with Mr. JOHNSON of Mississippi.  
 Mr. VARE with Mr. TAYLOR of Colorado.  
 Mr. SNELL with Mr. BUCHANAN.  
 Mr. PATTERSON of New Jersey with Mr. DRANE.  
 Mr. NOLAN with Mr. LINTHICUM.  
 Mr. KENDALL with Mr. BRAND.  
 Mr. PERLMAN with Mr. MANSFIELD.  
 Mr. KAHN with Mr. PARRISH.  
 Mr. GRIEST with Mr. STEDMAN.  
 Mr. BACHARACH with Mr. CARTER.  
 Mr. FITZGERALD with Mr. LYON.  
 Mr. JOHNSON of South Dakota with Mr. OLIVER.  
 Mr. HAYS with Mr. RAINEY of Alabama.  
 Mr. GAHN with Mr. JOHNSON of Kentucky.  
 Mr. HICKEY with Mr. RAINEY of Illinois.  
 Mr. BRIGGS. Mr. Speaker—

The SPEAKER pro tempore. Was the gentleman in the Hall and listening when his name should have been called?

Mr. BRIGGS. I was not, but I wish to state that I would have voted "no" if I had been here.

The result of the vote was announced as above recorded.

On motion of Mr. RHODES, a motion to reconsider the vote whereby the bill was passed was laid on the table.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS FOR BALANCE OF DAY.

Mr. MONDELL. Mr. Speaker, I ask unanimous consent to dispense with business under the Calendar Wednesday rule for the balance of the day.

The SPEAKER pro tempore. The gentleman from Wyoming asks unanimous consent to dispense with business under the Calendar Wednesday rule for the balance of the day. Is there objection?

Mr. WOOD of Indiana. Reserving the right to object, I wish to ask if it is the purpose of taking up the reclassification bill if consent is given?

Mr. MONDELL. That would be the unfinished business.

Mr. WOOD of Indiana. Mr. Speaker, I will state that I have no intention or desire to retard the consideration of the reclassification bill. However, I wish to state that I have in mind a great many important amendments which I have prepared, and others that I have not had time to prepare but wish to prepare before consideration of the bill is again taken up under the five-minute rule, and under the circumstances I object.

Mr. MONDELL. Mr. Speaker, I move to dispense with the business under Calendar Wednesday rule for the balance of the day.

The SPEAKER pro tempore. The gentleman from Wyoming moves to dispense with the business under the Calendar Wednesday rule for the balance of the day.

The question was taken; and on a division (demanded by Mr. MONDELL) there were 107 ayes and 74 noes.

Mr. MONDELL. Mr. Speaker, I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 209, nays 84, answered "present" 3, not voting 136, as follows:

YEAS—209.

Ackerman	Evans	Little	Sanders, Ind.
Anderson	Fairchild	Longworth	Sanders, N. Y.
Andrew, Mass.	Faust	McArthur	Sandlin
Andrews, Nebr.	Favrot	McCormick	Scott, Mich.
Anthony	Fish	McFadden	Scott, Tenn.
Appleby	Focht	McLaughlin, Nebr.	Shaw
Arentz	Fordney	McLaughlin, Pa.	Shreve
Atkeson	Foster	McPherson	Siegel
Barbour	Frear	MacGregor	Sinclair
Beck	French	Magee	Sinnott
Beedy	Frothingham	Maloney	Smith, Idaho.
Begg	Fuller	Mapes	Smithwick
Bird	Funk	Michener	Speaks
Blakeney	Gensman	Miller	Sproul
Boies	Gerner	Mills	Steenerson
Bowers	Glynn	Mondell	Stephens
Brennan	Goodykoontz	Montoya	Stiness
Briggs	Green, Iowa	Moore, Ill.	Strong, Kans.
Britten	Greene, Mass.	Moore, Ohio	Strong, Pa.
Brooks, Ill.	Greene, Vt.	Moore, Va.	Summers, Wash.
Brooks, Pa.	Hadley	Morgan	Swank
Brown, Tenn.	Hardy, Colo.	Mudd	Sweet
Browne, Wis.	Harrison	Murphy	Swing
Burdick	Haugen	Nelson, A. P.	Taylor, N. J.
Burroughs	Hawley	Nelson, J. M.	Taylor, Tenn.
Burtess	Hill	Newton, Minn.	Temple
Burton	Himes	Newton, Mo.	Ten Eyck
Butler	Huddleston	O'Brien	Timberlake
Cable	Hudspeth	O'Connor	Tincher
Carew	Hull	Olpp	Tinkham
Chalmers	Hutchinson	Osborne	Towner
Chandler, Okla.	Ireland	Parker, N. J.	Underhill
Chindblom	Johnson, Wash.	Parker, N. Y.	Vaile
Christopherson	Keller	Patterson, Mo.	Vestal
Clague	Kelly, Pa.	Perkins	Volk
Clarke, N. Y.	King	Pringle	Volstead
Cole, Ohio	Kinkaid	Purnell	Ward, N. Y.
Colton	Kirkpatrick	Radcliffe	Watson
Connell	Kissel	Ramseyer	Webster
Cooper, Ohio	Knutson	Ransley	Wheeler
Cooper, Wis.	Kopp	Reavis	White, Kans.
Coughlin	Kraus	Reece	Williams
Crago	Lampert	Reed, N. Y.	Winslow
Cramton	Lankford	Reed, W. Va.	Woodruff
Curry	Larson, Minn.	Rhodes	Woodyard
Dallinger	Lawrence	Ricketts	Wurzbach
Darrow	Layton	Riordan	Wyant
Denison	Lazaro	Robertson	Yates
Dickinson	Lea, Calif.	Rosenberg	Zihlman
Dowell	Leatherwood	Rogers	
Dupré	Lehlbach	Rosenbloom	
Echols	Lineberger	Rossdale	
Elliot			

NAYS—84.

Almon	Black	Bowling	Bulwinkle
Aswell	Bland, Va.	Box	Byrnes, S. C.
Bankhead	Blanton	Brinson	Byrns, Tenn.



Cannon	Goldsborough	Logan	Sanders, Tex.
Cantrill	Graham, Ill.	Lowrey	Sisson
Clouse	Hammer	Lubbing	Stafford
Connally, Tex.	Hardy, Tex.	McClintic	Stearns
Crisp	Hayden	McDuffie	Stevenson
Davis, Tenn.	Bumphreys	McLaughlin, Mich.	Taylor, Ark.
Deal	Jacoway	Mead	Thomas
Dominick	James	Montague	Thompson
Drewry	Jeffers, Ala.	Oldfield	Tillman
Driver	Johnson, Miss.	Padgett	Upshaw
Dunbar	Jones, Pa.	Park, Ga.	Vinson
Dunn	Jones, Tex.	Parks, Ark.	Ward, N. C.
Ellis	Kearns	Pou	Weaver
Fields	Kilne, Pa.	Quin	Wilson
Fulmer	Kunz	Raker	Wingo
Garner	Lanham	Rankin	Wood, Ind.
Garrett, Tenn.	Larsen, Ga.	Rose	Woods, Va.
Gilbert	Lee, Ga.	Rouse	Wright

ANSWERED "PRESENT"—3.

Overstreet

Treadway

NOT VOTING—136.

Ansorge	Fairfield	Ketcham	Petersen
Bacharach	Fenn	Kless	Porter
Barkley	Fess	Kincheloe	Rainey, Ala.
Bell	Fisher	Kindred	Rainey, Ill.
Benham	Fitzgerald	Kitchin	Rayburn
Bixler	Flood	Kline, N. Y.	Reber
Bland, Ind.	Free	Knight	Riddick
Bond	Freeman	Kreider	Roach
Braud	Gahn	Langley	Robison
Buchanan	Gallivan	Lee, N. Y.	Rucker
Burke	Garrett, Tex.	Linthicum	Ryan
Campbell, Kans.	Gorman	London	Sabath
Campbell, Pa.	Gould	Luce	Schall
Carter	Graham, Pa.	Lyon	Sears
Chandler, N. Y.	Griest	McKenzie	Shelton
Clark, Fla.	Griffin	McSwain	Slemp
Classon	Hawes	Madden	Smith, Mich.
Cockran	Hays	Mann	Snell
Codd	Herrick	Mansfield	Snyder
Cole, Iowa	Hersey	Martin	Stedman
Collier	Hickey	Merritt	Stoll
Collins	Hicks	Michaelson	Sullivan
Connolly, Pa.	Hoch	Mills	Summers, Tex.
Copley	Hogan	Morin	Tague
Crowther	Houghton	Mott	Taylor, Colo.
Cullen	Hukriede	Nolan	Tilson
Dale	Husted	Norton	Tyson
Davis, Minn.	Jefferis, Nebr.	Ogden	Vare
Demsey	Johnson, Ky.	Oliver	Voigt
Doughton	Johnson, S. Dak.	Paige	Walters
Drane	Kahn	Parrish	Wason
Dyer	Kelley, Mich.	Patterson, N. J.	White, Me.
Edmonds	Kendall	Perlman	Wise
Elston	Kennedy	Peters	Young

So, two-thirds having voted in favor thereof, the motion was agreed to.

The Clerk announced the following additional pairs:

Until further notice:

Mr. TREADWAY with Mr. COLLIER.

Mr. LANGLEY with Mr. CLARK of Florida.

Mr. TILSON with Mr. SUMNERS of Texas.

Mr. REBER with Mr. HAWES.

Mr. LUCE with Mr. FISHER.

Mr. FREE with Mr. KINCHELOE.

Mr. HICKS with Mr. RAYBURN.

Mr. SHELTON with Mr. MARTIN.

Mr. PAIGE with Mr. SABATH.

Mr. WHITE of Maine with Mr. GRIFFIN.

Mr. CONNOLLY of Pennsylvania with Mr. DOUGHTON.

Mr. DYER with Mr. BARKLEY.

Mr. BIXLER with Mr. WISE.

Mr. ANSORGE with Mr. COLLINS.

Mr. PAIGE. Mr. Speaker, I desire to vote.

The SPEAKER pro tempore. Was the gentleman present, listening, when his name was called?

Mr. PAIGE. I was not.

The SPEAKER pro tempore. The gentleman does not bring himself within the rule.

Mr. NEWTON of Minnesota. Mr. Speaker, I desire to vote. I was called out just before my name was called—

The SPEAKER pro tempore. The gentleman does not bring himself within the rule.

Mr. TREADWAY. Mr. Speaker, I have a pair with the gentleman from Mississippi [Mr. COLLIER]. I wish to know whether he is recorded.

The SPEAKER pro tempore. He is not.

Mr. TREADWAY. Then I desire to withdraw my vote of "yea" and answer "present."

The name of Mr. TREADWAY was called and he answered present.

Mr. COLLIER. Mr. Speaker, I desire to vote.

The SPEAKER pro tempore. Was the gentleman present, listening, when his name was called?

Mr. COLLIER. I was not.

The SPEAKER pro tempore. The gentleman does not bring himself within the rule.

The result of the vote was announced as above recorded.

## CLASSIFICATION OF CIVILIAN GOVERNMENT POSITIONS.

Mr. LEHLBACH. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill (H. R. 8928) to provide for the classification of civilian positions within the District of Columbia and in the field services.

The motion was agreed to.

Accordingly the House resolved itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill H. R. 8928, with Mr. SANDERS of Indiana in the chair.

The Clerk reported the title of the bill.

Mr. WOOD of Indiana. Mr. Chairman, I offer the following amendment. I move to strike out all after the enacting clause and insert the following, which I send to the desk.

The CHAIRMAN. The gentleman from Indiana offers an amendment, which the Clerk will report.

The Clerk read as follows:

Mr. WOOD of Indiana moves to strike out all after the enacting clause and insert in lieu thereof the following:

"That this act may be cited as 'the classification act of 1922.'"

"Sec. 2. That the term 'compensation schedules' means the schedules of employments, grades, and salaries as contained in section 9 of this act."

"The term 'department' means an executive department of the United States Government, a governmental establishment in the executive branch of the United States Government which is not a part of an executive department, the municipal government of the District of Columbia, the Botanic Garden, Library of Congress, Library buildings and grounds, and the Smithsonian Institution."

Mr. LEHLBACH (interrupting the reading). Mr. Chairman,

I rise to a point of order.

The CHAIRMAN. The gentleman will state it.

Mr. LEHLBACH. This is an amendment to strike out all of the sections of the bill and to insert other matter. The only section of the bill which has been read is section 1. The rule of the House is that opportunity to perfect succeeding sections must be first accorded before a motion to strike out may be entertained. For that reason I make the point of order that the amendment of the gentleman is not in order at the present time.

Mr. WOOD of Indiana. Mr. Chairman, the motion to strike out is comprised in some degree and in very large proportion of the present bill, and I offer it at this time for the purpose of expediting this business. I think the gentleman from New Jersey will agree that if we are to have a proper consideration of this matter, the scheme should be considered as a whole and not by piecemeal. I think that some of the changes which I suggest in the motion the gentleman from New Jersey would agree to, or at least that the House would. If so, if these amendments are agreed to, the other clauses being inconsistent therewith, that would make the bill in its present form not a desirable one to vote for. I have attempted in this motion to strike out and to insert in order to make a concrete whole and to make the bill what it ought to be, in my opinion. In doing so I submit that the motion is in perfect order. Suppose, instead of using the printed bill that is before the House for consideration and those sections which I think are germane, I had written an entirely new bill, it would be just simply a matter of manual labor. This is simply the difference of using the bill which we now have, and changing it, taking the matter already printed. For the purpose of expediting business and for the purpose of elucidation so that Members may know what they are considering, I think it best to adopt the scheme which I have outlined, and I submit that it is in order.

Mr. DOWELL. Mr. Chairman, I make the further point of order that the motion of the gentleman from Indiana is to strike out all of the sections of the bill. Only one section has been read, and that section is now under consideration. The others can not be dealt with until we reach them by reading them.

The CHAIRMAN. The gentleman from Indiana has offered an amendment to strike out all of the bill after the enacting clause and substitute an entirely new bill. The first section of the bill has been read. It is clear under the precedent that the gentleman can not offer a motion to strike out all of the sections, when only the first section has been read.

Mr. WOOD of Indiana. Then I understand the Chair to sustain the point of order?

The CHAIRMAN. The Chair sustains the point of order.

Mr. WOOD of Indiana. Then I move to strike out the section that has just been read and insert in lieu thereof the matter which I have sent to the Clerk's desk, and I give notice now that if my amendment be agreed to I shall at the proper time move to strike out the sections which are inconsistent with it.

The CHAIRMAN. The gentleman from Indiana offers an amendment, which the Clerk will report.

The Clerk read as follows:

Mr. Wood of Indiana moves to strike out section 1 of the bill and insert in lieu thereof the following:

"That this act may be cited as 'the classification act of 1922.'"

"Sec. 2. That the term 'compensation schedules' means the schedules of employments, grades, and salaries, as contained in section 9 of this act—"

Mr. LEHLBACH (interrupting the reading). Mr. Chairman, I understand that section 2 of this bill has not been read.

The CHAIRMAN. The Clerk is now reading the amendment.

Mr. LEHLBACH. But section 2 of the bill itself has not been read.

The CHAIRMAN. The gentleman from Indiana offers an amendment to the first section to strike out the section and substitute the entire bill which he has sent to the desk, giving notice that he will subsequently offer motions to strike out the subsequent paragraphs when read. The Clerk is now reading the amendment offered, which would be an entire substitute.

Mr. LEHLBACH. Do I understand that the amendment now offered by the gentleman from Indiana is to strike out section 1 of the bill and substitute the entire bill that he is offering?

The CHAIRMAN. With notice given in the event the amendment is carried that he will thereafter offer motions to strike out subsequent paragraphs of the pending bill.

Mr. LEHLBACH. Then, Mr. Chairman, I make the point of order, enough having been read, that the amendment pending is not germane to the section of the bill which it purports to amend.

The CHAIRMAN. The Chair is of opinion that the Clerk has not read enough of the amendment for a basis to formulate an opinion.

Mr. LEHLBACH. If the Chair pleases, section 1 of the bill which has been read is this:

That this act may be cited as "the classification act of 1922."

The various amendments now being read in the amendment are a series of definitions to be used in the act, which clearly are not germane to the section under consideration.

Mr. DOWELL. Mr. Chairman, the evident intention is to delay by the offering of these amendments. As I understand it, it is an amendment to each section of this bill, requiring the reading of the entire bill by the Clerk before consideration of the first section. It is merely delay. If the gentleman is desirous of saving time, as he stated in his first proposition, he will not require the reading of this entire bill, because he can offer his objections and amendments to each section as they are read. I question the gentleman when he stated to the committee that he was trying to save time by now seeking to have the Clerk read the entire bill in the amendment he is offering, and I raise the further objection and make the point of order that the amendment is for the purpose of delay.

The CHAIRMAN. There has not been sufficient of the amendment read to determine whether or not it is germane. Since it is a substitute for the entire pending bill, the fact that there are some definitions in the first paragraph the Chair does not think is sufficient to indicate it is not germane. However, when the Clerk has read into the bill sufficiently to form a basis for his point of order the Chair will be glad to hear the gentleman further.

Mr. LEHLBACH. If the Chair will indulge me for a moment, I understood the Chair to say that the purpose of this reading is to see whether the amendment is germane to the bill, it being in the nature of a substitute bill. My point of order is that the amendment is not germane to section 1 of the bill under consideration, which merely establishes a short title for the act, and the amendment now pending must be not only germane to the whole bill but must be germane to the paragraph to which it is offered.

The CHAIRMAN. An amendment which consists entirely of a new bill is not judged by the ordinary rule in reference to germaneness to the particular section; but the Chair will reserve a ruling on the point of order until the amendment is read further.

Mr. DOWELL. Just a moment, please. This is offered as an amendment to the first section. There is no consideration of any other section of the bill whatever. It is an amendment to the first section, and it must be germane to the identical section or it is not in order at this time, even if it is in order later to some other section of the bill. The first section is under consideration, and it is the only one on which to determine its germaneness.

Mr. TOWNER. Mr. Chairman, this is not a new proposition. It has been before the House a great many times. There is no other way under the rule of arranging a substitute motion than the one properly used by the gentleman from Indiana. If gen-

tleman will turn to page 340 of the Rules and Digest, they will find this reference:

An amendment germane to a bill as a whole, but hardly germane to any one section, may be offered at a proper place with notice of motion to strike out the following sections which they supersede.

That is, of course, directly in point to this case. The question as to whether or not the amendment of the gentleman from Indiana is germane to the question as a whole can not be determined, as the Chair very well suggests, until after the whole amendment is read for consideration. That it is not germane particularly to the first paragraph would not be a sufficient reason for excluding it from consideration if it is germane to the bill as a whole. If it is offered as a substitute for the first section with notice that subsequent sections, if the amendment is adopted, will be stricken out, then it is within the rules of procedure of the House.

The CHAIRMAN. The gentleman from Iowa has well stated the rule, and the Chair will reserve a ruling in reference to germaneness until sufficient of the amendment has been read to determine. The Clerk will read.

The Clerk read as follows:

The term "department" means an executive department of the United States Government, a governmental establishment in the executive branch of the United States Government which is not a part of an executive department, the municipal government of the District of Columbia, the Botanic Garden, Library of Congress, Library Buildings and Grounds, and the Smithsonian Institution.

The term "the head of the department" means the officer or group of officers in the department which is not subordinate or responsible to any other officer of the department.

The term "position" means a specific civilian office or employment, whether occupied or vacant, in a department other than offices or employments in the Postal Service and teachers under the board of education of the District of Columbia.

The term "employee" means any person temporarily or permanently in a position.

The term "compensation" means any salary, wage, fee, allowance, or other emolument paid to an employee for service in a position.

SEC. 3. That the compensation schedules shall apply only to civilian employees in the departments within the District of Columbia, and shall not apply to employees in positions the duties of which are to perform or assist in apprentice, helper, or journeyman work in a recognized trade or craft and skilled and semiskilled laborers, except such as are under the direction and control of the custodian of a public building: *Provided*, That the President may, by Executive order, extend the application of this act to all persons employed in the field services.

The head of each department shall, under such rules and regulations as the President may prescribe, allocate all positions in his department in the District of Columbia to their appropriate grades in the compensation schedules and fix the rate of compensation of each employee thereunder. If the compensation schedules contain no specifications exactly defining the work of a particular position to be allocated, the head of the department shall allocate such position to the grade which in his judgment contains the specification of work most nearly comparable to that pertaining to such position, giving due regard to the mental and physical requirements of the position and to the preparation and training necessary therefor. From and after the effective date of this act no employee shall be paid a salary exceeding the maximum rate or less than the minimum rate prescribed for the grade to which his position is allocated: *Provided*, That during the probational employment of a new appointee, or during the first six months' service of any employee on new work, the head of a department may, in his discretion, fix the salary of such appointee or employee in the next grade below that to which his position is allocated.

SEC. 4. That the President shall promulgate suitable rules and regulations for carrying this act into effect, and he is authorized to supplement the compensation schedules from time to time as may be necessary, to the end that they shall be current and readily applicable to all positions covered by this act and to the further end that all rates of compensation shall be fixed upon the basis of equal pay for like or similar services and of just and reasonable compensation for all employments: *Provided*, That this shall not be construed to authorize the President to increase or to decrease the number of grades specified in the compensation schedules, or to alter or modify the salaries or the salary ranges pertaining thereto.

SEC. 5. That the rates of compensation of all employees to whom the compensation schedules are made inapplicable by section 3 hereof shall be fixed and readjusted from time to time by Executive order.

SEC. 6. That, subject to such rules and regulations as the President may from time to time prescribe, an employee may be transferred from a position in one grade to a vacant position within the same grade at the same rate of compensation, or promoted to a vacant position in a higher grade at a higher rate of compensation, any provision of law to the contrary notwithstanding: *Provided*, That nothing herein shall be construed to authorize or permit the transfer of an employee of the United States to a position under the municipal government of the District of Columbia, or an employee of the municipal government of the District of Columbia to a position under the United States.

SEC. 7. That nothing contained in this act shall be construed to make permanent any temporary appointments under existing law.

SEC. 8. That the Bureau of Efficiency shall aid the President, as he may request, in the preparation of amendments and supplements to the compensation schedules, in preparing the rules and regulations for carrying this act into effect and in the enforcement of such rules and regulations. Said Bureau of Efficiency shall investigate and report to the President upon all matters touching the enforcement and effects of such rules and regulations, and it shall publish from time to time, as the President may determine, and with his approval such precedents, rulings, and statements as may be necessary to the preservation of uniformity and equality of pay among employees of different departments and services. It shall make annually a report to the President, for transmission to Congress, setting forth all action taken, the rules and regulations and exceptions thereto in force, and the practical effects thereof, and making recommendations for the more effectual accomplishment of the purposes of this act.



Sec. 9. That the compensation schedules be as follows:

Sec. 10. That the head of each department is authorized to expend during the fiscal year ending June 30, 1923, from any money appropriated for personal services in such department, such sums as may be required to pay the rates of compensation fixed in accordance with this act; and the President shall from time to time submit to Congress estimates of such additional amounts as may be necessary during the fiscal year ending June 30, 1923, for this purpose: *Provided*, That nothing in this act shall be construed to affect the limitations placed by existing law upon the total number of persons to be employed in any department or in any branch thereof.

Sec. 11. That this act shall take effect on July 1, 1922.

Mr. WOOD of Indiana. Mr. Chairman, I would like to ask the gentleman if we can not agree on some time for a discussion of this, not to interfere with the 5-minute rule.

The CHAIRMAN. The Chair did not hear the gentleman.

Mr. WOOD of Indiana. I think the committee would be interested in knowing the changes that have been made by this proposal, and I think it well it should be presented now and it can not be in five minutes, and I desire to see if we can not agree upon some time for discussion.

Mr. LEHLBACH. Has the full amendment been read?

Mr. WOOD of Indiana. Yes.

Mr. LEHLBACH. Of course it is impossible to follow the reading, absorb it, and understand every provision and the full import of every word in it. Of course the gentleman is entitled and will be accorded all the time he wishes to discuss his amendment, but the proposition is a new bill, not a soul has read it or seen it, there are no copies present that would be conducive to discussion on the other side, so we will let the discussion run along.

Mr. DOWELL. Mr. Chairman, I shall object to any time being used except the time allotted under the rule. This is entirely a new bill, as was stated by the chairman. No one has had any opportunity to investigate it, and if the gentleman desires he has an opportunity to present an amendment to each section of the bill as read.

Mr. BYRNS of Tennessee. Does not the gentleman think that the very reason he gives is a good reason for giving the gentleman from Indiana a fair and reasonable time to let the House know what is in his amendment?

Mr. DOWELL. He will have the opportunity to present his amendments to the sections when the sections are read.

Mr. BYRNS of Tennessee. That can not be done.

Mr. DOWELL. It can certainly be done. It can not be done in the other way, I will say to the gentleman, because I intend to object.

Mr. LEHLBACH. Mr. Chairman, I reserve all points of order to the bill offered as a substitute in the shape of amendment.

Mr. BEGG. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. BEGG. Suppose that this substitute bill, as I understand it, were adopted, then there would be no way whereby an amendment to this bill could be acted upon, would there?

The CHAIRMAN. The substitute bill?

Mr. BEGG. Yes.

The CHAIRMAN. Pending the adoption or rejection of this proposed amendment by way of substitute, of course an amendment may be offered as a substitute.

Mr. BEGG. An amendment may be offered as a substitute?

The CHAIRMAN. An amendment may be offered as a substitute in the ordinary way that substitutes are offered to an amendment. If the amendment were adopted—

Mr. BEGG. I appreciate that this question I am about to ask is not strictly a parliamentary one, yet it does have some phases of such a question. How are we to be in a position to offer an amendment when we have not the bill and can not get a copy of it?

The CHAIRMAN. Well, the rules of the House permit any amendment to be offered that is germane. That there are some difficulties in knowing the nature of an amendment does not change the rules.

Mr. BYRNS of Tennessee. I do not think anybody ought to have any disposition to railroad either one of these bills through the House. I take it that there are the fewest number of men who understand the provisions in either one of the bills. The gentleman from Indiana [Mr. Wood] has a bill which he has thought out and presented, and this is the only opportunity to present it, and I think the Members of the House ought to be willing to give him a reasonable time to present the features and provisions of his bill to the House. Therefore, Mr. Chairman, I ask unanimous consent that the gentleman from Indiana may have 30 minutes in which to explain his bill.

The CHAIRMAN. The gentleman from Tennessee asks unanimous consent that the gentleman from Indiana may have 30 minutes in which to explain his bill. Is there objection?

Mr. DOWELL. Mr. Chairman, I object.

The CHAIRMAN. The gentleman from Indiana [Mr. Wood] is recognized for five minutes.

Mr. WOOD of Indiana. Mr. Chairman and gentlemen of the committee, I regret exceedingly that any gentleman would have a desire to attempt to keep the greatest possible amount of information from this House with reference to this measure, which to my mind is the most important measure with which we will have to deal, during the present session at least.

Mr. DOWELL. Will the gentleman yield?

Mr. WOOD of Indiana. I yield.

Mr. DOWELL. Can not the gentleman offer his amendment to any section or strike out a section that is read in the ordinary way?

Mr. WOOD of Indiana. You can not do it, I will say to the gentleman, because of the fact that we would have a conglomeration that nobody would understand, and if I could have the time to present the subject in a concrete way, then you would understand the single amendments at the time they were offered. I will try to explain, hamstrung as I am by being compelled to offer these separate amendments, when the time comes, but the gentleman ought to be at least interested in having information on this subject himself, and I would attempt to give it to him had I the opportunity.

Mr. LEHLBACH. Mr. Chairman, it was impossible for me to follow the reading by the clerk, and my attention was distracted from time to time. If I am taking the time of the gentleman from Indiana, I will do my best to secure him ample time. I would like to know whether his bill, which he is substituting for the bill under consideration, contains a compensation schedule?

Mr. WOOD of Indiana. Yes. I will say to the gentleman this: I am not substituting my bill and have not attempted to substitute it, except for a very few provisions of it. It is a misfortune that this proposal of mine is not placed in form so that you can consider it. That is the reason I thought that I could explain it in a short time. The fact is that three-fourths of the matter read by the clerk in this proposal is the Lehlbach bill. I have taken that bill and have prepared an amendment which I think will very materially improve the measure, and it is in accord, as I think, with the spirit of economy that we are, professedly, at least, interested in. If this proposal of mine were adopted, this bill would be so simplified that a way-faring man could understand it, and it will not take an expert to do it. It is simplified so as to be entirely understandable. If you will look at the pages as I turn them over, you will see that all of page 9, all of pages 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26 are stricken out.

Mr. LEHLBACH. Will the gentleman yield? There is no use enumerating the number of pages. The classification in the bill under consideration has been stricken out. As a substitute therefor, does the gentleman's bill provide that the classification shall be made, substantially, by the Bureau of Efficiency?

Mr. WOOD of Indiana. It does.

Mr. LEHLBACH. At the proper time, under my reservation, I shall make the point of order that that is not germane, because in the bill under consideration Congress classifies the services. Under the bill here it delegates it to an irresponsible agency.

Mr. WOOD of Indiana. Well, I do not know whether I fully understand what the gentleman said, but if he will take and read he will see that it strikes out the descriptions of the grades and jobs in this bill, and it also provides for the schedules and the manner in which the same shall be created.

I desire to call the attention of the gentleman to this proposition. It is the amendment offered on page 3, and is a substitute practically for section 4 of the original bill:

If the compensation schedules contain no specifications exactly defining the particular positions to be allocated, the head of the department allocating—

The CHAIRMAN. The time of the gentleman from Indiana has expired.

Mr. LEHLBACH. Mr. Chairman, I ask unanimous consent that the time of the gentleman from Indiana be extended 10 minutes.

The CHAIRMAN. The gentleman from New Jersey asks unanimous consent that the time of the gentleman from Indiana be extended 10 minutes. Is there objection?

Mr. DOWELL. Mr. Chairman, the gentleman having opportunity to present his amendments at the proper time, I object.

The CHAIRMAN. The gentleman from Iowa objects.

Mr. GARRETT of Tennessee. Mr. Chairman, I move to strike out the last word.

The CHAIRMAN. The gentleman from Tennessee moves to strike out the last word.

Mr. GARRETT of Tennessee. Mr. Chairman, in my experience in this House I have never known an occasion when a Member was prevented from proceeding who was in good faith offering an amendment in the way that the gentleman from Indiana [Mr. Wood] has just offered his amendment, namely, as I understand it, after the first section was read, offering to strike out and submitting a substitute and giving notice that a further substitute would be offered later on, and where he has confined himself to the amendment and was acting in good faith. I say this is the first time in my experience where a gentleman, under those circumstances, has been prevented from doing that. It is not the attitude of the gentleman that has caused that. Progress can not be made that way. I presume that the gentleman is a friend of the amendment that is pending. I make the point of order that there is no quorum present.

The CHAIRMAN. The gentleman from Tennessee makes the point of order that there is no quorum present. The Chair will count. [After counting.] One hundred and four Members are present—a quorum.

Mr. LEHLBACH rose.

The CHAIRMAN. For what purpose does the gentleman from New Jersey rise?

Mr. LEHLBACH. To oppose the amendment.

The CHAIRMAN. The gentleman from New Jersey is recognized for five minutes.

Mr. LEHLBACH. Mr. Chairman and gentlemen of the committee, the proposition before us, that has been offered by way of amendment to the first paragraph of this bill, is an entirely new classification bill, with entirely different methods of classification, a different plan underlying, in the first place, the way in which the classification shall be made, by whom it shall be made, and the application of the salary ranges. It contains undoubtedly modifications of salary ranges to be paid for the positions requiring a certain character of work and qualification. I may say that if these changes in the bill that have been read, that we are asked to vote on, "sight unseen," are to prevail and are like the bill introduced by the gentleman from Indiana [Mr. Wood] earlier in this session, they would mean, in many instances, drastic increases in salary over those provided for in the bill now under consideration, which was reported by the committee.

Furthermore, as near as I can tell, the amendment provides that the classifying and grading of the personnel of the civil service of this Government shall not be done in the bill itself, as provided for in the original bill by Congress, and subject to be modified by Congress and controlled by Congress, but is to be made by the Bureau of Efficiency, without any opportunity for review, modification, or control by Congress. I do not know what other provisions are in the amendment; I do not know, excepting the broad distinctions between the bill and the amendment. I do not know what sweeping powers are conferred upon a bureau of the Government, which without reading and without knowing what we are doing we are supposed to shear ourselves of.

Mr. BYRNS of Tennessee. Mr. Chairman, will the gentleman yield?

Mr. LEHLBACH. Yes.

Mr. BYRNS of Tennessee. How are we to know unless the gentleman from Indiana [Mr. Wood] shall be given opportunity to explain his bill?

Mr. LEHLBACH. I am not objecting personally to his doing that, and I have asked unanimous consent that 10 minutes more time be given him, and I have been ready to ask for more time to be given him later.

But when I was interrupted by the gentleman from Tennessee [Mr. Byrns] I was going to make this proposition: Let this amendment be considered pending; let it be printed. We shall not finish this bill this afternoon. Let this amendment be considered pending, and let it be considered germane to whatever section of the bill may be under consideration when the bill again comes up. Let it be considered pending, so that we can act upon it intelligently and compare the fundamental principles of classification, the comparative schedules of salaries, the method of making the classification and reviewing and revising allocations under the classification, so that we may compare them and study them and know what they are, and know to what extent we are surrendering the power of Congress to control the pay rolls of the Government. Let that be done. The amendment will be germane, under the ruling of the Chair, to any section of this bill. When it is printed and when we have had it in our hands and know what it contains, then we can intelligently consider whether it ought to be considered as a substitute for this bill or not.

Mr. ANDREWS of Nebraska. Mr. Chairman, will the gentleman yield?

Mr. LEHLBACH. I yield to the gentleman.

Mr. ANDREWS of Nebraska. From what source would the Bureau of Efficiency secure reliable information upon which to make the classification?

Mr. LEHLBACH. I am not discussing the merits of giving this function to the Bureau of Efficiency, and I do not want to be diverted from the proposition that I am now making to the gentleman from Indiana [Mr. Wood], namely, to let this amendment be considered pending; let it be considered germane to whatever section of the bill is under consideration when we take the bill up again after to-day; let it be printed; and let us have it before us. The legislative proposition, the parliamentary proposition is this: Should this amendment be adopted, under parliamentary law no section of it, no provision of it, is subject to further amendment by this committee.

Mr. WOOD of Indiana. Mr. Chairman, will the gentleman yield?

Mr. LEHLBACH. We would have to rise and report a bill that we have not read, with which the chairman of the committee having charge of the legislation can not be furnished a copy, without any amendment whatever, without any further revision, and without any opportunity to amend.

Mr. WOOD of Indiana. I wish to assure the gentleman that I have no purpose other than the purpose of good legislation here, and I do not want to stop the consideration of this measure.

The CHAIRMAN. The time of the gentleman from New Jersey has expired.

Mr. STAFFORD. Mr. Chairman, I ask unanimous consent that the time of the gentleman from New Jersey be extended five minutes.

Mr. DOWELL. I object.

Mr. STAFFORD. Mr. Chairman, I move to strike out the last word.

The CHAIRMAN. The gentleman from Wisconsin is recognized for five minutes.

Mr. STAFFORD. I yield, Mr. Chairman, to the gentleman from New Jersey to answer the question of the gentleman from Indiana.

Mr. DOWELL. Mr. Chairman, I make the point of order that the gentleman from Wisconsin, who has obtained the floor under a pro forma amendment, can not yield any part of his time.

The CHAIRMAN. A Member obtaining time under the five-minute rule can not yield time.

Mr. LEHLBACH. Will the gentleman from Wisconsin yield for a question?

Mr. STAFFORD. I want to say that I have not yielded time to the gentleman from New Jersey only to answer a question which was propounded by the gentleman from Indiana. I am within my rights, and I do not need to be instructed by the gentleman from Iowa.

Mr. LEHLBACH. Will the gentleman yield?

Mr. STAFFORD. I yield to the gentleman from New Jersey.

Mr. LEHLBACH. I want to ask the gentleman from Wisconsin the same question that I asked the gentleman from Indiana. Suppose he does take all the time that he wants and from his viewpoint describes in general terms what the substitute bill does. We have not the bill before us, we do not know what language it is couched in, we do not know whether the clauses and phrases will have the effect which he thinks they have, and why should we be asked to consider and adopt a bill as a whole which after adoption will not be subject to amendment?

Mr. WOOD of Indiana. Will the gentleman yield?

Mr. STAFFORD. Yes.

Mr. WOOD of Indiana. I think the gentleman will get along with me all right. I do not want to take up the time, but I do want Members to understand the measure, and in order that they may understand it I have introduced the whole amendment at this time because it is a complete proposition. I think it will conserve the best interests of this body and save time if this matter could be printed and copies furnished each Member so that he could have it to-morrow. I am willing to agree to any proposition to expedite the business. But here is a thing I do not want to agree to: Suppose we go on and consider this measure under the five-minute rule, read section by section, and each section open to some amendment. Amendments might be made which would be entirely inconsistent with the proposition I have made.

Mr. DOWELL. Mr. Chairman, I make a point of order that the gentleman from Indiana is not discussing the motion.

Mr. WOOD of Indiana. Mr. Chairman, I ask unanimous consent—

The CHAIRMAN. The gentleman from Wisconsin has the floor.

Mr. STAFFORD. I yield for the purpose.



Mr. WOOD of Indiana. I ask unanimous consent that the amendment I have read be printed as a separate document for the use of Members, to be at their disposal to-morrow morning.

The CHAIRMAN. The gentleman from Indiana asks unanimous consent that the amendment be printed as a separate document.

Mr. RAYBURN. Reserving the right to object, we do not know what is in the motion of the gentleman from Indiana, and since some of us think that in all probability it will make the bill better, because it makes it shorter, why not lay aside the discussion of this bill until that is done?

Mr. WOOD of Indiana. I think that would be the best thing to do.

Mr. RAYBURN. It is offered to the first section, but before we vote for it or any other amendment we ought to have the matter offered as a substitute before us. It would save a great deal of time, because the discussion that goes on this afternoon would be of no purpose.

Mr. STAFFORD. Mr. Chairman, in response to the inquiry I will state that I just overheard a colloquy between the gentleman from New Jersey and the gentleman from Indiana, and the gentleman from New Jersey states that it is his desire that we go on with the consideration of the original bill under the five-minute rule. How long would the gentleman suggest that we continue the consideration of the bill to-day?

Mr. LEHLBACH. We would then consider the amendment as in order.

Mr. STAFFORD. How long would the gentleman want to go on this afternoon?

Mr. LEHLBACH. For the usual time.

Mr. DOWELL. Reserving the right to object, does the gentleman from Indiana desire to withdraw his amendment from consideration at this time?

Mr. WOOD of Indiana. No; I want to have it pending.

Mr. DOWELL. And the unanimous-consent request is that it be passed and not considered at this time.

Mr. LEHLBACH. The proposition is to have the amendment printed and pending.

Mr. CLARKE of New York. Mr. Chairman, is it in order to make a motion that the committee do now rise?

The CHAIRMAN. The gentleman from Wisconsin has the floor. It would be if he should yield for that purpose.

Mr. STAFFORD. I do not wish to be presumptuous, but I will yield to the gentleman from New Jersey to make a unanimous-consent request along the line that he has stated.

Mr. LEHLBACH. Mr. Chairman, I ask unanimous consent that the amendment offered by the gentleman from Indiana may be considered as pending; that it shall be in order when the committee again takes up the consideration of the bill (H. R. 8928), no matter at what stage of the bill, and with the understanding that when we meet in the House unanimous consent will be asked to have the amendment printed for the use of Members; that in the meantime the committee proceed with the consideration of the bill section by section.

The CHAIRMAN. The gentleman from New Jersey asks unanimous consent that the amendment offered by the gentleman from Indiana be considered as pending and in order at any point during the consideration of the bill by the Committee of the Whole House on the state of the Union. Is there objection?

Mr. DOWELL. That would be subject to points of order.

Mr. BEGG. Mr. Chairman, I make the point of order that such a request can not lie. If we pass any section of this bill and amend it, the only way that section can be returned to or changed is by unanimous consent. The unanimous consent request did not include that. It is to hold in order an amendment offered by the gentleman from Indiana at any point in the bill.

Mr. DOWELL. That is not the question.

Mr. BEGG. Suppose that every section in the bill except the last has been disposed of and then you come along to the last section and take the amendment that remodels and amends the whole bill already passed upon. I make the point of order that such a request can not be made.

Mr. STAFFORD. Mr. Chairman, I wish to be heard upon the point of order. I believe the precedents will bear me out that it is within the privilege of a Member at any time after the first section has been read, or after all of the sections of the bill pending for consideration in the Committee of the Whole have been read, to offer a substitute. I was out of the Chamber at luncheon when the discussion took place in respect to this matter previously, and I am not apprised of what occurred at that time. The gentleman from Indiana, as I understand, as soon as the first section was read, offered his bill as a substitute, giving notice that when the other sections had been read

he would move to strike them out. I think that practice is supported by good parliamentary procedure. He could have waited until the entire bill had been considered by sections and then offered his amendment as an entirely new proposal, as a substitute.

What is the unanimous-consent agreement which the gentleman from Ohio says is not in order? It is that we proceed with the consideration of this bill. Suppose we have considered two or three sections, and that then the gentleman from Indiana rises and moves to strike out all of the sections that have been submitted and offers his substitute, giving notice at that time that when the other sections are read he will move to strike those out, and in that way test the sentiment of the committee. I think he would be within his rights to do that. I do not think there is any serious parliamentary tangle that would arise by reason of the adoption of the unanimous-consent request submitted by the gentleman from New Jersey.

The CHAIRMAN. The Chair desires to ask the gentleman a question. Suppose the unanimous-consent agreement should be agreed to and that the committee should proceed and perfect eight or nine sections of the bill or all of the remaining sections of the bill. Does the gentleman think that it would then be proper under the unanimous-consent agreement to return to the first section, entertain a motion to strike out that section, and consider this amendment; and, assuming that the amendment were adopted, it would then be proper to take up serially each section which has been perfected, and strike it out?

Mr. STAFFORD. Mr. Chairman, I call the attention of the Chair to either of the alternative motions which are within the range of submission by the gentleman from Indiana. If he had desired, under well-established practice he could have waited until all of the sections of the bill had been read and perfected, and when the last section had been read and no other perfecting amendment was offered he could then rise and offer as a substitute for the bill the measure which he has sent to the Clerk's desk. I take it there is no question about that. This bill, as I understand, is well within the range of substitutes. The Chair would have to hold that it was within his province to offer the bill as a substitute for that which has been perfected. Perhaps that is the better practice. Perhaps it is better to allow the committee to perfect all of the sections of the bill before they vote on a substitute, so that opportunity may be had to perfect the original bill. Then the committee could determine once and for all whether it wished to accept a substantive substitute or the original bill as it has been perfected. There is one notable precedent which I think the gentleman from Illinois [Mr. MANN] argued or decided, where as soon as the first section of the bill had been read a Member rose and offered a substitute, giving notice that when the other succeeding sections were reached he would move to strike them out, and that practice was confirmed. With that exposition I think the Chair will see that the proposal of the gentleman from New Jersey is within the rules of procedure in Committee of the Whole House on the state of the Union.

Mr. Chairman, I yield the floor under my original five-minute reservation and ask unanimous consent to withdraw the pro forma amendment.

The CHAIRMAN. The gentleman from Wisconsin asks unanimous consent to withdraw the pro forma amendment. Is there objection?

There was no objection.

Mr. STEENERSON. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. STEENERSON. Has the Chair decided the point of order as to whether or not the motion of the gentleman from Indiana, this substitute, is in order?

The CHAIRMAN. That question has not been presented. The point of order is under reservation by the gentleman from New Jersey.

Mr. STEENERSON. I was going to say that it has been the uniform rule heretofore that it is only in order after the whole bill has been considered section by section. I have the authorities here.

The CHAIRMAN. The question as to whether or not it was in order after the first paragraph had been read has been decided by the Chair. The Chair held that it was proper to offer a germane amendment after the first section had been read, if the germane amendment proposed to strike out the first section and substitute an entire bill, with notice that thereafter motions would be addressed to each section as read, that it be stricken out.

Mr. STEENERSON. I think that is contrary to the rule. I think you can not offer a substitute for a bill and strike out all after the enacting clause until the bill has been perfected and

read. Hinds' Precedents, volume 4, section 4933, is directly in point.

Mr. LEHLBACH. Mr. Chairman, if the Chair still has the question under consideration, let me call his attention to page 400 of volume 5 of Hinds' Precedents, where the Speaker pro tempore, Hon. James D. Richardson, of Tennessee, presiding, held that a substitute would be in order after the reading of the bill by sections for amendment, but not before.

Mr. STEENERSON. Yes; and that is the same ruling as is to be found in volume 3, paragraph 4933, Hinds' Precedents.

The CHAIRMAN. Hinds' Precedents, section 5795, reads as follows:

Sec. 5795. When it is proposed to offer a single substitute for several paragraphs of a bill which is being considered by paragraphs, the substitute may be moved to the first paragraph with notice that if it be agreed to motions will be made to strike out the remaining paragraphs.

Sec. 5796. An instance wherein a substitute text for a bill was offered as a substitute for the first section and agreed to, the remaining sections being stricken out afterwards.

Mr. STEENERSON. Manifestly this is not a motion to substitute for the section, but for the whole bill, which can not be offered as a substitute for section 1.

The CHAIRMAN. This amendment is offered to section 1, has been read as a substitute for section 1, being an entire bill, with notice that motions will be made to strike out the other sections.

Mr. STEENERSON. Has the Chair examined the authority cited, volume 4, section 4933, Hinds' Precedents? It is directly in point that you can not offer a substitute until the bill has been perfected under the five-minute rule.

Mr. LEHLBACH. Mr. Chairman, with regard to the parliamentary situation as to whether under the unanimous-consent request it would be possible to return to the various sections of the bill which have been read under the section, when the consideration of the substitute comes up at a subsequent session, I would say that a unanimous-consent request, the purpose of which is perfectly clear, must be considered to be made with the intent and purpose which it has in mind, in order that it may be made effective and that return may be had to each paragraph serially, to be stricken out. I think there is no parliamentary difficulty with the request for unanimous consent.

The CHAIRMAN. The point of order of the gentleman from Ohio is overruled. The gentleman from New Jersey asks unanimous consent that the amendment offered by the gentleman from Indiana [Mr. Wood] be in order at any time during the consideration of the bill and that the present pending bill be read for amendment.

Mr. LEHLBACH. Be in order at any time after this afternoon.

The CHAIRMAN. Be in order on any subsequent legislative day. Is there objection?

Mr. MONDELL. Mr. Chairman, reserving the right to object, I did not understand just what the proposition was.

The CHAIRMAN. The gentleman from New Jersey [Mr. Lehlbach] asks unanimous consent that the amendment of the gentleman from Indiana, which is an amendment to strike out the first paragraph and insert an entirely new bill, be in order at any subsequent legislative day at any point at which it is offered, and that it shall further be in order, if the amendment is agreed to, to strike out the perfecting paragraphs. Is there objection?

Mr. DOWELL. I object.

The CHAIRMAN. The gentleman from Iowa objects.

Mr. LEHLBACH. Mr. Chairman, I ask for a vote on the amendment.

Mr. MONDELL and Mr. BYRNS of Tennessee rose.

The CHAIRMAN. For what purpose does the gentleman from Wyoming rise?

Mr. MONDELL. To submit a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. MONDELL. Has the amendment been presented in writing?

The CHAIRMAN. The amendment has been offered, read by the Clerk, and 10 minutes' debate has been had on the amendment—5 minutes for and 5 minutes against.

Mr. LEHLBACH. Mr. Chairman, before the vote is taken on the amendment I make the point of order, which I have heretofore reserved, that the amendment is not germane. I will hold the point of order in abeyance.

Mr. WOOD of Indiana. Mr. Chairman, in view of the fact I have had no opportunity to present this matter, and, of course, gentlemen would not be justified in voting in favor of my amendment without some consideration, I ask unanimous consent to withdraw my amendment.

The CHAIRMAN. Is there objection?

Mr. KELLER. Mr. Chairman, I object.

Mr. WOOD of Indiana. We have not had an opportunity to consider it at all.

Mr. BYRNS of Tennessee. Mr. Chairman—

The CHAIRMAN. For what purpose does the gentleman rise?

Mr. BYRNS of Tennessee. Mr. Chairman, I move to strike out the last two words. Mr. Chairman, it is perfectly evident there are at least a few Members of the House who seem desirous of, I was about to say, "railroading" the pending bill through this House. Now, I dare say there are not 25 Members of this House who are entirely familiar with all of the provisions of the pending bill. I dare say there are very few Members who are not members of the Committee on Reform in the Civil Service who are fully familiar with the so-called Lehlbach bill. Now, the gentleman from Indiana [Mr. Wood] has presented an amendment as a substitute for the bill, with which I am not familiar, except as read from the Clerk's desk, and I for one am unwilling to vote for it without having read it, just as I am unwilling to vote for this Lehlbach bill until I am given some further information in regard to it. I am unwilling to vote for it, as some have said it is going to increase the expenditures of this Government more than \$8,000,000 and will not equalize the salaries of the smaller employees, but will greatly increase the salaries of many of those who now draw high salaries from the Government.

Now, I submit, gentlemen, in all fairness, that the House ought to be given an opportunity to judge between these two bills and to register its vote in an intelligent manner. Gentlemen, while they have the right to do it, ought not to deny to other Members of this House the opportunity to form an intelligent and competent opinion in regard to these two bills—

Mr. DOWELL. Mr. Chairman, I make the point of order that the gentleman is not discussing the pending matter. He is attempting to lecture Members of this House.

Mr. BYRNS of Tennessee. I would not seek to lecture the gentleman from Iowa.

The CHAIRMAN. The gentleman from Tennessee will proceed in order.

Mr. BYRNS of Tennessee. Some may be able to know all about a measure without even reading it or hearing it discussed. Others prefer to have a little light before they cast their vote. The gentleman from Iowa seems to have all the information he wants, and what I am complaining of is that the gentleman from Iowa is not willing to give other Members of the House an opportunity to get some information which they desire before they are called upon to vote upon this bill. [Applause.] Now, I submit, gentlemen of the committee, there ought not to be any disposition to rush this matter through. We are passing legislation here not for to-day or for to-morrow but for years to come. We are undertaking at this time to fix salaries for all the employees here in the District, and it is a matter that ought not to be passed upon in an hour or two. We ought to consider it for several days, if necessary, in order that we may know exactly what we are doing. I may be for this Lehlbach bill, if I am given opportunity to know what is in it, but it was only reported from the committee three or four days ago, and I have not had an opportunity to read it or even to hear the general debate, because I have been serving on hearings before the Appropriations Committee, and I am appealing now in the spirit of fairness. Give the gentleman from Indiana an opportunity to present his bill, upon which he has put much time and to which he has given much thought. I wish to repeat, I do not know whether I am for the Wood bill or the Lehlbach bill. I do not know whether I will vote for either one of those propositions, but I want, before I am called upon to cast my vote under my oath, to have an opportunity to know just what is in those two bills. Now, there is objection to the gentleman from Indiana withdrawing his amendment. It is proposed to vote it down without opportunity for explanation. Later on, at the conclusion of the consideration of this bill, when he again offers it as a substitute, the point of order will be made that it has already been rejected, and the House will have no opportunity to intelligently pass upon it. I hope the gentleman will withdraw his objection.

The CHAIRMAN. The time of the gentleman has expired.

Mr. MONDELL. Mr. Chairman, I rise in opposition. I do not quite understand the logic of the gentleman from Tennessee [Mr. Byrns]. He says he is not familiar with this bill. It has been reported from the committee more than two weeks and notice of its consideration was given nearly a week ago. The gentleman, as I understand it, is not willing to consider this bill, and if I follow the logic of his remarks, he would prefer to consider a bill that never has been before the House, that nobody knows anything about except as it has been read here to-day.



Mr. BYRNS of Tennessee. Will the gentleman yield?

Mr. MONDELL. I will.

Mr. BYRNS of Tennessee. I have no objection in the world to considering this bill. What I am pleading for is the opportunity for the gentleman from Indiana to present his bill and let the House pass upon both bills and accept one or the other, as it prefers.

Mr. MONDELL. The gentleman from Tennessee has had legislation before this House many times, and the gentleman from Tennessee never arrived at a condition of mind where he was willing to have another bill presented alongside of his and given a privileged status with the idea of comparing the two. It is a practice that, so far as I know, has never been indulged in in this House. The gentleman from Indiana will have an opportunity, as all other gentlemen will have, to present amendments to this bill. The gentleman from Tennessee said something about "railroading." What does he mean by "railroading"? This bill was reported two weeks ago—

Mr. BYRNS of Tennessee. I mean this, if the gentleman will permit me to tell him, as the gentleman was out of the Chamber temporarily. The gentleman from Indiana [Mr. Wood] offered his amendment, constituting an entire bill, and asked the privilege of being permitted to discuss it for a few minutes. There was objection raised, and he was confined to five minutes to discuss the bill, of 15 or 20 pages.

Mr. MONDELL. Very naturally the House did not want to go from the discussion of a measure that it had before it, that had been carefully considered by the committee, and which the House was proposing to consider section by section, and take up instead of that a measure that had never been considered by a committee, give several days, perhaps, to the consideration of that measure, finally, possibly, only to return to the measure that had been considered by the committee. Now, all that the gentleman from New Jersey [Mr. Lehlbach] and his committee propose to do is to proceed with the consideration of this bill in an orderly way under the rules of the House. There is no disposition on the part of anybody to hurry the passage of this bill; no disposition to curtail discussion of each and every provision in it. Personally, I hope there will be some amendments made to the bill. The bill is entitled to consideration. There have been before the Congress measures of this kind for more than a year, and any Member who is not fairly familiar with this legislation has never given consideration to the question of reclassification. A bill very similar to this was before the House during the entire last session of the last Congress. This bill has been before the House for some time, and, as I say, was reported more than two weeks ago. We are proposing to take it up in an orderly way and proceed to its consideration. The gentleman from Indiana will have an opportunity as the sections are reached to offer his amendments, and if they appeal to the judgment of the committee they will be adopted, and if they do not other amendments that appeal to the judgment of the House may be adopted. We are proceeding in the discussion and consideration of this measure under the rules of the House, and I hope we will take plenty of time in the consideration of the bill. But let us do it in an orderly way. [Applause.]

Mr. LEHLBACH. Mr. Chairman, I make the point of order that I had heretofore reserved, that the amendment of the gentleman from Indiana [Mr. Wood] is not in order. This bill is a bill to classify by Congress in the bill itself the civil service personnel of the Federal Government within the District of Columbia. The purpose of his bill, as stated by the gentleman from Indiana, a copy of which I or no one else, so far as I know, has seen, is to have the classification of that personnel not made by this legislation but to delegate it to the committee on efficiency. That is an entirely different proposition, not germane, and therefore not in order.

Mr. WOOD of Indiana. Mr. Chairman, I desire to be heard.

The CHAIRMAN. The gentleman from Indiana is recognized.

Mr. WOOD of Indiana. I will state to the gentleman that I misunderstood his question at the time he propounded it to me, with reference to what this proposed amendment of mine did. The bill proposed by the gentleman is entitled a reclassification bill, reclassifying the civil service of the United States employees. At the time this measure was introduced I introduced a measure which provided for reclassification. The proposal that I am introducing now by way of amendment is a reclassification bill, and I wish to state that the proposal I make for reclassification in this substitute is the identical reclassification that was included in the measure that I introduced in this House. Perhaps the gentlemen are familiar with it. I desire to state at this time, however, that in sending up my amendment to the Chair I omitted to send up the schedules of the reclassification, fixing the various classifications, and I ask

unanimous consent, in order that it may be complete, that the schedules which were omitted in the reading be included.

The CHAIRMAN. The gentleman from Indiana asks unanimous consent to modify his amendment as indicated. Is there objection?

Mr. LEHLBACH. Mr. Chairman, I was unable to follow and know—

Mr. WOOD of Indiana. I stated this: That at the time the Clerk read the amendment, when it came to page 8, what would be section 9, the various classifications provided in my original bill should have been read at that point, but they were not read because of the fact that I inadvertently failed to send them up, and in order that the amendment may be complete I ask unanimous consent that they be considered; not take the time to read them, but to consider them as having been read and inserted.

The CHAIRMAN. The gentleman from Indiana asks unanimous consent to be permitted to modify his amendment as indicated.

Mr. LEHLBACH. Reserving the right to object, Mr. Chairman, the question now is to consider an amendment which has been read by the Clerk, but a copy of which neither the chairman of the committee in control of legislation nor any other Member of this body has had opportunity to peruse. It is now further asked that that amendment, which is apparently out of order, be now further modified by some provision which the Clerk is not even to read. I am constrained to object.

Mr. WOOD of Indiana. Mr. Chairman, I wish to set the gentleman right. I understood that the gentleman, in fairness, desires—

The CHAIRMAN. The gentleman from New Jersey has objected.

Mr. LEHLBACH. In view of the fact that this amendment is about to be disposed of, I do not see the wisdom of discussing it further, except to say that I understand it is to be a classification of the entire personnel of the Federal employees in the District of Columbia, to be read and voted on, and I feel constrained in the interest of orderly procedure to object.

The CHAIRMAN. The gentleman from New Jersey objects. Mr. WOOD of Indiana. Then I desire to speak with reference to the point of order. I understand a point of order is raised here.

The CHAIRMAN. The Chair will hear the gentleman. The Chair would be glad if the gentleman would indicate in a general way how his proposed substitute differs from the pending bill.

Mr. WOOD of Indiana. The proposed substitute differs from the proposal of the gentleman from New Jersey only in a few particulars which are vital. It is a reclassification, just as complete as that proposed by the gentleman from New Jersey. My proposal does away with the new bureau that has been provided for in this bill.

Mr. LEHLBACH. There is no use in misstating the provisions of the bill under consideration in the House. There is no bureau provided in the bill before the Members of the House.

Mr. WOOD of Indiana. Then the gentleman has been most unfortunate in using his language, for he does provide for a wage board, and out of the wage board comes the bureau, just as in the packers' bill we provide for the control of that law under the Department of Agriculture, and out of it came a bureau.

Now, Mr. Chairman, the question was asked wherein the proposal in my amendment differs from the bill offered by the gentleman from the State of New Jersey. There is no difference so far as they are both complete measures of reclassification, both of them providing for a reclassification of the civil service of the Federal Government in the District of Columbia. The gentleman's measure provides where certain technical employees may be classified and their salaries provided by a wage board, which is not provided in the amendment. The amendment proposed by me takes and gives definitions of jobs or defines the amount of work for which a certain amount of salary shall be received. It does not provide positions, but it does provide pay for men doing work to be done, and that is what is set out in this classification schedule to which I have called the attention of the Chair.

It differs from the present bill in this further particular, that instead of having the matter administered, so far as efficiency is concerned, through the Civil Service Commission and through the Budget Bureau, it provides that the efficiency of the employees shall, under the order of the President, be determined by the Bureau of Efficiency.

The CHAIRMAN. The Chair does not care about the details; just a general statement for the purpose of ruling on the point of order.

The Chair is ready to rule. The bill under consideration is a bill for the reclassification of employees, and provides for certain machinery to bring this about. The bill offered as a substitute is for a reclassification of Federal employees in a somewhat different way, to be sure, but all amendments differ.

Mr. LEHLBACH. Mr. Chairman, may I at this point call to the attention of the Chair, before he proceeds further with the ruling, the fact that in the bill under consideration the classification is made by the bill itself, and is enacted by Congress, if the bill passes. In the substitute the reclassification is not made by Congress, but is delegated to a bureau.

Mr. WOOD of Indiana. The gentleman is entirely wrong, and if he would be as fair as he pretends to be and would let this schedule that I have referred to be included in the amendment—

Mr. LEHLBACH. It is not before the committee.

Mr. WOOD of Indiana. It would be in the amendment if the gentleman did not object.

The CHAIRMAN. While a different method of procedure is provided by the proposed amendment, the Chair is inclined to think that it is germane as a substitute. The question is on agreeing to the amendment.

The question was taken, and the amendment was rejected.

Mr. STAFFORD. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. STAFFORD. Perhaps I am a little in advance, but if this amendment that has just been voted down as a substitute were to-morrow offered in a somewhat changed form again, would it be in order, notwithstanding the action of the committee at this time?

The CHAIRMAN. I think we had better await until that question arises.

Mr. LEHLBACH. Mr. Chairman, I ask that the Clerk read.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

Sec. 2. That the term "compensation schedules" means the schedules of positions, grades, and salaries, as contained in section 12 of this act. The term "department" means an executive department of the United States Government, a governmental establishment in the executive branch of the United States Government which is not a part of an executive department, the municipal government of the District of Columbia, the Botanic Garden, Library of Congress, Library buildings and grounds, and the Smithsonian Institution.

The term "the head of the department" means the officer or group of officers in the department which is not subordinate or responsible to any other officer of the department.

The term "position" means a specific civilian office or employment, whether occupied or vacant, in a department other than offices or employments in the Postal Service and teachers under the board of education of the District of Columbia.

The term "employee" means any person temporarily or permanently in a position.

The term "service" means the broadest division of related offices and employments.

The term "grade" means a subdivision of a service including one or more positions for which approximately the same qualifications, duties, and compensation are prescribed, the distinction between grades being based upon differences in the importance, difficulty, responsibility, and value of the work.

The term "compensation" means any salary, wage, fee, allowance, or other emolument paid to an employee for service in a position.

Mr. WOOD of Indiana. Mr. Chairman, I offer the following amendment: I move to strike out all of lines 17, 18, 19, 20, 21, 22, 23, and 24 on page 2.

The CHAIRMAN. The gentleman from Indiana offers an amendment, which the Clerk will report.

The Clerk read as follows:

Mr. WOOD of Indiana moves to amend, on page 2, by striking out all of lines 17 to 24, inclusive.

The CHAIRMAN. The gentleman from Indiana is recognized.

Mr. WOOD of Indiana. Mr. Chairman, if gentlemen will recur to this portion of the bill that I move to strike out they will find that it is a definition of the term "service" and the term "grade." The term "grade" means a subdivision of service in one or more positions in which approximately the same duties and compensations are prescribed, the distinction between grades being based upon differences in the importance, difficulties, responsibilities, and value of the work.

I will state to the gentleman that in my opinion this is going to be one of the greatest avenues for cheating and absolutely defeating the purpose of a classification that can possibly be invented. What ought to be the rule with reference to employments in the civil service is to give opportunity to men to promote themselves by reason of their own merit, by reason of the work that they perform themselves, and not through a definition. One of the greatest difficulties in all the experience had in classification and reclassification, not only by the States but by the municipalities all around over the country, is fixing positions by definition and not by what they do. You can take and define a certain position and give it a definition, and a man

is placed in that position by reason of the definition, whether he is qualified or not. What ought to be done, if you please, is to describe the character of work that a man is expected to do, for which character of work he receives a certain pay.

That is not in this bill. Further on in the consideration of the bill I shall offer an amendment that does that very thing. If you enact this as it is now we shall continue to have, as we have now, a discrimination without justification, men taken and placed by reason of definitions in positions and not through merit; so that this species of subterfuge—and it is a subterfuge—should be done away with at the very threshold of the consideration of this bill. If we are to pay men and women for work done we should define the amount of work they are to do for the amount of pay that they receive.

Mr. LEHLBACH. Mr. Chairman, the argument which the gentleman from Indiana has made is not in support of his amendment; it is an argument in opposition to any reclassification of employees. In the gentleman's own bill, H. R. 8291, he provides for exactly what we are doing; he divides the service into grades and we divide the various services into grades, and these definitions are perfectly intelligible and accurate. The gentleman is not seeking to improve the definitions. Of course, if you are going to use technical terms in legislation, you must give a definition to those terms as they are used in the bill in order that there may be no ambiguity, and that is all this does. I think that the definitions in the bill are proper and the gentleman is not attacking them. Mr. Chairman, I ask for a vote on the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Indiana.

The question was taken; and on a division (demanded by Mr. WOOD of Indiana) there were 19 ayes and 22 noes.

Mr. WOOD of Indiana. Mr. Chairman, I ask for tellers.

The CHAIRMAN. The gentleman from Indiana asks for tellers.

Tellers were ordered, and the Chair appointed as tellers Mr. LEHLBACH and Mr. WOOD of Indiana.

The committee again divided; and the tellers reported that there were 25 ayes and 41 noes.

So the amendment was rejected.

Mr. BEGG. Mr. Chairman, I offer the following amendment: On page 2, strike out lines 13 and 14.

Mr. WINGO. Mr. Chairman, I make a point of order.

The CHAIRMAN. What is the point of order of the gentleman from Arkansas?

Mr. WINGO. That it is out of order for the gentleman from Ohio to offer an amendment when there is no quorum present.

The CHAIRMAN. The gentleman from Arkansas makes the point of order that no quorum is present, and the Chair will count. [After counting.] Ninety-three Members present, not a quorum, and the Clerk will call the roll.

The Clerk called the roll, and the following Members failed to answer to their names:

Ansorge	Fitzgerald	Lampert	Robertson
Bacharach	Flood	Langley	Rogers
Bell	Focht	Larson, Minn.	Rosenbloom
Bird	Fordney	Lee, N. Y.	Rucker
Bixler	Frear	Linthicum	Ryan
Bland, Ind.	Free	Longworth	Sabath
Bond	Freeman	Luhning	Sanders, N. Y.
Brand	French	Lyon	Schall
Brennan	Gahn	McArthur	Sears
Buchanan	Gallivan	McKenzie	Shelton
Burke	Garrett, Tex.	Madden	Snell
Campbell, Pa.	Gorman	Magee	Snyder
Carter	Gould	Mann	Stedman
Chandler, N. Y.	Graham, Ill.	Mansfield	Steenerson
Chandler, Okla.	Graham, Pa.	Michaelson	Stiness
Cockran	Green, Iowa	Mills	Stoll
Codd	Griest	Moore, Ind.	Sullivan
Collier	Griffin	Morin	Sweet
Connolly, Pa.	Hardy, Colo.	Mott	Tague
Cooper, Ohio	Hays	Mudd	Taylor, Ark.
Copley	Herrick	Newton, Mo.	Taylor, Colo.
Cullen	Hicks	Nolan	Ten Eyck
Dale	Hill	Oliver	Tillman
Davis, Minn.	Hoch	Osborne	Tilson
Dempsey	Houghton	Parker, N. Y.	Timberlake
Denison	Hukriede	Parrish	Tincher
Doughton	Husted	Patterson, N. J.	Towner
Drane	Jefferis, Nebr.	Periman	Tyson
Dunn	Johnson, Ky.	Peters	Vare
Dyer	Kahn	Porter	Voigt
Edmonds	Kennedy	Pou	Ward, N. C.
Elston	Kless	Pringley	Wason
Fairfield	Kindred	Rainey, Ala.	White, Me.
Faust	Kitchin	Rainey, Ill.	Williams
Fenn	Klecza	Riddick	Wise
Fess	Knight	Riordan	Wright
Fish	Kreider	Roach	

The committee rose; and the Speaker pro tempore [Mr. WALSH] having resumed the chair, Mr. SANDERS of Indiana, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee, having under consid-



eration the bill H. R. 8928, and finding itself without a quorum, the roll was called, when 285 Members responded to their names, a quorum, and he handed in a list of the absentees for printing in the Record and the Journal.

The committee resumed its sitting.

Mr. BEGG. Mr. Chairman, I offer the following amendment, which I send to the desk.

The Clerk read as follows:

Amendment offered by Mr. BEGG: Page 2, strike out lines 13 and 14.

Mr. BEGG. Mr. Chairman and gentlemen of the committee, this is a reclassification bill, seeking to classify the persons holding Government positions and to adjust the salaries of those who are receiving discriminatory salaries for like positions. The lines that I have moved to strike out of this particular paragraph are the lines that exclude the public-school teachers from the benefits of this bill. I should like to propound a question seriously to every member of the committee. If this measure is a good thing for the clerical force, for the administrative force, for the police department, for the fire department, for the custodians of the various buildings and institutions in those buildings, why is it not a good thing for the public-school teachers, who have the custody of the children of the town during the period from 6 years of age until they have completed their schooling? I can see no serious objection to putting this measure through, including the teachers, and I say to you that if you adopt my amendment you will have included the school-teachers in the benefits of the bill. When the proper time comes for the classification, I shall offer another amendment to put in the words "teachers, supervisor, superintendent" in the proper classification, but the only reason why you should not do it is because it will put the school-teachers on a par with the keepers of museums, with the keepers of the Rock Creek Park Zoo, and it will put them on a par, as far as salaries are concerned, with the garbage cleaners and sweepers in the market place and in the morgue. It will put them on a par in salaries with the clerks in the offices of the various departments in Washington, and it will put the supervising force of the public schools on a par with the heads of departments that may have 10 or 20 people under them. That is one reason why you should not do it. It will increase the salaries of the public-school teachers.

Mr. JOHNSON of Mississippi. Mr. Chairman, will the gentleman yield?

Mr. BEGG. Yes.

Mr. JOHNSON of Mississippi. I am in sympathy with the gentleman's amendment, but does the gentleman wish to put school-teachers down on a par with street cleaners, or does the gentleman wish to raise their salaries?

Mr. BEGG. The school-teachers, as far as salaries are concerned, would be delighted to be put on a par with some of these people I have mentioned.

Mr. JOHNSON of Mississippi. Are they underpaid?

Mr. BEGG. They are underpaid 100 per cent, else the garbage haulers are overpaid 100 per cent.

Mr. JOHNSON of Mississippi. That is information to me. I did not know that. I am in sympathy with the gentleman's amendment.

Mr. BEGG. I simply want to cast my vote along the line of justice. There is nothing in the world that will make me give more preference to a stenographer in some man's office than I would to a teacher in a school. Who gives the most serious consideration to the job? I do not mean to say anything derogatory to the office man or to the office girl, and I do not want my remarks to be construed in that way, but they close their office desks at 4.30 o'clock and go home without a care, while there is not a school-teacher in the city who can do that thing. They must take their work home with them. They must work at night. They must prepare their next day's lessons for the boys and girls. They must work eternally on the job, and yet these proposed salary schedules, as I said yesterday, for these clerks range from \$1,800 to \$7,200 for some class of Government employees whose duties are no more onerous than those of teachers who receive but \$1,200 to \$1,440. In the high school they get as high as \$2,240 for class B, and in class A \$2,500. I want to know again where is the justice in paying the high-school teacher a maximum salary of \$2,500 a year and the office man \$5,000 for doing less arduous work? [Applause.]

Mr. LEHLBACH. Mr. Chairman, of course the gentleman has not given close study to the grades in the compensation schedule, or has not digested them, and has tentatively allocated garbage cleaners and sweepers in the wrong place, or he would not make the assertion that a garbage cleaner or a sweeper or any menial employee by this bill is to be paid more than a school-teacher in the District of Columbia. However, the propo-

sition to include the school-teachers in the District of Columbia in this classification does not answer the demand of anyone who is concerned. Those in charge of the school administration in the District, the District Committee of Congress, the school-teachers themselves, everybody who appeared in the hearings extending over a month which were held on this and similar bills, backed up the proposition that the teachers of the District of Columbia, inasmuch as they recently had a classification for themselves prepared and enacted by Congress, be left outside of this measure, just as the Postal Service, for which Congress in recent years has prepared a revised classification. You are not doing the school administration or the school-teachers themselves or anybody a favor by going against their wishes and including them in this classification. You are not raising them to the standard of any menial employee, but if they by any chance should be classed with such employee, you would certainly be drastically cutting their pay.

Mr. BEGG. Mr. Chairman, will the gentleman yield?

Mr. LEHLBACH. Yes.

Mr. BEGG. Will the gentleman give us any figures whereby we would cut their pay if we were to classify them with the most menial class that the gentleman has in his bill?

Mr. LEHLBACH. I do not know what the classification for the teachers is.

Mr. BEGG. The salaries run from \$1,200 to \$1,440 in the grade schools.

Mr. LEHLBACH. Then I know of no menial in my bill who would get any such sum.

Mr. CLOUSE. Mr. Chairman, will the gentleman yield?

Mr. LEHLBACH. Yes.

Mr. CLOUSE. I may have misunderstood the gentleman when he referred to a menial laborer as not drawing such a salary, but I call his attention to page 22, the last paragraph on the page, which relates to the duties of those who are to be responsible for the custody and care of all works of art in the United States Capitol Building, and also for the cleaning and heating and upkeep of the public-school buildings, and so forth. The maximum salary that they shall receive is \$2,640.

Mr. LEHLBACH. The curator in charge of the National Zoological Park, who is responsible for the safety, life, and health of the animals, gets a salary of \$2,100; but, Mr. Chairman, there is no use going into a discussion as to what the curator of the National Zoological Park is going to receive or what this rate is or that rate is, when you come to including the teachers in this classification.

They do not want to be included, no one wants them to be included; the District authorities and the school-teachers themselves do not want it.

Mr. BEGG. Where did the gentleman get the information the school-teachers do not want it?

Mr. LEHLBACH. We held hearings extending over a month and they said they did not want it—

Mr. BEGG. I talked with the superintendent of the public schools yesterday morning, and I say the gentleman is not quoting them accurately when he makes the statement that they do not want this reclassification.

Mr. LEHLBACH. He may have changed his mind or come in office since the policy of the board has been expressed, but the information presented to the committee, and presented to the committee officially, was in the nature of a request that the school-teachers and Postal Service be left out of the classification.

Mr. BEGG. If the gentleman will yield further, I will admit the teachers did not have a representative there, like the Federal employees had, looking after their interests all the time.

Mr. BLACK. Mr. Chairman, I move to strike out the last word. I desire to make a short statement as to those classes of Government employees who have already been classified by Congress by separate acts in very recent years. We have already classified 250,000 postal employees in the postal reclassification act of June, 1920. We have already reclassified the teachers of the District of Columbia by a separate classification law. We have also reclassified the policemen and firemen of the District and have given them a uniform increase of \$500 a year. That was done, I believe, under the act of December 5, 1919. Now, I am frank to say that when we reach that part of the bill dealing with police and criminal investigation service I shall be disposed to favor an amendment making the salaries of firemen and policemen conform to the rate that we provided in the firemen and police reclassification bills. It seems to me that course is the only fair way to do it. These Government employees who have already been reclassified and have had their salaries raised, it seems to me, are not entitled to have it done over again. What we are trying to do now is to bring about uniformity and not to perpetuate discrimination.

Mr. LEHLBACH. Will the gentleman yield?

Mr. BLACK. I will yield.

Mr. LEHLBACH. The same situation was called to the attention of the chairman of the committee, and the chairman himself has prepared such an amendment and will be glad to accept an amendment that will bring about what the gentleman from Texas says is his desire.

Mr. BLACK. I am just a little afraid the chairman of the committee does not fully understand my objection. I think I have in mind the changes in the bill which the chairman intends to make, but the matter to which I am now referring is: In the police reclassification bill we fixed the salary of a private in grade 1 at \$1,460, and if I recall correctly, under the old law, a private in grade 1 received \$960. We thus made a \$500 increase, and so on with all the other grades. Now, in the present bill we have carried forward these increased salaries plus the \$240 bonus, which was only a temporary measure, and I feel that in justice to the House, in justice to the postal employees who have been reclassified by a separate bill and are not included herein, in justice to the school-teachers who have been classified by a separate bill and are not included herein, we ought to observe the same rule as to firemen and policemen.

Mr. Chairman, I favor this bill to reclassify typists and stenographers and clerical employees and others similarly situated, because they have not been previously reclassified, and the only increase that they have received during this period of the high cost of living was the \$240 bonus added to their basic salary. It is not my desire or purpose to favor any measure which imposes any extravagant increase in salaries, but simply to try to measure out even-handed justice to all the employees.

Mr. STAFFORD. Will the gentleman yield?

Mr. BLACK. I will yield.

Mr. STAFFORD. Has the gentleman considered that the stenographers are under the present grade of classification ranging from grade 1 to grade 4, with salaries from \$1,200 to \$1,800, and the Committee on Appropriations in trying to legislate on appropriation bills has continually in all the years back provided for additional places in the higher grades, and there are stenographers in the departments here to-day receiving \$1,800 and in some instances receiving salaries of \$2,000? So the Committee on Appropriations has recognized the work of these superior stenographers.

Mr. BLACK. Oh, the gentleman is making a broad statement—

The CHAIRMAN. The time of the gentleman has expired.

Mr. BLACK. I ask unanimous consent for three additional minutes that I may answer the question.

The CHAIRMAN. Is there objection? [After a pause.] The Chair hears none.

Mr. BLACK. Now, I did not state that no individual stenographer, that no individual typist had received an increase, but I made the statement that as a class they were working under the old basic salaries plus the \$240 bonus.

Mr. STAFFORD rose.

Mr. BLACK. Now, let me finish my statement.

Mr. STAFFORD. But I wish to correct the gentleman again in his statement.

Mr. BLACK. Well, the gentleman will have a chance to do that. I will read from the report of the Reclassification Commission on page 30, where it says that the average salary of a junior typist, exclusive of the bonus—I am talking now about the basic salary merely—is \$1,133. The average salary of a junior stenographer, taking them as a whole class, was \$1,318, exclusive of the bonus.

Mr. ANDREWS of Nebraska. Will the gentleman yield?

Mr. STAFFORD. Will the gentleman yield?

Mr. BLACK. I do.

Mr. STAFFORD. That is the very position I am taking. The gentleman's figures support the position I take, that before the war typists entered the service at \$900, and during the war we raised the level to \$1,100 regardless of the bonus. For the typist only, who is not a stenographer, the average pay is \$1,133, while the average pay of a stenographer is \$1,318.

Mr. BLACK. The point I made and the statement I wished to emphasize was this, that, as the gentleman from Mississippi said yesterday, the old basic salaries of clerical employees were from \$900 to \$1,800, and they have not been increased except by the bonus.

Now, it is all well enough for a Member of Congress to say "I can hire a good typist in my home town for \$75 per month and a good stenographer for \$100 per month." Perhaps that can be done. But let us remember that Congress has passed a law which compels these District employees to be ratably distributed among the several States, and a young lady who could perhaps work in her home town at \$75 per month, where she

could live with her parents and get along very well with it, can not come here to Washington and live on any such salary.

And the provisions of this bill which relate to ordinary typists and stenographers and provide a range of salaries of \$1,260, \$1,320, \$1,380, \$1,440, \$1,500, and \$1,560, I think, are reasonable.

Now, it is true that departments like the War Risk Insurance Bureau, working under a lump-sum appropriation, have employed stenographers and typists at an entrance salary of \$1,100 or \$1,200. But that was not an increase of the basic salary scale, but was simply bringing them in at a higher entrance salary. As the gentleman from Mississippi [Mr. Sisson] said yesterday, these basic salaries in the clerical grades range under civil service from \$900 to \$1,800, and they are still the same as they have been for years. Of course, it is very true that some employees have been promoted from time to time within these grades. I was not disputing that proposition at all. What I was emphasizing was that the basic salaries remained unchanged.

Mr. STAFFORD. Will the gentleman permit? But the committee, in arranging the bill, eliminated \$900 for stenographers, and raised them to \$1,000, and in some instances to \$1,100. We recognized the need in the bill of eliminating the lower grade.

Mr. BLACK. I will accept the correction of the gentleman if that was the fact which he intended to remind me of.

Mr. CLOUSE. Mr. Chairman, I move to strike out the last word.

Mr. Chairman and gentlemen of the committee, I have read the bill that we have now under consideration with a great deal of interest. I have read it with a view of ascertaining for myself, if possible, just what was intended by the enactment of this legislation. And as was said by the gentleman from Ohio [Mr. Begg] I find not only in one instance but in diverse instances, that instead of preventing discrimination between employees of the Federal Government it adds to and makes the discrimination more prominent than it is under the existing law.

Why, gentlemen, when you come to talk about the school-teachers of the District of Columbia who are paid a salary of \$1,200, and compare that with the class of employees embraced under this bill, you will then begin to wake up and realize that it must mean something; there must be some power behind the throne that is putting across this favoritism toward a favored class. I do not know what it is. I have heard a great deal of talk about unionism, and it may be that the public-school teachers of the District of Columbia are not organized, and it may be that they are being neglected on account of that fact. But here I find in this bill, at page 20, under the classification of employees of the Federal Government, that:

Grade one shall include all classes of positions, the duties of which are, as junior messengers, to run errands and to perform under supervision the simplest routine office work in any department.

The minimum salary for that kid, who can not be over 18 years of age, is \$720 a year. For the child, the mere lad, of 12 or 13 years of age—

Mr. LEHLBACH. Will the gentleman tell me how many children he has seen as messengers in the departments?

Mr. CLOUSE. I find them in every department. I can hardly reach a department because of messenger boys obstructing my way. [Applause.] I find them everywhere. The departments are flooded with them.

Let us follow this classification a little further. I find under this same classification that the next class of employees that are sought to be protected is that class whose duties are to perform, under immediate supervision, the simplest kind of routine. Their minimum salary is \$1,080 and their maximum salary \$1,260, more than some of your best teachers in the District are receiving to-day. It provides for the simplest routine work \$1,260, and I follow that class of employees until I find under the provisions of this act that under class 7 the minimum salary is \$2,760 and the maximum salary \$3,000 a year. Let me tell you, members of this committee, what I think needs to be done in Washington rather than to enact this law. I believe that the laborer is worthy of his hire, but I do not believe in surrounding an employee with safeguards such as will produce inefficiency rather than meritorious service.

Now, you can talk about civil service all you please, but I want to say to this committee as one Member of this House that I believe it is the breeder of inefficiency. [Applause.] And I am going to offer an amendment, if this bill should, perchance, receive the sanction of a majority of this committee, that will give to the Director of the Budget the same powers to decrease as you are attempting to give him to increase their salaries. [Applause.]

The CHAIRMAN. The time of the gentleman has expired.



Mr. ANDREWS of Nebraska. Mr. Chairman, I ask unanimous consent to proceed for five minutes.

The CHAIRMAN. Is there objection? [After a pause.] The Chair hears none.

Mr. ANDREWS of Nebraska. Mr. Chairman, I wish to call attention to some assumptions which may lead us astray in many important phases of this subject. Reference has recently been made to the grade of stenographers. I doubt whether there is to-day any specific provision made by law with respect to that class of employees. The fact is this: A person entering the service to-day as a stenographer and typist at the grade of \$900 may be within a year at the grade of \$1,000 or \$1,200 in an entirely different capacity. I venture to say that a very large majority of the people who enter the service as stenographers and typists are very speedily advanced to clerkships. They are eligible for the clerkships, and when they get that position they lay aside the work of stenography and typing in order to get the highest wages that come to clerks. Again, we are assuming here that because first, second, third, and fourth class clerkships were fixed by statute many years ago therefore there could be no promotion to the people in the classified service. Mark you, the man who entered at \$1,200 a few years ago may be at \$1,800 now. That clerk has passed his promotions from \$1,200 to \$1,800. We are assuming that because those grades have not been changed by law, therefore there has been no improvement in salaries for the people in the service.

I have on my desk a list of nearly 2,100 names from which I can quote to you evidences that are very significant on this point. Take one item, where under a lump-sum appropriation a certain clerk went into the Treasury Department by transfer in January, 1919, at \$1,600. He is drawing \$7,000 to-day. And I can quote for half an hour examples of that character to illustrate that point. Now, just how far this bill will go in correcting an evil of that sort I am not prepared to say, but I want to suggest to the chairman of the committee the propriety of its favorable consideration during the discussion of the bill.

Mr. COOPER of Wisconsin. Mr. Chairman will the gentleman yield?

Mr. ANDREWS of Nebraska. Yes.

Mr. COOPER of Wisconsin. Would the gentleman mind giving the name of that person?

Mr. ANDREWS of Nebraska. That man's name is George R. Davis.

Mr. COOPER of Wisconsin. What position does he occupy?

Mr. ANDREWS of Nebraska. He is supposed to be a lawyer now. He went in at the time I tell you.

Mr. COOPER of Wisconsin. Where is he a lawyer?

Mr. ANDREWS of Nebraska. Well, I am going to review that matter in a few days, and I will give you the facts on that point. I am just gathering up a few instances of that character to illustrate the fallacies to which we are bound to come by following the assumption underlying this proposition—that the people in the departments have had no promotions. Why, gentlemen, you may write this law and allocate these people according to its terms. I am not criticizing that, but while the law stands for years the people will pass through the grades and get their benefits. [Applause.]

The CHAIRMAN. The time of the gentleman from Nebraska has expired. The question is on agreeing to the amendment offered by the gentleman from Ohio [Mr. BEGG].

The question was taken, and the Chairman announced that the "noes" appeared to have it.

Mr. BEGG. Mr. Chairman, I ask for a division.

The CHAIRMAN. A division is demanded.

The committee divided; and there were—ayes 51, noes 40.

So the amendment was agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

Sec. 3. That the compensation schedules shall apply only to civilian employees in the departments within the District of Columbia, and shall not apply to employees in positions the duties of which are to perform or assist in apprentice, helper, or journeyman work in a recognized trade or craft and skilled and semiskilled laborers, except such as are under the direction and control of the custodian of a public building.

The head of each department shall allocate all positions in his department in the District of Columbia to their appropriate grades in the compensation schedules and shall fix the rate of compensation of each employee thereunder, in accordance with the rules prescribed in section 6 herein. Such allocations and rates of compensation may be revised by the Bureau of the Budget and shall become effective upon their approval by said bureau.

Mr. BLACK. Mr. Chairman, I offer an amendment, which I send to the Clerk's desk.

The CHAIRMAN. The gentleman from Texas offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amendment offered by Mr. BLACK: Page 3, line 19, after the word "bureau," add the following language: "In no case, however, shall the compensation of any employee be increased unless Congress has appropriated money to provide for the increase, nor shall the rate for any employee be increased beyond the maximum rate for the class to which his position is allocated."

Mr. LEHLBACH. Mr. Chairman, will the gentleman yield?

Mr. BLACK. Yes.

Mr. LEHLBACH. The committee will accept that amendment; and I will state that it is presumed that the provision made specific in the bill is, by implication, already in the law. I would suggest, however, that the word "class" be changed to the word "grade."

Mr. BLACK. I ask unanimous consent, Mr. Chairman, to modify my amendment and change the word "class" to the word "grade." That would probably be a more appropriate word.

The CHAIRMAN. Without objection, the amendment will be modified as indicated.

There was no objection.

Mr. BLACK. Mr. Chairman, I do not want to take up the time of the committee except to say, briefly, that this amendment which I have proposed meets one objection that has been urged against the bill, to wit, that after this classification bill is passed the allocating agencies, to wit, the heads of the departments and the Bureau of the Budget, might inflate the allocations; that is to say, allocate employees to positions to which they do not fairly belong, and by that means accomplish extravagant increase in salaries. Personally I have faith that the Bureau of the Budget will carefully review and revise all allocations to positions in the respective grades and that the work will be well done, but the argument has been made—and I think very properly made—that Congress, upon whom the responsibility of raising the revenue rests, should also at all times hold the purse strings, and therefore this amendment provides that "In no case, however, shall the compensation of any employee be increased unless Congress has appropriated money to provide for the increase." Therefore when the heads of the departments and the Bureau of the Budget shall submit to Congress their reports of their reclassification of the employees under the terms of this bill, the increases in salaries will not become effective until Congress specifically appropriates the money to meet the increases.

Mr. WINGO. Mr. Chairman, will the gentleman yield?

Mr. BLACK. Yes; I shall be glad to yield.

Mr. WINGO. As I caught the gentleman's amendment, I think I am in favor of it. As I understand, under this bill there is no way of knowing how many employees of a particular grade or a subdivision of that grade will be on the pay roll until the Budget Bureau makes its report?

Mr. BLACK. That is very true. If the gentleman will permit me, I do not see how any committee could possibly get that information in advance of the actual allocation.

Mr. WINGO. Let me see if I follow the gentleman: As I understand, that being true, notwithstanding they make this allocation, if by allocating they give preponderance to a particular subdivision or a grade they can not do that provided it exceeds the amount appropriated by Congress. Is that the idea of the gentleman's amendment?

Mr. BLACK. The effect of the amendment, I will say to the gentleman from Arkansas, will be this: It will compel the Director of the Budget to submit detailed information to Congress as to the allocations which he has made. Then if Congress approves this reclassification which the heads of the departments and the Director of the Budget have made, it will signify that approval by appropriating the money to carry it out, but if Congress thinks the allocations have been extravagantly made and would impose an undue charge upon the Treasury it would decline to appropriate the money to pay the increases and would in that way check any possible abuses.

Now, Mr. Chairman, if I have answered the gentleman's inquiry, that is all I have to say.

Mr. WINGO. Mr. Chairman, I do not rise in opposition to the amendment, because I may be in favor of it, but I would like to have the attention of the gentleman from Texas [Mr. BLACK]. As I understand, in the hypothetical situation that I have stated to the gentleman, the allocation of a given number of employees to a particular grade, so far as salaries are concerned, or subdivisions in the grade, would not be effective unless Congress by an appropriation provided a sufficient amount of money to cover that.

Mr. BLACK. Undoubtedly that would be the effect.

Mr. WINGO. Here is the difficulty that I fear the gentleman's amendment does not meet, and I fear that is brought about by a fact which the majority of the House does not

appreciate; that is, the effect of putting all appropriation power in the hands of one committee and making it possible to make a point of order against an item of legislation in an appropriation bill. According to the gentleman's amendment, all Congress could do would be to refuse to appropriate the money. There would be the allocation, and if the committee brought in a bill with a provision that would change the allocation, or undertake to change it as to number or basic salaries, or if some Member were to offer that amendment from the floor, a point of order would lie on the ground that it was legislation on an appropriation bill, and therefore not in order. Then Congress by this law, I fear, would be in the attitude of having, as a practical matter, abrogated all control over reclassification though retaining it in theory.

Mr. BLACK. I am sure the gentleman will agree that Congress could not administer the law and that necessarily its administration must be left to some executive agency.

Mr. WINGO. I agree to that.

Mr. BLACK. What we want to do is to hold in our hands the control of the purse strings at all times. If the Bureau of the Budget should bring in an estimate, for example, from the Treasury Department which the Committee on Appropriations should regard as an inflated allocation, making an unjust charge on the Treasury, the amendment would prevent any such salary increase becoming effective unless the Congress appropriates the money to provide therefor. I do not see how we can throw around the reclassification bill any better protection than the amendment I suggest.

Mr. WINGO. I do not want my friend to think that my objection was a critical one, and while it is theoretically in the control of Congress I do not know whether the gentleman could add to his amendment—the gentleman may have an amendment that will cover that. You have got to consider this bill in the light of other provisions. It has got to be considered in the light of other sections. Take page 4, lines 6 to 12:

That whenever an existing position or a position hereafter created by law shall not fairly and reasonably be allocable to one of the grades of the several services described in the compensation schedules, the Bureau of the Budget shall adopt for such position the range of compensation prescribed for a grade, or a division thereof, comparable therewith as to qualifications and duties.

Now, I anticipate what the answer of the gentleman will be, that in the very nature of things it is necessary to have that kind of a provision because there may be some existing position or one created hereafter that it would be difficult to measure by the strict terms of the law and determine to what grade it would be applicable. But if Congress should refuse to appropriate the money as provided by the gentleman's amendment—

The CHAIRMAN. The time of the gentleman from Arkansas has expired.

Mr. WINGO. I ask for three minutes more.

The CHAIRMAN. The gentleman asks for three minutes more. Is there objection?

There was no objection.

Mr. WINGO. What is to prevent the Bureau of the Budget getting around the restrictions of Congress and absolutely destroy them by undertaking to allocate them as far as the positions are concerned by their own ipse dixit as to what it thinks is the proper designation of that particular class? How can the gentleman prevent that?

Mr. BLACK. I think it would be impossible to draw any bill to which a hypothetical objection could not be raised. But one thing that causes me to advocate the reclassification bill is to prevent just such abuses as the gentleman from Nebraska called to our attention in these lump-sum appropriations. Congress has no check on that at all. If we adopt a reclassification bill we compel the Bureau of the Budget to submit to Congress information as to what classes the employees belong.

Mr. WINGO. Here is what you do: Now the appropriation bill specifies in most instances the pay of a given class, and the number of that class, but this bill transfers that power to the Budget Bureau. We are bound by that, and the only check under the bill and the gentleman's amendment is to refuse to make an appropriation, and the gentleman understands the appeal that will be made that you can not change it by law in the current appropriation bill, and you must appropriate for it with the hope that the legislative committee will bring in an amendment that will make the desired change. That appeal has been offered with effect. I have frequently stood for things in current appropriation bills because I thought this way: We can not afford to check the machinery of the Government; let us go ahead and appropriate the necessary amount and the legislative committee will later correct the evil by an

amendment to existing law, but too often it is forgotten until the next current bill raises the same question. I favor a proper reclassification, but I want Congress left so that under the rules of the House it will not be precluded from exercising its judgment if it disapprove the budget. Our judgment is the supreme power; we are responsible, and I do not want legislation that will hamper the proper exercise of that judgment.

Mr. Sisson. Mr. Chairman, I do not rise to oppose the gentleman's amendment. I am in exact accord with the purpose of the amendment offered by my friend from Texas, a member of the committee. I do not suppose any safe and sane Congressman will vote for this bill unless some saving clause like this is in it. The moment you say I am going to vote for this bill without some amendment like this in it, that moment you have surrendered the right of Congress in appropriating money to fix salaries, because if you permit the allocation and assignment under this bill, carrying with it a certain salary for the individual in performing that duty for the Government, you must pay it or you have created a claim against the Government, because he is entitled to that compensation so fixed under the provisions of this bill. Having passed the bill, we have got to appropriate for it whether we want to or not. Therefore the amendment of the gentleman from Texas is absolutely essential unless you want to surrender congressional control over the purse strings, as the gentleman from Texas has told you. The only question is the one raised by the gentleman from Arkansas. Does the amendment do that? When I first read the amendment I thought that it did, but I am not so sure now that it does. The amendment reads:

In no case, however, shall the compensation of any employee be increased unless Congress has appropriated money to provide for the increase.

There ought to be something in the amendment to prevent the classification which carries with it a higher salary as well as a refusal to appropriate the money.

Mr. BLACK. I do not see how it could be any more plainly stated that this reclassification shall not be effective, in so far as it increases the salary of an employee, until Congress has appropriated the money.

Mr. Sisson. If the gentleman's amendment did that I would not have taken the floor; but I submit to my friend whether it does that or not. I thought it did when I first read it, but the gentleman from Arkansas has raised another question.

In no case, however, shall the compensation of any employee be increased unless Congress has appropriated money to provide for the increase.

Let us stop right there. Does the gentleman believe that means that reclassification shall not be made which changes the salary until it has the approval of Congress? If the gentleman believes that, then the only question is whether the committee agrees with him or not.

Mr. BLACK. If the Director of the Budget should submit an inflated allocation and the Committee on Appropriations would decline to approve it by granting the appropriation, then he would have to make an allocation that the Committee on Appropriations would agree to.

Mr. WINGO. Mr. Chairman, will the gentleman yield?

Mr. Sisson. Yes.

Mr. WINGO. I have an idea that the next appropriation bill after this allocation will provide for a certain number of clerks of a certain class with a lump sum.

Mr. Sisson. I do not know what form it will take.

Mr. WINGO. Suppose the committee should be asked for \$200,000 and it should refuse to give that amount and would give only \$150,000. If he wants to give that increase to some favorite employee, and that is the thing we want to prevent, he might then be doing an injustice to a lower grade, by putting a man in a lower grade so that he could make the increase in one of these others where Congress refused to give him the money. So that you may have not only the increase, but you may work a hardship and some one decreased who ought not to be decreased.

Mr. Sisson. I see what is in the mind of the gentleman from Arkansas, and I agree with him that the point should be very carefully considered. There ought to be something in the bill that would prevent that. I believe every Member here wants to do justice and the fair thing by these employees and at the same time do justice by the Government.

Mr. BANKHEAD. Mr. Chairman, will the gentleman yield?

Mr. Sisson. In a moment. That being true, we ought to be sure that the language we adopt here in the bill will do just that thing. I yield to the gentleman.

Mr. BANKHEAD. I suggest to the gentleman that if he is in doubt about it, he prepare an amendment to the proposed amendment to make it absolutely certain.



Mr. Sisson. I wanted first to discuss the matter with my friend [Mr. Black] to see whether or not the amendment he has prepared is broad enough to do that.

Mr. Black. I can only give my opinion, and my opinion is that it is broad enough. Of course, if the gentleman can suggest any better language, very well.

Mr. Sisson. If this amendment were amended so as to read:

In no case, however, shall the compensation of any employee be increased or his grade changed until Congress has approved the change of grade and appropriated the money to provide for the change and the increase.

Unquestionably it would cover the entire case in my judgment. But this can be cured by placing an amendment at another place in the bill, and I ask the gentleman from Texas [Mr. Black] to give his attention to this and cure the defect, if he thinks any exists, because he and I are in accord in our views on this amendment, and if he does not offer the amendment I will.

The CHAIRMAN. The time of the gentleman from Mississippi has expired. The question is on agreeing to the amendment offered by the gentleman from Texas.

The amendment was agreed to.

Mr. Wood of Indiana. Mr. Chairman, I offer the following amendment, which I send to the desk.

The Clerk read as follows:

Amendment offered by Mr. Wood of Indiana: Page 3, line 11, after the word "building," insert the following: "Provided, That the President may, by Executive order, extend the application of this act to all persons employed in the field service."

Mr. Wood of Indiana. Mr. Chairman and gentlemen of the committee, I think that this is a very important amendment, and I can not see why—

Mr. Lehlbach. Mr. Chairman, I reserve the point of order, and I ask the gentleman whether or not he will yield to me for a question?

Mr. Wood of Indiana. Yes.

Mr. Lehlbach. Is this amendment one that was incorporated in the series of amendments which he offered to section 1?

Mr. Wood of Indiana. Yes.

Mr. Lehlbach. I make the point of order that the House has already passed on this amendment.

Mr. Wingo. I make the point of order that the point of order comes too late. The gentleman had already commenced his remarks.

The CHAIRMAN. The gentleman from New Jersey was on his feet asking recognition. What is the gentleman's point of order?

Mr. Lehlbach. That the committee has already passed upon this amendment, it being one of the series of amendments voted upon a short time ago.

The CHAIRMAN. The Chair is of the opinion that that point of order is not well taken. The amendment offered consisted of several pages, and now a partial amendment is offered. The Chair does not think the action of the committee on the former amendment would bar the subsequent amendment.

Mr. Lehlbach. It is just exactly as if the committee had acted upon a series of amendments en bloc and had defeated them and they are now being offered seriatim.

The CHAIRMAN. The Chair overrules the point of order.

Mr. Wood of Indiana. Mr. Chairman and gentlemen of the committee, I wish to call attention to this proposed amendment and the section it affects. If this measure has the virtue and merit that it should contain, it should have some provision whereby it is made to apply to those who are working in the field as well as those employed within the so-called District of Columbia. The amendment I am proposing is that the President by Executive order may make it apply, whenever in his opinion it should be made to apply, to those working in the field. I wish to call this to the attention of the committee, and that is that we have expended more than \$500,000 in trying to arrive at some scheme whereby a classification might be made of the civil-service employees of the United States and to date we have nothing. Now, we are proposing by this measure to undertake to provide for a reclassification of a part of the employees of the civil service without any provision made to a general reclassification of those in the field service.

Mr. Hudspeth. If the gentleman will yield, how many are there of those does the gentleman estimate in addition to those provided for in the bill?

Mr. Wood of Indiana. About 200,000, in round numbers. Now, you can take this reclassification bill as it applies to those that it is made to apply to in the District of Columbia and I am informed from those who are versed in calculating that by reason of the schedules laid down here the additional expense

to the taxpayers of the United States will be more than \$8,000,000, and to carry it out to its logical extent and to make it apply to the entire 200,000 it would increase the salary roll more than \$20,000,000. Now, I have before me here—and I wish to call it to your attention to-day had this amendment of mine received the sanction and consideration it should, something that may be of some interest to you—here is a complete reclassification of the District of Columbia in every respect that has cost the taxpayers of this country but \$50,000, and that is ready to be put into action this minute, or as soon as the law might be passed making it authoritative. So, I say when we are doing this thing, why should we insist upon doing it by piecemeal? If this thing is a success, as we hope it may be a success, if it becomes a law, why not have a provision whereby the President of the United States may by Executive order extend it so as to make it apply to all the forces. He might not do it all at one time. He would find one section of the field force ready to have it applied and issue his Executive order covering them. He might find another section at another time ready to have it applied to them. If this machinery is good for those employed in the District, why is it not good for all of the civil-service employees of the country?

Mr. Stevenson. Mr. Chairman, I am opposed to the amendment of the gentleman from Indiana. It is the business of the Congress to legislate. The tendency is to avoid legislation frequently, and this is one of the methods of avoiding it. Pass it up to the President by Executive order to extend it to the ones he sees fit and leave out such as he sees fit. We have done it already under the Civil Service Commission for the last 25 or 30 years, gradually putting them in and taking them out. If the President has the right to put a class in, he has an equal right to revoke an order and take them out. We have had that now from time to time. Take the post-office situation, as suggested by my friend from Ohio here. We have had four years of legislation by Executive order, where under civil-service regulations the man who made the highest mark got the appointment. Then we have had another President who sees differently and says you have to take one of the three highest. I will say frankly all of that is a humbug, as far as that is concerned. I agree with Mr. Thomas S. Williams, of Illinois, about that. I can give an instance which occurred in the good old State of South Carolina, not from my district, however, in which they held an examination and only two men got on the eligible list. There was one man who was already announced by the referee as the man who was to get the post office. They certified a list with only two men on it, and the choice of the referee was not on it. What did they do? Why, they had a revision that fixed it around so that it came out in favor of the man and put him on the list. He was revised and revised and put on the list where he got the post office. Now, that is what comes of these Executive orders making law apply to the people of this country.

Mr. Andrews of Nebraska. Will the gentleman yield?

Mr. Stevenson. I do.

Mr. Andrews of Nebraska. Is it not possible for the President of the United States to wipe out the entire civil-service regulations by one stroke of his pen?

Mr. Stevenson. Well, he would have to write his name and let some other fellow write the order above it. That is what they do, and I am opposed to extending this method of Executive legislation any further to anybody in the civil service or anybody else. [Applause.]

Mr. Lehlbach. Mr. Chairman, of course, as the gentleman who has proposed this amendment says, if classification of employees in the civil service is a good thing for those here in Washington it is a good thing for those in the field, and consequently the bill provides, section 5:

That the Bureau of the Budget shall report to Congress at the beginning of the session following the passage of this act schedules of positions, grades, and salaries for the field services, which shall follow the rules and principles of the compensation schedules in so far as these are applicable to the field services.

It says that this report shall include a list prepared by the head of each department, and it follows the procedure exactly that is laid down for the District employees in the classification under consideration. The reason that service is not classified in the bill is because we are not in possession of the data on which to base the classification, but we are only in possession of the data with which to classify the employees here in the District. But the difference in his method by which he would classify the field service and the way the bill classifies, is this: We insist in making the classification in the District. We ourselves make the classification. We have the compensation schedules and other elements here in the bill. They are subject to scrutiny by the committee line by line, but we are going to make that classification. We are not going to have any bureau

of the Government do it. To make it by Executive order would be to have some bureau of efficiency make the classification. We ask that the Bureau of the Budget make it, and we will revise or adopt it if necessary.

Mr. LONDON. On yesterday the gentleman from Indiana opposed the bill as unworkable and vicious. To-day he wants it extended to the field service.

Mr. LEHLBACH. That is correct. He points to this set of books and says that here is a complete classification in the District. He says to put it in force and let us extend it to the field service. There is not a Member of Congress that has lifted the cover of any book here and knows what is in it. But that is the way the gentleman wants to legislate.

Mr. RAKER. Will the gentleman yield?

Mr. LEHLBACH. I will.

Mr. RAKER. Taking the offices classified in the District of Columbia at the salaries fixed in your bill and comparing them with the salaries they are getting now and taking the whole lot, will it be a raise or a decrease generally in the salaries of all the offices?

Mr. LEHLBACH. There will be equalization for such diversity as exists between those who are admittedly underpaid and for whom there are pending in certain instances special bills to bring them up a grade and those who are not, and there will be opportunity for demotion or promotion. If they are getting more than they are worth, there will be an opportunity in the bill to reduce them and generally make for uniformity and equality and justice.

Mr. RAKER. According to the amount of working experience?

Mr. LEHLBACH. Yes.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Indiana [Mr. Wood].

The question was taken, and the amendment was rejected.

Mr. WOOD of Indiana. Mr. Chairman, I offer another amendment.

The CHAIRMAN. The gentleman from Indiana offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amendment offered by Mr. Wood of Indiana: On page 3, line 12, after the word "shall," add the following: "Under such rules and regulations as the President may prescribe."

Mr. LEHLBACH. Mr. Chairman, I make the point of order which I made to the amendment offered by the gentleman from Indiana previously. I renew the point of order that this amendment is one of a series that was passed upon by the House and therefore not in order to be reoffered at this time.

The CHAIRMAN. The amendment now offered is a very small part of the amendment that was rejected. It is clearly in order after an amendment has been rejected to modify it substantially and offer it again. The gentleman from Indiana has the right, it appears to the Chair, to offer parts of an amendment that has been rejected. The Chair overrules the point of order.

Mr. WOOD of Indiana. Mr. Chairman, the purpose in offering this amendment is that there may be some party in responsible authority who may have something to do with this allocation. You will find in reading this bill and in reading this very section that it is the purpose of those who are sponsors for it, as it now appears, to divert from the established order of things into a new channel the administration of this reclassification. Every gentleman here knows, or should know, that we have to-day upon the statute books an efficiency law passed in 1912, and that at that time its enforcement was placed with the Civil Service Commission. Some two or three years after that it was amended, when there was created a Bureau of Efficiency, the very purpose of which was to survey the efficiency of the various departments. And why was it done? Some of you were here then and perhaps remember the debate. It was found that it was inconsistent, if you please, with a good administration of the Civil Service Commission, and in consequence it was inefficient. Therefore, in order that some efficiency might be obtained in these various departments, an independent bureau, known as the Bureau of Efficiency, was created. And wherever that Bureau of Efficiency—and I am not here to defend any particular member of it—but wherever that bureau has had access to a department under that law, that department has been very materially benefited thereby.

One of the best evidences of it, if you please, was furnished in the Post Office Department. I have heard more mean things said about ex-Postmaster General Burleson than almost any other man who ever occupied a public place in Washington, but to his everlasting credit, be it said, he put the Efficiency Bureau in his department and had it weed out the inefficient in the

department, until to-day it is the most efficient department in Washington.

And the same good result has occurred in other departments where this Bureau of Efficiency has gone. And why? Here is an organization fully equipped for this character of work. Here is a fair example—that it has furnished you with a complete working machine at a cost of \$50,000, where \$500,000 was wasted without giving anything of value in any concrete form for our consideration. Therefore I ask, why do you not take and employ the machinery that we have already got rather than attempt to employ some new machinery; why set up new machinery in some new department that is without authority now, and without the force and the means with which to do the thing we desired to have done? We either should take and abolish this Bureau of Efficiency and repeal the law, or else we should take and give it the authority to function; and here is one of the best places in the world to say that we mean and show by our acts that we are trying to keep down the expenses of this Government and trying to make effectual the machinery that we already have instead of creating new machinery and keeping on building up and building up and building up new bureaus and new places at enormous and needless expense.

Mr. DAVIS of Tennessee. Mr. Chairman, will the gentleman yield?

Mr. WOOD of Indiana. Yes.

Mr. DAVIS of Tennessee. Under the gentleman's amendment, what assurance would we have that the President would be guided by the recommendations of the Bureau of Efficiency in making these rules and regulations?

Mr. WOOD of Indiana. If you will take and read that law you will find that it is the duty of the President to make it so, and if you will study the action of the President in the last few weeks you will observe that he has issued an Executive order directing every department to make a survey of efficiency, and directing the Bureau of Efficiency to go into the several offices and do that very thing. That is my answer to the gentleman.

Why, if we are trying to legislate for the purpose of getting the best results in the first place, and in the second place legislating for the purpose of saving money, why not employ the agency we already have to do this thing instead of employing a new force and giving it into new hands that must of necessity be provided with some means whereby that may be done?

Now, I am revealing no secret when I say to you that the Budget Bureau does not want this thing. They know that they can not enforce it, because it is absolutely inconsistent with the purpose of its creation; and one of the officials of the Bureau of the Budget told me to-day that under no circumstances should this duty ever be lodged with the Bureau of the Budget. [Applause.]

The CHAIRMAN. The time of the gentleman from Indiana has expired.

Mr. LEHLBACH. Mr. Chairman, in this amendment the gentleman from Indiana [Mr. Wood] reaches the crux of his opposition to the bill as reported by the committee. He proposes by his amendment that the allocations by the department heads should be under rules and regulations prescribed by the President, who would, of course, under the law, as he has told us, authorize the Bureau of Efficiency to do this work. We have here reached the point of difference, one of the main differences, between the gentleman's view and the view of the committee in regard to classification. The bill as it reads makes this classification subject to revision by the Bureau of the Budget. It shall become effective only upon its approval by said bureau. Section 4 of the bill gives to the Bureau of the Budget the power which the gentleman seeks to give to the Bureau of Efficiency, as follows:

That the Bureau of the Budget, in order effectively to revise and approve allocations, may make all necessary rules and regulations not inconsistent with the provisions of this act, and provide such subdivisions of services, titles of positions, and definitions of duties as it may deem necessary.

The point of this is just here: Do you want the allocations, the assignments of all the personnel of the Government in the District, and later on in the field, when this shall have been extended to the field, made subject to the agency of the administration which is responsible for the pay rolls and responsible for the Government's expenditures? Or do you want to give it to the Bureau of Efficiency, which has no responsibility at all? Do you want to place the agency under Gen. Dawes—and that is the purpose of the creation of his bureau—or do you want the irresponsible Bureau of Efficiency to be the check on these provisions and hold down any abuses that may arise under the allocations?



Mr. SISSON. Mr. Chairman, I move to strike out the last word.

The CHAIRMAN. The gentleman from Mississippi moves to strike out the last word.

Mr. SISSON. Mr. Chairman, I want to say that it looks to me as if we were getting confused. This whole business is under the President. If Members would think, they would not be misled so easily. Under this bill the men who are appointed by and are under the control of the President are the men who are going to make the classification provided for here. The amendment of the gentleman from Indiana [Mr. Wood] injects into the bill what is most objectionable to all the civil-service employees—namely, a real efficiency to entitle them to promotion, having nothing to do with the departments, but entirely independent of them all, and therefore practicing, so far as I know, practically no favoritism. They have no personal connection with the employee.

Now, in addition to what the gentleman from Indiana [Mr. Wood] said about the Bureau of Efficiency going to the Post Office Department, I want to say that Postmaster General Burleson was able to handle, with practically the same force and with no increased appropriation, nearly 100 per cent more mail matter because he did just exactly what the gentleman from Indiana [Mr. Wood] indicated.

Mr. KELLER. Mr. Chairman, will the gentleman yield?

Mr. SISSON. No; I can not yield now. My time is too short.

The CHAIRMAN. The gentleman declines to yield now.

Mr. SISSON. Another thing: The Bureau of Efficiency went through the Treasury under Gov. Burke, and Gov. Burke gave them absolutely carte blanche, and in a few weeks they reported some reforms to Gov. Burke and he was able to discharge a very large number of employees, and later some 40 were discharged. The Treasury for years had not been current in its work, but a few months after the new system had been in force Gov. Burke was asked what the situation was in his department, and his answer was, "The work is current every night." So he saved thousands of dollars to the Government and did the work more satisfactorily.

Now, I could mention many other good works of this Bureau of Efficiency. By the way, this Bureau of Efficiency was created under President Taft's administration, and the same people were continued by President Wilson, although President Taft created the bureau. The great trouble has been that many of the departments have fought it as if it was a public enemy. Every Cabinet officer that gave it a chance and would cooperate with it has come before the committee and stated that this Bureau of Efficiency has done a great deal of good. They have had experience, and they have a corps of trained men. If you turn this over to the Bureau of the Budget they will create a new organization; they will bring in a lot of new people that know absolutely nothing about it. This Bureau of Efficiency has had years of experience, and therefore I think the amendment of the gentleman from Indiana ought to prevail. [Applause.]

The CHAIRMAN. The question is on the amendment offered by the gentleman from Indiana.

The question was taken, and on a division (demanded by Mr. LEHLBACH) there were—ayes 32, noes 29.

Mr. LEHLBACH. Mr. Chairman, I ask for tellers, and pending that I move that the committee do now rise.

The CHAIRMAN. The gentleman from New Jersey moves that the committee do now rise.

The question was taken, and on a division (demanded by Mr. LEHLBACH) there were—ayes 37, noes 18.

So the committee determined to rise.

The committee rose; and Mr. WALSH, as Speaker pro tempore, having resumed the chair, Mr. SANDERS of Indiana, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill H. R. 8928, the reclassification bill, and had come to no resolution thereon.

#### LEAVE OF ABSENCE.

By unanimous consent leave of absence was granted as follows:

To Mr. ACKERMAN for one day on account of important business.

To Mr. HOCH (at the request of Mr. WHITE of Kansas), for this day on account of sickness.

#### ADJOURNMENT.

Mr. LEHLBACH. Mr. Speaker, I move that the House do now adjourn.

Mr. GARRETT of Tennessee. Will the gentleman withhold that for a moment?

Mr. LEHLBACH. I will.

Mr. GARRETT of Tennessee. Mr. Speaker, there has been a general impression that a conference report of some nature would be filed this afternoon.

The SPEAKER pro tempore. The Chair will state that the matter to which the gentleman refers is not ready this afternoon.

The motion of Mr. LEHLBACH was then agreed to; accordingly, at 4 o'clock and 59 minutes p. m., the House adjourned until to-morrow, Thursday, November 17, 1921, at 12 o'clock noon.

#### REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills and resolutions were severally reported from committees, delivered to the Clerk, and referred to the several calendars therein named, as follows:

Mr. JOHNSON of Washington, from the Committee on Immigration and Naturalization, to which was referred the joint resolution (S. J. Res. 33) permitting Chinese to register under certain provisions and conditions, reported the same with amendments, accompanied by a report (No. 471), which said joint resolution and report were referred to the House Calendar.

Mr. HUDDLESTON, from the Committee on Interstate and Foreign Commerce, to which was referred the bill (S. 2594) authorizing the counties of Allendale, S. C., and Screven, Ga., to construct a bridge across the Savannah River, between said counties, at or near Burtons Ferry, reported the same without amendment, accompanied by a report (No. 480), which said bill and report were referred to the House Calendar.

He also, from the same committee, to which was referred the bill (S. 2555) to construct, maintain, and operate a bridge and approaches thereto across Great Pee Dee River, S. C., reported the same without amendment, accompanied by a report (No. 481), which said bill and report were referred to the House Calendar.

#### REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, private bills and resolutions were severally reported from committees, delivered to the Clerk, and referred to the Committee of the Whole House, as follows:

Mr. ROSE, from the Committee on Claims, to which was referred the bill (H. R. 4367) for the relief of the owners of the schooner *Horatio G. Foss*, reported the same without amendment, accompanied by a report (No. 472), which said bill and report were referred to the Private Calendar.

Mr. UNDERHILL, from the Committee on Claims, to which was referred the bill (H. R. 5791) for the relief of Robert Russell, reported the same with amendments, accompanied by a report (No. 473), which said bill and report were referred to the Private Calendar.

Mr. ROSE, from the Committee on Claims, to which was referred the bill (H. R. 4368) for the relief of the owners of the barge *Havana*, reported the same without amendment, accompanied by a report (No. 474), which said bill and report were referred to the Private Calendar.

Mr. GLYNN, from the Committee on Claims, to which was referred the bill (H. R. 1463) for the relief of William Malone, reported the same without amendment, accompanied by a report (No. 475), which said bill and report were referred to the Private Calendar.

Mr. WOODS of Virginia, from the Committee on Claims, to which was referred the bill (H. R. 314) for the relief of Forrest R. Black, reported the same without amendment, accompanied by a report (No. 476), which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill (H. R. 6251) for the relief of Leo Balsam, reported the same without amendment, accompanied by a report (No. 477), which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill (H. R. 1543) for the relief of Bertram Gardner, reported the same without amendment, accompanied by a report (No. 478), which said bill and report were referred to the Private Calendar.

Mr. GLYNN, from the Committee on Claims, to which was referred the bill (H. R. 4504) for the relief of Annie M. Lepley, reported the same without amendment, accompanied by a report (No. 479), which said bill and report were referred to the Private Calendar.

## PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. FOSTER: A bill (H. R. 9156) to make November 11, "Armistice Day," a legal holiday; to the Committee on the Judiciary.

By Mr. LEE of Georgia: A bill (H. R. 9157) to establish a national park in the national forest reservation in the State of Georgia, and for other purposes; to the Committee on Agriculture.

By Mr. SINNOTT: A bill (H. R. 9158) to authorize the construction of a toll bridge over the Columbia River at a point approximately 5 miles upstream from Dalles City, Wasco County, in the State of Oregon, to a point on the opposite shore of the State of Washington; to the Committee on Interstate and Foreign Commerce.

By Mr. VOLSTEAD: A bill (H. R. 9159) to authorize the judges of the United States Court of Customs Appeals to be assigned to certain other courts and conferring the jurisdiction of such courts upon them while so assigned; to the Committee on the Judiciary.

By Mr. ANTHONY: A resolution (H. Res. 226) calling on the Secretary of War for information in regard to soldiers under sentence for participation in the Houston riot; to the Committee on Military Affairs.

## PRIVATE BILLS AND RESOLUTIONS.

Under class 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BLAND of Indiana: A bill (H. R. 9160) to reimburse John Anderson, former postmaster at Sanborn, Knox County, Ind., for stamps and funds stolen from the post office; to the Committee on Claims.

By Mr. BYRNS of Tennessee: A bill (H. R. 9161) granting a pension to Etta King; to the Committee on Pensions.

By Mr. CLASSON: A bill (H. R. 9162) granting a pension to Louis H. Grunert; to the Committee on Pensions.

By Mr. FESS: A bill (H. R. 9163) granting a pension to William G. Shotwell; to the Committee on Pensions.

By Mr. GREENE of Vermont: A bill (H. R. 9164) granting a pension to Abbie M. Babcock; to the Committee on Invalid Pensions.

By Mr. HARDY of Colorado: A bill (H. R. 9165) granting a pension to Julia A. Brown; to the Committee on Invalid Pensions.

Also, a bill (H. R. 9166) granting a pension to Josefa Martinez; to the Committee on Invalid Pensions.

By Mr. HILL: A bill (H. R. 9167) for the relief of the Fidelity & Deposit Co. of Maryland, Baltimore, Md.; to the Committee on Claims.

By Mr. KETCHAM: A bill (H. R. 9168) granting a pension to John H. Chrisler; to the Committee on Invalid Pensions.

Also, a bill (H. R. 9169) granting a pension to Sarah M. McKinnis; to the Committee on Invalid Pensions.

By Mr. McSWAIN: A bill (H. R. 9170) to refund to the city of Greenville, S. C., the sum of \$551.20; to the Committee on Claims.

By Mr. REED of West Virginia: A bill (H. R. 9171) providing for the relief of William A. Calloway; to the Committee on War Claims.

By Mr. RICKETTS: A bill (H. R. 9172) granting a pension to Harry W. Weston; to the Committee on Pensions.

By Mr. ROSSDALE: A bill (H. R. 9173) to grant relief and correct the military record of William Harley; to the Committee on Military Affairs.

By Mr. SCHALL: A bill (H. R. 9174) granting a pension to Margaret L. Ferriter; to the Committee on Pensions.

By Mr. SMITH of Idaho: A bill (H. R. 9175) granting an increase of pension to Benjamin Williams; to the Committee on Invalid Pensions.

By Mr. SMITH of Michigan: A bill (H. R. 9176) granting a pension to Orilla S. Spicer; to the Committee on Invalid Pensions.

By Mr. SPEAKS: A bill (H. R. 9177) granting an increase of pension to Harriet Gale; to the Committee on Invalid Pensions.

By Mr. SWING: A bill (H. R. 9178) granting a pension to Anna E. Hughes; to the Committee on Invalid Pensions.

Also, a bill (H. R. 9179) granting a pension to Marietta Vader; to the Committee on Invalid Pensions.

By Mr. TAYLOR of Colorado: A bill (H. R. 9180) granting a pension to Mary E. Sage; to the Committee on Invalid Pensions.

By Mr. TEN EYCK: A bill (H. R. 9181) for the relief of William McDonnell; to the Committee on Military Affairs.

By Mr. WOOD of Indiana: A bill (H. R. 9182) granting a pension to Laura M. Miller; to the Committee on Invalid Pensions.

Also, a bill (H. R. 9183) providing for the payment of the findings reported by the Court of Claims in favor of Timothy C. Harrington for extra time; to the Committee on Claims.

## PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

3063. By Mr. CHALMERS: Petition signed by residents of Toledo, Ohio, protesting against the passage of House bill 4388, known as the compulsory Sunday observance bill; to the Committee on the District of Columbia.

3064. By Mr. KISSEL: Petition of the Fuchs & Lang Manufacturing Co., New York City; to the Committee on Ways and Means.

3065. Also, petition of Brooklyn Bar Association, Brooklyn, N. Y.; to the Committee on the Judiciary.

3066. Also, petition of Hudson Chamber of Commerce, Hudson, N. Y.; to the Committee on Interstate and Foreign Commerce.

3067. Also, petition of water power commission, Albany, N. Y.; to the Committee on Interstate and Foreign Commerce.

3068. By Mr. PERKINS: Resolution of the Demarest Baptist Church, of Demarest, N. J., in support of House joint resolution 159; to the Committee on the Judiciary.

3069. By Mr. RHODES: Joint resolution by the City Council of Kansas City, Mo., to relieve the condition of unemployment and to improve the public highways of the country; to the Committee on Labor.

3070. By Mr. SNYDER: Resolutions of the members of the Methodist Episcopal Church, Oriskany Falls, N. Y., against legalizing the manufacture of 2.75 per cent alcoholic content and the imposition of a tax of \$5 per barrel; also favoring the speedy enactment of supplemental enforcement legislation; to the Committee on Ways and Means.

3071. By Mr. TAYLOR of Colorado: Resolutions of the Methodist Episcopal, Baptist, Federated, and Nazarene Churches of Palisade, Colo., urging speedy enactment of the antibeer dry enforcement bill; to the Committee on the Judiciary.

3072. By Mr. TEMPLE: Petition of R. Robinson, Altoona, Pa., in support of House bill 2984, introduced by Representative KAHN, of California, with reference to mileage-book privileges; to the Committee on Interstate and Foreign Commerce.

3073. By Mr. TINKHAM: Resolutions adopted by the executive committee of the Associated Industries of Massachusetts, attributing the decline of foreign trade and the curtailed domestic consumption of manufactured commodities to a ruinous system of Federal taxation superinduced by enormous expenditures of the United States Government for armament purposes, and the exhaustion of capital and credit; to the Committee on Ways and Means.

## SENATE.

THURSDAY, November 17, 1921.

(Legislative day of Wednesday, November 16, 1921.)

The Senate reassembled at 11 o'clock a. m., on the expiration of the recess.

Mr. CURTIS. Mr. President, I suggest the absence of a quorum.

The VICE PRESIDENT. The Secretary will call the roll.

The reading clerk called the roll, and the following Senators answered to their names:

Ashurst	Glass	McKinley	Smith
Borah	Gooding	McNary	Smoot
Broussard	Hale	Nelson	Spencer
Bursum	Harris	New	Sterling
Calder	Harrison	Nicholson	Sutherland
Cameron	Heflin	Norbeck	Swanson
Capper	Hitchcock	Norris	Townsend
Caraway	Johnson	Oddie	Trammell
Culberson	Jones, N. Mex.	Overman	Wadsworth
Curtis	Jones, Wash.	Page	Walsh
Dial	Kendrick	Penrose	Walsh, Mont.
Edge	Kenyon	Phipps	Warren
Ernst	Keyes	Pomerene	Watson, Ga.
Fletcher	King	Ransdell	Watson, Ind.
France	La Follette	Robinson	Williams
Frelinghuysen	McCumber	Sheppard	
Gerry	McKellar	Simmons	



Mr. CURTIS. I was requested to announce the absence of the Senator from Maine [Mr. FERNALD], the Senator from Iowa [Mr. CUMMINS], the Senator from Connecticut [Mr. McLEAN], and the Senator from Washington [Mr. POINDEXTER] on official business.

Mr. GERRY. I wish to announce that owing to a slight accident the Senator from Nevada [Mr. PITTMAN] is necessarily detained at his residence.

The VICE PRESIDENT. Sixty-six Senators having answered to their names, a quorum is present.

LETTER FROM MRS. LILLIE S. KNOX.

The VICE PRESIDENT. The Chair lays before the Senate a communication which the Secretary will read.

The Assistant Secretary read the communication, as follows:

NOVEMBER 4, 1921.

SECRETARY OF THE SENATE,  
Washington, D. C.

MY DEAR MR. SECRETARY: I wish to express to the Senate of the United States the sincere thanks and appreciation of my family and myself for the honor and respect shown to my late husband.

The deep affection and cordial friendship that I know my husband felt toward his colleagues in the Senate and the deep respect and honor they have paid to him fills my heart with great thankfulness for their kindness.

Sincerely, yours,

LILLIE S. KNOX.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. Overhue, its enrolling clerk, announced that the House had passed the bill (S. 843) to amend section 5 of the act approved March 2, 1919, entitled "An act to provide relief in cases of contracts connected with the prosecution of the war, and for other purposes," with an amendment, in which it requested the concurrence of the Senate.

PETITIONS AND MEMORIALS.

Mr. NELSON presented a resolution adopted by the Duluth (Minn.) Board of Trade, opposing the enactment of legislation restoring to State railroad commissions the authority to fix railroad rates, which was referred to the Committee on Interstate Commerce.

Mr. HARRIS presented a resolution adopted by the grand jury of Walton County (Ga.) Superior Court, November term, 1921, indorsing the Conference on Limitation of Armaments and urging that earnest prayer be offered up by the people for real and permanent results from the conference, which was referred to the Committee on Foreign Relations.

Mr. LADD presented a memorial of sundry citizens of Rolette County, N. Dak., remonstrating against Treasury Department regulations permitting the sale of beer by druggists, which was referred to the Committee on the Judiciary.

Mr. WILLIS presented a memorial of sundry citizens of Toledo, Ohio, remonstrating against the enactment of Senate bill 1948, providing for compulsory Sunday observance in the District of Columbia, which was referred to the Committee on the District of Columbia.

Mr. CAPPER presented a resolution adopted by the Methodist Sunday School of Selden, Kans., favoring the enactment of the so-called Willis-Campbell anti-beer bill, which was ordered to lie on the table.

He also presented resolutions adopted by the students and faculty of the Kansas State Agricultural College, indorsing the Conference on Limitation of Armament and favoring open sessions of such conference and the fostering of lasting peace among the nations, which were referred to the Committee on Foreign Relations.

Mr. SHORTRIDGE presented resolutions of the First Church of Christ, of Los Angeles; the executive board of the County Federation of Women's Clubs, of Imperial; women of the Nineteenth Century Round Table, of Hanford; the Thompson Memorial Methodist Episcopal Church, of Bakersfield; the faculty and students of the Berkeley Baptist Divinity School, of Berkeley; Chamber of Commerce of San Jose; Conference Church of the Brethren, district of southern California and Arizona, at La Verne; the Ministerial Association of Southern California and Arizona, Church of the Brethren, at Pasadena; and the Chamber of Commerce of Long Beach; all in the State of California, favoring the limitation of armament so as to foster world peace, which were referred to the Committee on Foreign Relations.

He also presented a resolution adopted by the members of the Sunday School of the First Presbyterian Church, of Pomona, Calif., favoring the limitation of armament, the support of the Volstead Act, the enforcement of the eighteenth amendment to the Constitution, and opposing the manufacture of beer and wine for medicine, which was referred to the Committee on the Judiciary.

He also presented a resolution of the Santa Ana (Calif.) Chapter of the Daughters of the American Revolution, protesting against the enactment of legislation commercializing the national parks and favoring the preservation of such parks in their natural state, which was referred to the Committee on Irrigation and Reclamation.

He also presented a petition of sundry citizens of Corning, Calif., praying for the enactment of supplementary prohibition legislation, which was ordered to lie on the table.

MICHIGAN SENATORIAL ELECTION.

The Senate resumed the consideration of Senate resolution 172, declaring Truman H. Newberry to be a duly elected Senator from the State of Michigan.

Mr. POMERENE obtained the floor.

The VICE PRESIDENT. The pending question is the motion of the Senator from Mississippi [Mr. HARRISON] to proceed to the consideration of Senate bill 2170.

Mr. CURTIS. Let us vote on the motion, or let the Senator from Mississippi withdraw it.

The VICE PRESIDENT. Does the Senator from Ohio yield?

Mr. POMERENE. I had expected to go on with my argument this morning and, of course, I expect to address myself to the contested-election case which is now before us.

Mr. HARRISON. If the Senator will permit me—

Mr. POMERENE. I yield.

Mr. HARRISON. Without prejudice, I withdraw the motion that is pending.

The VICE PRESIDENT. Without objection, the motion is withdrawn. The question is on agreeing to Senate resolution 172, submitted by the Senator from Missouri [Mr. SPENCER], and the Senator from Ohio is entitled to the floor.

Mr. POMERENE. Mr. President, we are considering the sanctity of the title of a sitting Member to his seat in this Chamber. It has been my privilege, or perhaps rather my responsibility, to sit in two similar cases since I began my service in this Chamber. The one resulted in the unseating of Mr. Lorimer. The other resulted in clearing the title of Mr. Stephenson to his seat in the Chamber.

I prefer to feel that 96 Senators, representing 48 different sovereign States, are going to hear and determine this case upon the evidence and under the law. I am not going to surrender that belief unless I am compelled to do so. The sitting Member is entitled to have a full and fair consideration and discussion of the question. The people of the great State of Michigan likewise are entitled to that consideration of the contest. Perhaps more than all else a right decision will affect the dignity and the honor of the 95 other Members of this Chamber.

Some of the developments of this case have reminded me of a story that was related to me by a distinguished Member of this body concerning his experiences in the House many years ago. There was then pending a contested-election case, and this Senator, then a Member of the House, attempted to discuss the merits of that case in the presence of the distinguished Speaker, Hon. Tom Reed. Mr. Reed replied to him, "Mr. Congressman, you are discussing the merits of the case. I would have you understand that the only time the House decides politically is when it sits judicially." I wonder whether Mr. Reed might not have been looking into the future and had a vision of some of the things that have been said and done in connection with this case.

Mr. President, before I shall begin to discuss what I conceive to be the law and the evidence, it is my desire to throw aside some of the flotsam and jetsam that seem to be surrounding the merits of this case. On yesterday reference was had to the fact that the grand jury in the city of New York had begun an investigation of the case, 500 or 600 miles away from the sovereign State of Michigan, and I judge that it was intended that the inference should be drawn that Members of the Senate who might not agree with the majority were in some respect responsible for that. Senators, I hold no brief for the Department of Justice, but I know that there was a great scandal connected with the election contest in Michigan; and it seems that the sitting Member filed his expense accounts with the Secretary of the United States Senate, having made affidavit thereto and having filed it in the city of New York.

Under the corrupt practices act that was regarded as the filing of the expense statement within the contemplation of its terms. So that question came up for investigation, whether rightly or wrongly, before the grand jury sitting in the city of New York. But, Mr. President, it was not Mr. Ford nor was it the United States district attorney that was responsible for delay in that instance; it was Mr. Newberry's attorney who began a habeas corpus proceeding at the time certain witnesses were called before the grand jury by the United States Govern-

ment, they, under instructions of their counsel, refusing to testify before the grand jury. The brilliant attorney representing Mr. Newberry thought to determine the constitutionality of the Federal primary law in a habeas corpus proceeding. If there was any attorney in the United States outside of the brilliant attorney who represented Mr. Newberry, and who was trying to clog the wheels of justice, who believed that the constitutionality of a statute could be determined by a habeas corpus proceeding, thereby preventing the United States grand jury from looking into the merits of what has perhaps excited more comment than any other election case in the history of the United States Senate, I am not advised of the fact.

Mr. President, that case was heard and determined in the district court, and later it came on appeal to the United States Supreme Court. It was decided in 1918 and will be found on page 273 of the two hundred and fiftieth volume of the United States Supreme Court Reports. Three of the parties to the proceeding were Blair, the treasurer of the committee; Templeton, the chairman of the committee; and Phillips, who was one of the publicity men.

Of course, the Supreme Court did what every lawyer expected to be done—affirmed the decision of the lower court, taking the position that the constitutionality of the statute could not be determined by that court in that case, and that they had no right to interfere with the orderly procedure of the grand jury. So much for that.

Mr. President, it is said in criticism of the conduct of this proceeding that it was taken afterwards before the grand jury sitting at Grand Rapids, Mich., and some inference ought to be drawn from that suggestion, perhaps, that those who have felt that this matter should be investigated were guilty of some high crimes and misdemeanors. Again I say, I hold no brief for the Department of Justice; but suffice it to say that the grand jury sat at Grand Rapids, which is in the State of Michigan, as Detroit is in the State of Michigan, and if it is suggested that Mr. Newberry's home was in Detroit, I answer, on the other hand, that Mr. Ford's home was in Detroit; and if it is attempted to suggest that some disadvantage to Mr. Newberry was sought in that proceeding, I again answer, with equal facility and felicity, that, perhaps, it was a disadvantage to Mr. Ford if he took any part in those proceedings; but I am advised that he did not.

Mr. SPENCER. Mr. President, will the Senator from Ohio yield for a question?

The VICE PRESIDENT. Does the Senator from Ohio yield to the Senator from Missouri?

Mr. POMERENE. I do.

Mr. SPENCER. Was Mr. Ford directly or indirectly a party to those proceedings in the United States court at Grand Rapids?

Mr. POMERENE. I am advised that he had nothing whatever to do with them; but the primary election covered the entire State of Michigan, and it was the theory of that case, in part, that there was a conspiracy to defeat the provisions of the Federal statute as well as of the State statute. I do not understand why it can be a subject of criticism at this hour of the proceedings that the United States district attorney did not pursue the course which the distinguished chairman of the committee referred to on yesterday.

Mr. SPENCER. Mr. President, will the Senator yield for another question?

Mr. POMERENE. I yield.

Mr. SPENCER. I will try not to interrupt the Senator often, but, if Mr. Ford was in no sense a party to that proceeding, then, so far as Mr. Ford was concerned, he would have no interest as to where that case was tried.

Mr. POMERENE. The Senator is quite right, and I can go a little further and suggest that, in view of the fact that the minority members of the committee agree with the majority members of the committee that Mr. Ford is not entitled to the seat here, I am at a loss to understand why so much attention should be paid to Mr. Ford. The question before us is simply this: Is or is not Mr. Newberry entitled to his seat? That is the only question involved.

Mr. President, let me go a step further. Reference has been made to delay. I am surprised that the majority members of the committee should say anything about delay. This matter was first called to the attention of the United States Senate in September, 1918, the primary having been held on August 27 of that year. I sought then to have an investigation, not because the sitting Senate at that time would have had jurisdiction finally to determine the case, but for two reasons: First, that the real evidence might be preserved, and, secondly, in order to assist us in coming to a conclusion as to whether or not there should be additional legislation to safeguard elections.

I am sure that the conscience of the Senate, both on the Republican side of the Chamber and on the Democratic side of the Chamber, was shocked to think that under the provisions of the Federal and State statutes \$176,000 could be expended in order that a man might secure a nomination for a seat in the Senate which paid \$7,500 a year. I know from conversations that I have had with Republican Members—and, of course, I shall not violate the proprieties by naming Senators—that they wanted the investigation to proceed, but it was blocked, and it was blocked on the other side of the Chamber.

Later on, after the ideas of November, 1918, when it was shown that the Republican Party was in control of both the House and the Senate, again I made repeated efforts to have this question taken up, not that it should be decided at that time but in order to preserve the testimony. Again, however, it was blocked, but with assurances that there would be no obstacles placed in the way of an investigation after the Congress which had just expired should take its seat.

Mr. President, while this controversy was pending indictments were returned in Michigan, and then my Democratic colleagues on the committee joined with me, as well as with the majority members, in the suggestion that while that case was pending and before it was tried nothing should be done in the United States Senate which would in the least tend to prejudice the minds of the jurors or interfere with a fair trial. That part of the delay was almost by unanimous consent; and I would again take the same action under similar circumstances, for, if there is one thing that is dear to my heart as a lawyer and as a Senator, it is that in America all issues of fact and of law shall be determined in accordance with the true merits of the case.

Later on, after this case found its way into the United States Supreme Court and there were further delays, again I was one of those who insisted that the hearings should go on in the interest of speed and of justice, with the understanding that no report should be made until the Supreme Court handed down its decision; but there was one obstruction after another. The majority, whether rightly or wrongly, took the position that nothing should be done until the Supreme Court handed down its decision. I believe I must modify that statement, perhaps, by saying that there was an agreement that the ballots and the election records should be preserved, by some order of the court or otherwise, pending this proceeding.

The count was had. Reference has been made to the fact that charges were presented to the Senate relating to the general election as well as to the primary election. Let me suggest to Senators that they keep in mind the fact that counter charges were also filed by the contestee against the contestant; and during the progress of the hearings, and I think at a very early day in the hearings, the sitting Member, through his counsel, withdrew all of the charges so far as they related to Mr. Ford. Of course, I take it, having withdrawn that issue, that no Member of the Senate, whether he is a lawyer or a layman, would expect the committee to investigate charges which were voluntarily withdrawn.

I do not know why Mr. Ford and his attorneys did not see fit to go into the general election. They saw fit to base their claims upon irregularities—aye, constructive corruption—of the primary. If, under this testimony, the Senate is to decide that there was no such illegality, no such corruption, and no such extravagance at the primary as to deny the sitting Member his seat, I take it that I can assume that they would do no differently if all of the testimony with regard to the election campaign were before that committee.

The Supreme Court finally decided this case. By five to four they held the law unconstitutional. As a lawyer and as a Senator I accept their judgment, though I can not approve it. I prefer the sentiment expressed by Mr. Chief Justice White, now deceased, and Mr. Justice Pitney, who delivered the minority opinion. It has always seemed strange to me that the majority of the Supreme Court should hold that the provision of the Constitution, in so far as it relates to the election of Senators, was not comprehensive enough to embrace primary elections, when I remember that in a somewhat analogous case, which was referred to in the record here, it was held by the Supreme Court that under the provision of the Federal Constitution which declares that presidential electors may be appointed in such way as the legislatures of the several States may determine, an election by a popular vote was an appointment within the meaning of the Constitution. That, however, is water over the wheel; and now what is the situation?

So far as the merits of this particular case are concerned, we must consider them under the State statute, supplemented by the fact that certain affidavits were filed with the Secretary of the Senate under the Federal statute, affidavits made by the



sitting Member, affidavits in which he swore that he disbursed nothing, that nothing was contributed to him, and that nothing was either contributed or disbursed by anyone with his knowledge or with his consent. Whether the Supreme Court was right or not in holding that the corrupt practices act, so far as it relates to primaries, was unconstitutional, the moral obloquy is the same when a man holds up his hand in the presence of the Almighty and swears that the facts contained in that affidavit are true. That much I claim for that part of the record.

It will be remembered that there are 83 counties in Michigan, containing 2,820 voting districts or precincts. At the November election, according to the official returns, there were 432,541 votes cast. Mr. Newberry received 220,054 votes; Mr. Henry Ford, 212,487 votes. Mr. Newberry's plurality, according to the official count in Michigan, was 7,567 votes; but on the recount, though the ballots in some precincts had been destroyed—whether rightly or wrongly, we have not been able to determine, suffice it to say that there was an agreement in this final count to accept the official returns of the State of Michigan in those several precincts as the correct count; and under this recount, instead of Mr. Newberry having a plurality of 7,567, his plurality was reduced to 4,834.

Mr. President, of course that is a plurality; but there is a great deal of difference between the plurality as found by the State authorities of Michigan and the plurality as found by the experts representing the committee, so that on the face of it there is some justification for the charges that were made that there were irregularities at the election.

Now, Mr. President, let me go a step further.

Mr. TOWNSEND. Mr. President, may I ask the Senator whether, in his judgment, there were any evidences of fraud in the election, as shown by the recount of the ballots?

Mr. POMERENE. Mr. President, I think I have already said to the Senate that no evidence was introduced—perhaps I should qualify that by saying no evidence other than the count which was made—and I make no charges and shall make none, so far as the conduct of the general election was concerned. I shall address myself to the primary election.

Mr. JONES of New Mexico. Mr. President, before the Senator leaves the question of the recount, I should like to know what was the nature of the mistakes which were discovered upon the recount, and what was it that made that difference?

Mr. POMERENE. Mr. President, a part of the record here will show that; but I think that is somewhat beside the merits of the case as it is presented here, for the reason that there were experts representing both Mr. Ford and Mr. Newberry, and I think they agreed as to the report which was made. There were some defective ballots; there were some mistakes as to the name, and a number of other irregularities of that kind. I am not prepared to catalogue them at this time.

Mr. JONES of New Mexico. I am sure that in the count of that number of ballots some irregular ballots must appear, but such a discrepancy in favor of one candidate is rather impressive.

Mr. POMERENE. The Senator is right about that; but in view of the final result I have dismissed that part of the case from my consideration, and expect to devote the rest of my time to the consideration of the law and the evidence on the question of corruption and extravagance.

Now, I want to call the Senate's attention briefly to the statutes of the State of Michigan. Section 3828 limits the amount of expenditure. I may say that this limitation applies expressly to governors and other State officials, but there is another section of the statute which provides that the same limitation which is applied to the nomination and election of governors shall apply to the nomination and election of United States Senators, and under the statutes of Michigan the maximum expenditure by a candidate for United States Senator, both at the primary and at the general election, is an amount equivalent to 50 per cent of the first year's salary, or \$3,750, and there was expended by this political committee \$176,000, admittedly; nay, more than that, because afterwards they came in and said that they paid out from twelve to fifteen thousand dollars of which they said they knew nothing at the time they filed the account.

Let me call the attention of the Senate now to section 3829, which provides that "every political committee shall appoint a treasurer." A political committee was appointed. Mr. Templeton, the business associate of Mr. Newberry, was the chairman of the general committee. Mr. Paul H. King, another friend, was the acting chairman of the general committee. He was really the executive head. Mr. Blair, his banker, was the treasurer of the committee.

Now, I want to call the attention of the Senate to the only kinds of expenditure which can be justified or permitted in Michigan. Section 3830 provides:

No candidate and no treasurer of any political committee shall pay, give, or lend, or agree to pay, give, or lend, either directly or indirectly, any money or other valuable thing for any nomination or election expenses whatever, except for the following purposes—

There are 11 of them. They are:

First. For traveling expenses and personal expenses incident thereto, for printing, stationery, advertising, postage, expressage, freight, telegraph, telephone, and public-messenger services.

Second. For dissemination of printed information to the public.

Third. For political meetings, demonstrations, and conventions.

Fourth. For the rent, maintenance, and furnishing of offices.

Fifth. For the payment of clerks, typewriters, stenographers, janitors, and messengers actually employed.

Sixth. For the employment of challengers at primaries and elections to the number allowed by law as such.

Seventh. For the payment of public speakers and musicians at public meetings and their necessary traveling expenses.

Eighth. For copying and classifying of election registers or poll lists and investigating the right to vote of the persons listed or registered therein, and conducting proceedings to purge the registers and lists and prevent improper or unlawful registration or voting.

Ninth. For making canvasses of voters.

And I want to call attention to that in a moment, because it is the only class of expenditures about which there can be any doubt whatsoever as to its true conception.

Tenth. For conveying infirm or disabled voters to and from the polls.

Eleventh. For employing as counsel attorneys licensed to practice in accordance with the laws of the State, and for the necessary expenses of such counsel.

Now, let me call attention further to other sections, which will be explanatory of those, and bear in mind as I read the next section that while there was an alleged account of receipts and disbursements by the committee, there was no account filed by Mr. Newberry, as the statutes of the State of Michigan required. I read from section 3831:

Every candidate and every treasurer of a political committee shall, within 10 days after any primary election—

And so forth—

file an account.

And then, omitting a part of the language which is not pertinent to the question I am seeking to raise, it says that he shall—

prepare and file in the office of the county clerk of the county in which such candidate or treasurer resides—

Now, note—

a full, true, and detailed account and statement, subscribed and sworn to by him before an officer authorized to administer oaths, setting forth each and every sum of money received or disbursed by him for nomination or election expenses, the date of each receipt, the name of the person from whom received or to whom paid, and the person to whom and object or purpose for which disbursed. Such statements shall also set forth the unpaid debts and obligations, if any, of such candidate or committee incurred for the purposes set forth in section 3 of this act, with the nature and amount of each, and to whom owing, in detail, and if there are no such unpaid debts or obligations of such candidate or committee such statement shall state such fact.

When we called the committee's attention to the fact that there was no account of the receipts or expenditures after the primary the distinguished and very clever counsel representing Mr. Newberry said, "There is no provision in the statute for pick-ups after the primary." Those are his words. But under this statute, if it were complied with, there could be no pick-ups, because they were obliged to file an account showing every receipt and every expenditure, the purposes for which the expenditures were made, and if there were any unpaid indebtedness, to show that fact.

Mr. WILLIAMS. What did he mean by "pick-ups"?

Mr. POMERENE. Receipts or expenditures which might come in after he had filed the account. He referred to them as "pick-ups"; but there could have been none if there had been a compliance with this law. Then, let me remind Senators that Mr. King, the chairman of the political committee, who had most to do with the making out of this account, was himself a lawyer, skilled in political methods in Michigan, and he had employed his own partner as a lawyer and paid him a fee of \$500 to keep them in the straight and narrow path provided for under this primary law.

Mr. President, if Senators are interested in these facts—and I shall assume they are, notwithstanding the empty benches in the Chamber—I think I have the ability to make myself understood by judges who are interested, even if they do not agree with me, but I can not make the empty seats transmit intelligence to those who do not occupy them. Before I pass to the other provisions of this statute, let me call attention to this account which was filed, and which appears in the bill of exceptions, beginning on page 252 and ending on page 283. Mr. President, much of this expense was for advertising. At the head of the account the accountant summarizes the expenditures under seven heads, and my friend, the Senator from Mis-

souri [Mr. SPENCER], who occupied the floor of the Senate yesterday, paid a great deal of attention to it.

The seven subheads were—

For advertising and other publicity	\$147,800.16
Office expenses, including rent, furniture, light, and clerk hire	9,070.13
Telephone, telegraph, and other charges	1,514.14
Traveling expenses	9,104.52
Copying of election registers and canvassing the voters	4,375.38
Salaries and compensation not otherwise charged	4,143.75

But you will observe that there is nothing said about automobile hire; there is nothing said about the hiring of workers at the polls, or the amount that was paid therefor; there is nothing said about the money which was expended for cigars, for beer, for liquor, and for treats, and there is some evidence in the record on that subject. This account was filed, not for the purpose of showing what was done, but it was filed in a way to conceal the purposes of the expenditures, and if Senators will be patient with me I think I will make that perfectly clear before I shall have concluded my argument.

Mr. President, let me go a step further. This statute provides that—

It shall be unlawful to administer the oath of office or to issue a commission or certificate of nomination or election to any person nominated or elected to any public office until he has filed an account.

Mr. Newberry did not file any account, and so the authorities of the State of Michigan did not have any right to issue a certificate of nomination to Mr. Newberry, because he had not filed his account, and he has not done it yet, so far as I know.

Now, let me go a step further. Section 3834 provides, in part, that the several officers shall investigate these things, "and if upon examination of the official ballot it appears that any person has failed to file a statement as required by law, or if it appears to any such officer that the statement filed with him does not conform to law, or upon complaint in writing by a candidate or by a voter that a statement filed does not conform to the truth, or that any person has failed to file a statement which he is by law required to file, said officer shall forthwith, in writing, notify the delinquent person to comply with this act."

That was not done at all. Mr. Newberry contents himself with filing his account here in the office of the Secretary of the Senate, in which he says he received nothing and expended nothing and that nothing was received or expended with his knowledge or consent.

Mr. SPENCER. Mr. President—

The VICE PRESIDENT. Does the Senator from Ohio yield to the Senator from Missouri?

Mr. POMERENE. I yield.

Mr. SPENCER. The Senator is quite right as to the law of Michigan, which gives to any voter the right to complain of any untruthful or inadequate statement in a report. Does it strike the Senator as significant that not a single voter in the State of Michigan made any such complaint?

Mr. POMERENE. Mr. President, it strikes me as very significant that the officeholders up there did not file any such complaint. I can not answer for the electorate, but I can answer for the officers whose sworn duty it is to see that the law is enforced.

Mr. HEFLIN. Mr. President, if the Senator will pardon me—

Mr. POMERENE. I yield.

Mr. HEFLIN. The lieutenant governor, who was a Republican, filed complaint in an address to the people of Michigan, in which he pronounced that election as the most corrupt ever held in the State.

Mr. POMERENE. Yes; and I hope our good friends on the other side who speak of the purity of this election and of the awful injustice that is being done to the sitting Member will have a little thought for the injustice that is being done the great electorate of the State of Michigan.

Now, Mr. President, let me go a step further. I wish again to call attention to the account to which I have referred, and I hope Senators who are interested in it will study it. I hope those Members of the Senate who are here will take my request out to the Senators who are in the cloakroom. It may not hurt their consciences to pass judgment upon a case of this kind, but it would hurt mine if I were similarly derelict.

Bear in mind now that they had not only the corrupt practices act in Michigan, but they had what is denominated a primary act. I take it that lawyers who do me the honor to listen will agree with me on the proposition that these statutes, though they are in different acts of the legislature, must be construed together so as, if possible, to give full force and effect to the entire statutes of the State.

Mr. President, I am just reminded that the absentees now for the most part are the Senators on the other side of the Cham-

ber who wanted me to proceed last night after we had been in session nearly six and a half hours.

Section 45 of the Michigan primary act—and notice the language is confused—in substance reads:

SEC. 45. Every person who, directly or indirectly, by himself or by any other person in his behalf, gives, lends, or agrees to give or lend, or offers or promises any money or valuable consideration, or promises or endeavors to procure any money or valuable consideration or office, place, or employment, to or for any voter, or to or for any person on behalf of any voter, or to or for any person in order to induce or have such person induce any voter to vote for or refrain from voting for, or support or oppose any candidate, or on account of such voter having voted or refrained from voting at any primary election in this State—

And further—

every person who by any means receives, agrees, or contracts for any money, gift—

Then I omit a certain part of the statute which is not pertinent and read further—

or for inducing or undertaking to induce any other person to vote in a particular manner—

Now note—

or to do or perform any of the acts or things forbidden by this act, or on account of agreeing to do, or having done any campaign work, electioneering, soliciting votes for such candidate on primary day or prior thereto, or who after any primary election in this State, directly or indirectly, by himself or by any other person in his behalf, gives or receives any money or valuable consideration or office, position, or employment on account of any person having voted or refrained from voting, or having induced any other person to vote or refrain from voting at any such primary election; or having induced or undertaken to induce any other person to vote in a particular manner or for any particular candidate at any such primary election, or on account of any person having done or been a party to doing anything forbidden by this act.

That language is pretty comprehensive. Now, note what follows, and I would like Senators on the other side—the few who are in their seats—to bear this fact in mind in considering this act as well as the corrupt practices act:

It being the intent of this clause to prohibit the prevailing practice of candidates hiring with money and promises of positions, etc., workers on primary day and prior thereto.

Now, I call the attention of Senators to the fact that in the record of the alleged account which was filed it does not show a single dollar that was expended for workers at the polls or prior to primary day, and when the intelligent committee prepared that account and filed it, I think I am justified in saying that the clever lawyers who had a part in its preparation knew that they were defying the law of the State of Michigan, and their purposes are apparent.

But now let me go a little further.

Mr. KING. Mr. President—

The VICE PRESIDENT. Does the Senator from Ohio yield to the Senator from Utah?

Mr. POMERENE. I yield.

Mr. KING. I wish to call attention to a matter that must be obvious to all. It was contended that this matter, so important, should be discussed in the presence of as many Senators as possible. There have been only a few Senators present upon the Republican side. Several are coming in now. I think there are 12 on the Republican side now, including the Senator from Wisconsin [Mr. LA FOLLETTE], the senior Senator from Utah [Mr. SMOOT], the Senator from Nebraska [Mr. NORRIS], the Senator from Iowa [Mr. KENYON], and a few others. I suggest the absence of a quorum.

The VICE PRESIDENT. Does the Senator from Ohio yield for that purpose?

Mr. POMERENE. I yield for that purpose.

The VICE PRESIDENT. The Secretary will call the roll.

The Assistant Secretary called the roll, and the following Senators answered to their names:

Borah	Hefflin	Nelson	Smoot
Broussard	Hitchcock	New	Spencer
Calder	Johnson	Nicholson	Sterling
Capper	Jones, N. Mex.	Norbeck	Sutherland
Caraway	Jones, Wash.	Norris	Swanson
Culberson	Kendrick	Oddie	Townsend
Curtis	Kenyon	Overman	Trammell
Dial	Keyes	Page	Wadsworth
Elkins	King	Phipps	Walsh, Mass.
Ernst	La Follette	Pomerene	Walsh, Mont.
Fletcher	McCormick	Ransdell	Warren
Frelinghuysen	McCumber	Robinson	Watson, Ga.
Gerry	McKellar	Sheppard	Watson, Ind.
Harris	McKinley	Simmons	Williams
Harrison	McNary	Smith	

The VICE PRESIDENT. Fifty-nine Senators having answered to their names, a quorum is present.

Mr. POMERENE. Mr. President, just before the quorum call was made I directed the attention of the Senate to the fact that the primary law in the State of Michigan declared it to be the intent of the legislature to prohibit the prevailing practice of candidates hiring with money and promises of position, and so forth, workers on the primary day and prior



thereto. In order that I may fasten this down, I am going to refer to the bill of exceptions. One of the very active political geniuses who were in charge of the Newberry campaign was Charles A. Floyd. On July 25, 1918, he sent a report to Paul H. King, the chairman, as to the conditions in Kent, Barry, Ionia, Montcalm, Newaygo, Ottawa, Allegan, Muskegon, Mason, Wexford, Leelanau, Grand Traverse, Antrim, Charlevoix, and Emmet Counties. Mr. Floyd was one of the field agents who went around and distributed the Newberry funds. He had an account from Grand Rapids for a time.

Mr. TRAMMELL. Will the Senator allow me to inquire from what page he is reading?

Mr. POMERENE. I am reading, beginning on page 851, from the bill of exceptions in what is called, at least in my report, the record, which includes the testimony which was taken before the Senate committee and the bill of exceptions which was used in the Supreme Court and which, by unanimous consent, was made a part of the record.

Now, let us see what he says about workers. On page 854 Mr. Floyd told Mr. King—and Mr. King's was the fine Italian hand that prepared this report or completed it after Mr. Emery had fainted because of his efforts to make out the report and had left.

All the original books and papers of entry are gone, and we have only the secondary report here—five hundred and odd checks out of eighteen hundred plus checks issued for this purpose. There is a schedule of checks and, I believe, of some newspaper accounts for advertising. However, I am diverting.

Mr. WALSH of Montana. Mr. President—

Mr. POMERENE. I yield to the Senator.

Mr. WALSH of Montana. I want to ask the Senator from Ohio what about the stubs from which the checks were drawn?

Mr. POMERENE. The Senator from Montana ought not to ask me a question of that kind. The Senator is interfering with the hallowed privileges of the sitting Member and his counsel not to give that information; and they have the support of the majority members of the subcommittee. The Senator from Montana should be content with the affidavit which is filed in the office of the Secretary of the Senate to the effect that "I know nothing about it; nothing was done with my consent."

Mr. WALSH of Montana. The Senator stated that these checks and records were gone.

Mr. POMERENE. Yes.

Mr. WALSH of Montana. What became of them?

Mr. POMERENE. Well, the order was given that superfluous papers should be taken down to the furnace from day to day.

Mr. WALSH of Montana. When was that?

Mr. POMERENE. And a good deal of it was done before the account was filed.

Mr. WALSH of Montana. So that it was all before the grand jury proceeding?

Mr. POMERENE. Oh, yes; that part of it was.

But let us read this from page 854 of the bill of exceptions; it is most interesting. I hope the Republican Senators on the other side of the Chamber will convey this information to those absent Senators who are going to vote to continue Mr. Newberry in his seat. There are a good many "innocents abroad" in the United States Senate.

In addition to the above—

He has given a summary of this situation—

In addition to the above and in general, I have encouraged all the organizations to make as wide a distribution of literature as possible during the remaining days of the campaign.

Now, notice—

I have arranged with them also to provide for representation at each voting precinct the entire day of the primaries so that through this whole district—

The 8 or 10 counties to which he is referring—

so that through this whole district you can be sure that there will be at least one man and in some cases two or three giving their entire time in saying the final word.

O Mr. President, think of the situation, when his own friends say that Mr. Newberry was not known to a thousand men in Michigan, and when the report of the majority says he was not known to very many!

Now, Mr. President, let me go a step further with the statute. I have read to Senators section 45, showing what the intent of the law was to prevent the employment of workers at the polls; but, perhaps, I will be met with the statement that this applies to candidates. I do not know that I will, but I assume

so. Section 48 provides, so far as it is pertinent to the question of the primary act:

It shall be unlawful for any other person to do or perform for or on behalf of any such candidate or to help or injure the candidacy of any candidate, any of the acts or things which it is by this act made unlawful for such candidate to do.

In other words, the candidate could not employ workers and neither could the campaign committee.

Mr. President, I think if we will bear in mind these provisions of the Michigan statute they will aid us in construing some of the testimony that is in the record—I may say "embalmed in the record." Some Senators do not care even to investigate the embalmed record; they are not even interested in reading the report; they are not interested in hearing discussion. Why, Mr. President—and this is one of the acts because of which I complain against the committee—when my associate on the minority side of that committee, the then Senator from Delaware, Mr. Wolcott, who now is chancellor of the State of Delaware, while I was absent because of a previous engagement which I had made in my own State, asked that there might be an oral argument, the distinguished Senator from Indiana said there shall be no oral argument. A judicial proceeding conducted in a judicial manner, indeed! Mr. President, if we had been sitting as a trial court an appellate court would have reversed the lower court for gross errors committed in denying certain motions.

Mr. WALSH of Montana. Mr. President—

Mr. POMERENE. I yield to the Senator.

Mr. WALSH of Montana. In connection with the matter just read by the Senator concerning the employment of workers on the day of the primary who were to give the "final word," I read from the majority report as follows:

The evidence entirely fails to sustain this charge, for it is clearly shown that those employed by the Newberry campaign committee—that is to say, clerks, stenographers, field men, and publicity men—are not in any sense within the prohibition of the Michigan statute.

I should like to inquire of the Senator from Missouri under which one of these classes he lists the workers just referred to by the Senator from Ohio?

Mr. SPENCER. Mr. President, if the Senator from Montana will read the law which has been quoted by the Senator—

Mr. WALSH of Montana. I am not speaking about the law; I am speaking about the report. We have just learned from the testimony given us by the Senator from Ohio that there were men employed who were to be at every polling place in a half dozen different counties on the primary day and have the "final word" with the voters before they went to vote.

The Senator in his report tells the Senate "that those employed by the Newberry campaign committee—that is to say, clerks, stenographers, field men, and publicity men—are not in any sense within the prohibition of the statute." I wanted to know from the Senator whether the men just referred to by the Senator from Ohio were clerks, stenographers, field men, or publicity men?

Mr. SPENCER. The Senator will find them included under the general head of salaries and other compensation. The Senator will find them in detail—

Mr. WALSH of Montana. Mr. President—

Mr. SPENCER. Does the Senator want to know?

Mr. WALSH of Montana. I am not asking under what head they will be found; I am asking the Senator from Missouri—

Mr. SPENCER. Does the Senator from Montana want to know? If he does, I will answer him.

Mr. WALSH of Montana. If the Senator only will answer my question, I shall be glad to have him do so.

Mr. SPENCER. He will find them in detail—

Mr. WALSH of Montana. The Senator has advised us that none were employed except these four classes, and I am asking the Senator under which class he puts this lot of men.

Mr. SPENCER. That is exactly what I am trying to answer the Senator, if he will allow me. He will find that in detail under the head of "Field men and publicity," and under the general head he will find it under "Publicity and salaries and other expenses."

Mr. WALSH of Montana. Mr. President—

Mr. SPENCER. Will the Senator let me finish my answer, inasmuch as he has asked for it? If the Senator will look at the interpretation of the law concerning which he is now speaking in the State of Michigan, he will find that it does not have reference to a man, on primary day or before primary day, who engages in the legitimate work of promoting the candidacy of the man in whom he is interested. Every Senator has had those men, and always will. The law refers to the bribery or corruption of voters, and to the use of workers, on primary day or before then, for that unlawful purpose of bribery or cor-

ruption. To say that either under the law of the State of Michigan or under the common law or in common sense it is wrong or illegal for you or me or any other candidate to have a friend who does his best on election day in a lawful manner for my candidacy or yours is ridiculous.

Mr. WALSH of Montana. That is not the question I asked the Senator at all, as everybody knows.

Mr. SPENCER. I have answered the question.

Mr. WALSH of Montana. The Senator has not answered it, and he knows he has not answered it. I did not ask him what the law provides or for any argument about it. Whether it is right or whether it is wrong, I will canvass at the proper time. The Senator has told the Senate in his report that everybody who was hired came under one of four classes, and I have simply asked him under which class he puts these men.

Mr. SPENCER. I have answered the Senator that he will find them under one of two classes—the field men or the publicity.

Mr. POMERENE. Mr. President—

The VICE PRESIDENT. The Senator from Ohio has the floor.

Mr. POMERENE. The Senator from Missouri has been a judge, and the Senator knows that he has not answered the question of the Senator from Montana; and the Senator knows, too, that when he makes the answer that he does make he ignores the provisions of sections 45 and 48 of the primary act, to which I have called attention. There is not any question about that.

Mr. TRAMMELL. Mr. President, will the Senator yield to me?

Mr. POMERENE. I yield to the Senator from Florida.

Mr. TRAMMELL. I can not allow to stand unchallenged the statement of the Senator from Missouri that every Senator hires paid workers on election day or at any other time. I state to the Senate most emphatically that I have condemned such practices and never hired a paid worker in my life, on election day or at any other time.

Mr. WILLIAMS. I want to repeat that statement for myself.

Mr. POMERENE. Let me corroborate what the Senator from Florida and the Senator from Mississippi have said by adding that in the State of Ohio they used to employ workers. It is now absolutely forbidden, and they are not even allowed to haul voters to the polls.

Mr. BORAH. Mr. President—

Mr. POMERENE. I yield to the Senator from Idaho.

Mr. BORAH. I want to ask a question, because this is a phase of the matter which I confess has been difficult for me to solve. Do I understand that the able Senator from Missouri takes the position that under the primary law of Michigan you may hire a man to go to the polls on election day and pay him for advocating your cause?

Mr. SPENCER. Certainly not at the polls. Every State has a law that at the polls, and within a certain district around the polls, there can be neither advocacy nor publicity.

Mr. BORAH. When I say "at the polls," I do not mean within the prohibited distance, 150 feet; but I ask this because I know that the Senator has given much time to the study of the law of this matter, and that is what interests me. Can you hire men to devote their energies and their efforts to your candidacy upon election day, whether they are 500 feet from the polls or 1,000 feet from them?

Mr. SPENCER. In Missouri you can. In Michigan you can. If the law in the State of Ohio is as I have no doubt it is, because the Senator so states it, there seems to be a law against it. In other words, the answer I make to the Senator's question is that there is no inherent impropriety or wrong in a campaign committee or in a candidate having a friend under hire, if you like—

Mr. POMERENE. At the polls?

Mr. SPENCER. For the purpose of bringing men to the polls, or for the purpose of seeing, around in the community where he lives, that voters vote. Of course, the Senator from Mississippi [Mr. WILLIAMS] and the Senator from Florida [Mr. TRAMMELL] have no concern about the general election. When they have once been nominated, under their system of procedure, it is ended.

Mr. POMERENE. Mr. President, let us stick to our mutt-tons. We are discussing now the Michigan law and what was done there. Let us not be diverted by these other matters, I beg.

Mr. SPENCER. May I answer the Senator on the Michigan law?

Mr. POMERENE. Yes.

Mr. SPENCER. The Senator will bear me out in the statement that section 45, to which the Senator has referred, com-

mences in its first statement by prohibiting anything that looks to the bribery or corruption of a voter. That is the first and the fundamental purpose of that section.

Mr. POMERENE. Oh, Mr. President—

Mr. SPENCER. May I finish my sentence?

Mr. POMERENE. I wish the Senator's horizon were broad enough to enable him to take into consideration an entire statute, and not pick out one sentence of a statute.

Mr. SPENCER. Evidently the Senator does not care for the facts.

Mr. BORAH. Mr. President, I have not gone so far into this case that I have any feeling about it. I want to know if it is the view of the able Senator from Missouri that under the Michigan law—I am not speaking now about the law of other States, nor the common law, nor the morals of it—you are permitted to hire men to advocate your cause upon election day? I do not care where they are with reference to the polls. Can you plant them all over the country, in the different precincts, and so forth, and, under pay, have them advocate your cause upon that day?

Mr. SPENCER. If the Senator refers to the candidate himself, he has certain limitations under the law as to the amount of money he can expend. Within those limitations he has, under the Michigan law, the perfect right to have aiders or helpers or those who on election day shall bring out the vote; and in the case at bar the testimony shows that the candidate himself had nothing whatever to do with it. Any committee of voluntary friends that had his candidacy at heart could, under the Michigan law, do precisely the same thing.

Mr. BORAH. Mr. President—

Mr. POMERENE. Will the Senator, in that connection, allow me to read the statute?

Mr. BORAH. Yes; I will.

Mr. POMERENE. I think, perhaps, the Senator was not in the Chamber at the moment that I read that awhile ago.

Mr. BORAH. Yes; I was, but I shall be glad to have it read again.

Mr. POMERENE. In prohibiting expenditures, it says, in section 45:

Or for inducing or undertaking to induce any other person to vote in a particular manner, or to do or perform any of the acts or things forbidden by this act, or on account of doing or agreeing to do, or having done any campaign work, electioneering, soliciting votes for such candidates on primary day or prior thereto, or who after any primary election in this State, directly or indirectly, by himself or by any other person in his behalf, gives or receives any money or valuable consideration—

And so forth.

Now, let me read a little further.

Mr. SPENCER. I wish the Senator would read it all.

Mr. POMERENE. I did read it all, sir, before.

Mr. SPENCER. I wish the Senator would.

Mr. POMERENE. My good and genial friend from Missouri does not remember all of this. Then the last sentence reads like this:

It being the intent of this clause to prohibit the prevailing practice of candidates hiring with money and promises of positions, etc., workers on primary day and prior thereto.

Now, let me call attention to section 48. Section 45 may be construed to apply to the candidate or somebody who is acting for him; but, as if to make the rule absolutely certain, iron-clad, and riveted, it says:

It shall be unlawful for any other person to do or perform for or on behalf of any such candidate, or to help or injure the candidacy of any candidate, any of the acts or things which it is by this act made unlawful for such candidate to do.

Mr. SPENCER. Mr. President, now may I ask the Senator from Ohio if in the State of Michigan a man is running for office, and one of his friends on election day goes up and down the corridor of the office building in which he works and says to those whom he knows in that office building, "Have you voted? I hope you will vote for my friend, and not forget to vote," is that man, under the Senator's interpretation, a criminal under the laws of Michigan?

Mr. POMERENE. Is my good friend from Missouri asking that question seriously, or is he trying to evade the issue?

Mr. SPENCER. Absolutely seriously, in view of what the Senator has said.

Mr. POMERENE. Very well. I shall answer it. Of course, that is not a criminal act; but if I go out and hire that man with my money, then I am guilty of an offense; and if I have a committee to do that—I may call it an independent committee of my friends—but when I have selected the personnel of that committee, when I am in constant conference with them, when they write 50,000 letters which they send to me to sign as if I had written them, when I am in constant conference with them as to the policies of the campaign, when I say to them



that if we keep up our publicity campaign we will keep certain other candidates out of the race, when I call up my confidential man, who is made the sewer through which the voters of Michigan are to be misled, and complain to him about the extravagant use of money to the extent that it is depleting my business accounts, and there are 10 of them that were thus depleted, when I express the situation in this wise, to use the language of the confidential man, Smith: "Truman Newberry, the candidate, was kicking about the balances," when I am drawn that near to the friends, and I have had nothing to do with it, I am reckless of the truth when I say that it was a campaign conducted by my friends voluntarily. God save the mark!

Mr. SPENCER. Mr. President, the Senator knows that I do not believe that the record has the slightest foundation for any of those fancies or inferences which he is pleased to state.

Mr. POMERENE. Mr. President—

Mr. SPENCER. But may I answer the Senator's question?

Mr. POMERENE. Yes.

Mr. SPENCER. The Senator has already said that in his judgment the man who gave his own time to request men to go to the polls and vote was entirely within his rights. I now ask him this question: If that man, unable to give his own time, should say to some one in his office, "You take the day off. Here is your pay for the day. You go up and down this building and find out how many have not voted, and ask them if they will be good enough to vote, and vote for my candidate," does the Senator think that man has then made himself a criminal under the laws of the State of Michigan?

Mr. POMERENE. Mr. President, I should deem myself most happy if I could get the Senator from Missouri to keep his attention to the record in this case, and not discuss a record which is not before the Senate.

Mr. SPENCER. I think the Senator has made all the answer to that question that he can make.

Mr. POMERENE. I have answered it, sir. There is nothing wrong in asking a clerk or somebody else to go out to do certain work; but when I hire a man for that purpose and pay him for what he does, then, if I were a candidate in Michigan, I would be violating the law; and, Mr. President, let me go a step further, in view of what the Senator has said.

If I were a candidate I would challenge anyone who would dispute my title to a seat if my affidavit which I filed was true. If I had filed an affidavit saying that I had contributed nothing and expended nothing, and that no friend had contributed or expended anything with my knowledge or consent, I would be a man, I would not be a mouse; I would not claim my privilege in the criminal courts and refuse to go on the stand.

Senators, if a committee of my colleagues in this Chamber were appointed and clothed with the power to investigate my title to my seat and the truthfulness of my affidavit you would not have to ask me to go before that committee. I would be there.

I want to make two observations, now, and I measure my words. I do not know how any Senator whose seat is thus challenged can have the effrontery to ask his colleagues to sustain his title to his seat when he refuses to make an explanation. I go further; I do not understand how Senators sitting on a committee can ask their colleagues to sustain their report when they refuse to tell their colleagues what the defense of Mr. Newberry is, what explanation he has to make of these facts.

Mr. KENYON. Mr. President—

The VICE PRESIDENT. Does the Senator yield to the Senator from Iowa?

Mr. POMERENE. I yield.

Mr. KENYON. I would like to ask the Senator, because it is not quite clear in my mind, whether Mr. Newberry was invited to appear before the committee?

Mr. POMERENE. Mr. President, I am obliged to the Senator for asking that question. I was about to take that up a moment ago, but I forgot it. Let me recite a little of the history of this case.

I have detailed to the Senate how very earnest the majority members of the committee were to prevent this investigation up to a certain point, and then it was rushed along, rushed along sometimes in the absence of some members of the committee; but I am not finding fault with that. I trust I am not violating any confidences when I say that one day I brought the subject up in the committee and asked if Mr. Newberry would be before that committee to explain his status, and one of the majority members of that committee said, "I will never invite him to come here."

I referred a moment ago to the fact that on one day, because of a speaking engagement which I had made several weeks before, when I had no reason to expect that there would be any hearing on that particular day, I was not able to be at the committee meeting, and the member of the committee from Delaware, Senator Wolcott, represented the minority, and Mr. Fred P. Smith, the confidential attorney in fact of the Newberrys, was there, and I had no opportunity to examine him. Senator Wolcott cross-examined him in a very able way. There were certain questions which I wanted to ask, but he was excused, and I was not permitted an opportunity, and in my absence, when I had no reason to believe that the hearings were going to be closed, they were closed. Senator Wolcott asked that this matter might be postponed until I should return. I want to read what occurred in that regard. I read from the record, page 861.

Senator WOLCOTT. I want the record to show that the chairman is speaking for the committee (and that means a majority of the committee) with reference to the taking of the testimony of these two witnesses, Joy and Emery. I myself have never as yet seen the information before the committee as to the physical condition of these men. Of course, I would not agree that they should not be examined until I at least had seen the information. I do not know that it is at all worth while for me to urge it, because the majority of the committee has reached the conclusion that we do not want to hear anything from those gentlemen.

From the testimony that has been adduced here I am clearly and firmly of the opinion that if it would be at all possible to take the testimony of these men without seriously jeopardizing their welfare it should be taken. If necessary, the committee ought to let enough time elapse to have their condition improve so that we can take the testimony. I do not know what the information is as to the physical condition of these gentlemen, but if it is bad right now it may be better next week.

In view of the fact that this committee spent about one year and a half, more or less, in getting started on this investigation, I can see no great necessity for trying to save a few days to wind it up, now that we have started it at a belated hour. I can not understand the speed and haste of the whole proceeding, after such a long delay in starting it.

I might say that I have asked my associates on the committee to defer decision of these matters until Senator POMERENE returns. I know his interest in the matter and his desire to be here before things are finally and definitely closed up. The committee, however, does not see fit to wait for the return of Senator POMERENE, and I am utterly helpless, of course, to stay the progress of the committee in reaching its conclusion.

Mr. President, there is more to that same effect which I might read, but I shall defer that.

Mr. WILLIAMS. Before the Senator goes further, let me say that I am afraid he did not quite understand the question of the Senator from Iowa.

Mr. POMERENE. I am coming to that now.

Mr. WILLIAMS. The Senator from Iowa asked whether the Senator from Michigan ever appeared before the committee and testified in his own behalf.

Mr. POMERENE. He did not; and I was about to tell what we did in that behalf.

Mr. WILLIAMS. I want that to be brought out.

Mr. POMERENE. I am not entirely clear about this, but Senators will remember that at that time Senator Wolcott was being considered for appointment as chancellor of the State of Delaware, and he later was appointed. He then presented his resignation to the Senate, and the Senate, to fill the vacancy upon the Committee on Privileges and Elections created by his resignation, named the distinguished senior Senator from Arizona [Mr. ASHURST].

After that appointment there was a meeting of the subcommittee. I presented three or four resolutions at that time, one of which called for the subpoenaing of other witnesses. That resolution was promptly voted down, three to two, the Senator from Missouri [Mr. SPENCER], the Senator from Indiana [Mr. WATSON], and the Senator from New Jersey [Mr. EDGE] voting against it. I then moved that the Senator from Michigan be invited to appear before the subcommittee to testify, and straightway that motion was voted down by the same vote, as the record will show.

I then asked, by motion or resolution, that there should be argument of this case before the full committee. That was voted down, and later we made the report to the committee, the three majority members voting to sustain the sitting Member in his seat, the two on the minority side against it. That report was made to the full committee, and then I presented these resolutions. I read from the minority report, at the bottom of page 73:

Resolved by the Committee on Privileges and Elections, That the subcommittee be instructed to subpoena and take the testimony of Frederick P. Smith and such other witnesses as may be suggested by any member of the subcommittee to the end that there may be a full and complete hearing respecting the issues involved in the pending contest.

That was voted down. The second resolution presented was as follows:

*Resolved by the Committee on Privileges and Elections, That the subcommittee be instructed to invite Senator Newberry to appear before it to give testimony concerning the charges pending against him involving his title to a seat in the United States Senate.*

That was voted down by the same vote.

The third resolution was as follows:

*Resolved by the Committee on Privileges and Elections, That the attorneys representing the contestant and the contestee in the pending investigation be invited to appear before the full committee to submit oral arguments, on a date to be fixed by the chairman of the committee.*

That was voted down by the same vote. Mr. President, I am not one of the oldest Members of the Senate, but I have been here for nearly 11 years. I have served upon some of the most important committees in the Senate. I think Senators will give me the credit of being at least reasonably diligent in trying to perform my duties and to keep myself informed as to what is going on, and I say here that never in my experience in the Senate has any other committee refused to call a witness when a member of that committee requested it. If I am wrong I should like to be corrected. Senators will remember that there were 2,000 pages of this record, more than 1,000 pages of it in the bill of exceptions which was before the Supreme Court, and by reason of the engagements that we had I am free to say that during the time the hearings were in progress I did not have the time to read the bill of exceptions. I have read it all since and a part of it a second time. I do not think any member of the committee has read the bill of exceptions. Most of the members of the subcommittee had heard only the oral testimony which was brought before the subcommittee, but they had not read all of it, and when I asked for oral argument I was denied it.

Now, Mr. President, let me go a step further.

Mr. KING. Mr. President, I was called from the Chamber for a moment to answer a telephone call just as the Senator was approaching the matters suggested by the Senator from Iowa [Mr. KENYON]. Did the Senator direct attention to what action, if any, was taken in the subcommittee relative to calling Senator Newberry?

Mr. POMERENE. I did.

Mr. KING. And also whether Mr. Newberry volunteered to come or asked permission to testify?

Mr. POMERENE. I did not answer that question directly. I will answer it now. He appeared in the committee room, I think, on the day his brother John was on the stand and left, and he was never in that committee room afterwards.

Mr. KING. Did he ever, to the knowledge of the Senator from Ohio, ask permission to testify in his own behalf?

Mr. POMERENE. The Senator will find the resolutions which were submitted to the full committee and which are in the report.

Mr. KING. I am familiar with those. The Senator will recall that I offered one of the motions myself in the full committee with respect to that matter.

Mr. POMERENE. I think that the Senator is right about that.

Mr. KING. But I had in mind the subcommittee and whether during the time of the taking of testimony Mr. Newberry asked to be heard—

Mr. POMERENE. Never to my knowledge.

Mr. KING. In respect to the truth of the charges that were made—

Mr. POMERENE. Never.

Mr. KING. Or to testify to them?

Mr. POMERENE. No, never. The majority of the committee would not invite him.

Mr. WILLIAMS. Did he need an invitation? Could he not have come of his own accord?

Mr. POMERENE. If it had been I who was the contestee, I would have broken into that committee room with a sledge hammer if necessary. It is a great thing to be a Senator of the United States. There are very few men who are thus honored; but this is the first time to my knowledge, and I am reasonably familiar with the history of my country, that any man has refused to defend himself when his title was assaulted.

Why, Mr. President, think of the situation. These charges and countercharges which were filed were like the pleadings of litigants in a case. We had, as Senators know, what is called an answer by way of general denial. Did it ever occur to any lawyer because a defendant had filed a general denial that it was to be taken as evidence? Yet with these charges and countercharges the Senator from Missouri [Mr. SPENCER], who at one time presided with great dignity as a judge in the city of St. Louis, asks us to accept at 100 per cent the denial contained in the affidavit of expenses which is filed in the office of the Secretary of the Senate, and others are impudently inquisitive if they even think of asking some question about it.

This brings me to another point. There are two ways to look at a contest of this kind. One is that it is an adversary proceeding between plaintiff and defendant, complainant and respondent. If it were to be conducted purely as an ordinary adversary proceeding, then one course of procedure might suggest itself to Senators who were sitting upon the committee. But there is another way to look at it. The Senate of the United States clothed this committee with authority to investigate the title of the sitting Member to his seat. It was a matter that concerned very greatly the integrity, the honor, the dignity of the Senate, and whether the complainant or the defendant called witnesses, or even if they had decided to drop the matter, would this committee have done its full duty to the Senate if it had stopped at that point? Had not that committee the right of its own volition to call witnesses to determine whether there is any Member sitting here who is not worthy of a seat in the Chamber.

That leads me to this thought, which I wish to present to Senators for their consideration: So far as I know, up to the time that my colleague on the committee, Senator Wolcott, asked that the conclusion of the testimony be deferred until I could return, no member of that committee had subpoenaed any witness on his own volition; not one. I know I did not. I did not ask to have any one witness subpoenaed, except as I have indicated heretofore. They denied to me, a Senator, the right to call some of these witnesses in order that we might get the real facts in the case. I regard it, sir, as not only an indignity to me, sitting here as a Senator, but it was an indignity heaped upon the entire Senate of the United States. It was a species of the most arrant cowardice for the contestee to refuse to come, even if he had been unbidden.

Mr. CARAWAY. Mr. President, may I interrupt the Senator from Ohio?

The PRESIDING OFFICER (Mr. POINDEXTER in the chair). Does the Senator from Ohio yield to the Senator from Arkansas?

Mr. POMERENE. Certainly.

Mr. CARAWAY. In connection with that, were the minority members of the subcommittee denied the right to have the books containing the Newberry account to ascertain who had really contributed money?

Mr. POMERENE. Mr. President, the Senator has asked a question which relates to a matter that I intended to discuss, and I might just as well do it now.

In order that Senators may understand the situation and the necessity of having these witnesses called, I am going to tax the patience of Senators, perhaps—I mean those who do me the honor to listen, because the empty seats on the other side indicate that those Senators are not interested and that they are determined to continue this man in his seat no matter what the record shows.

Mr. KING. Mr. President, will the Senator yield?

Mr. POMERENE. Certainly.

Mr. KING. I think the record ought to show that there are only nine Republicans upon the other side of the Chamber and a distinguished Republican Senator presiding. So there are 10 Republican Senators in the Chamber at this time listening to this most important matter.

Mr. POMERENE. In order that I may answer the question propounded by the Senator from Arkansas, let me state preliminarily the groundwork as it existed in Michigan.

The Newberrys are a very rich family. The fortune was founded by their father. They never knew what a poor man's lot was, and I hope they never may. Newberry one day in New York as a lieutenant commander was visited by his business partner, Mr. Templeton, who afterwards became the chairman of this "voluntary committee of my friends." As the record will show, Mr. Lieut. Commander Newberry, if you please, imparted to Mr. Templeton the secret that "many of my friends have urged me to be a candidate for the United States Senate." The record further shows that Mr. Templeton, the business associate and lifelong friend, said to him, "Why, I have not heard about it." "Well," he said, "how can I serve you?" "Well, if I decide to be a candidate I would like to have a committee of business men take charge of the campaign." Templeton said, "I will serve you if I can."

Later on, by invitation, a number of those friends who had been out in Michigan took up the matter, including Templeton and including also Cody, who is a general factotum for all the activities before legislatures and elsewhere of the American Book Co., the Barnes crowd. They went out there and sent for Paul H. King. Paul H. King is a very clever gentleman, bright, keen, diplomatic, and one of the best politicians in Michigan. He had managed the campaign for the distinguished senior Senator from Michigan [Mr. TOWNSEND] with very great success, and he did a good job when he assisted in



getting the distinguished senior Senator from Michigan into this body. He is an able, industrious, diligent, lovable Senator and one to whom I love to refer as my friend.

These gentlemen get together in New York, and Mr. King is invited to take active charge of the campaign. Imagine these voluntary friends going all the way down to New York at his invitation. That is not the first step that was taken. They tried to get a Mr. Hayden, from Washington, to go up there and be the chairman, but Mr. Hayden did not like boodle campaigns. Mr. Hayden had said to Mr. Newberry, "Why, you are not known in Michigan." Think of that—a lieutenant commander, a man of such distinguished naval services, who had his picture taken on a wooden battleship in Central Park and scattered it throughout the State of Michigan to show his wonderful patriotic services.

Here is an interesting chapter in connection with this campaign. Of course, Mr. King—and you would all like him if you saw him; I like him; he is capable, but he can turn a political corner with neatness and dispatch. I want to congratulate the lieutenant commander in getting so efficient a man. They discussed in New York the probable cost of this campaign. Mr. Newberry wanted to know what it was going to cost, and Mr. King—Senators may refer to this in the record as well as in the testimony—Mr. King says, "Well, I conducted the campaign in behalf of Senator TOWNSEND, and that campaign cost Senator TOWNSEND's friends about \$20,000, but Senator TOWNSEND had been in Congress for a great many years, he had stumped the entire State, he was well acquainted in the State, and, of course, rightly so. Under those circumstances it did not cost Senator TOWNSEND's friends as much as it otherwise would have cost him had he not been so well acquainted, but you have not got that acquaintance. It will cost your friends"—now note, and here is the beginning of the campaign—"It will cost your friends possibly \$50,000." Mr. King testified to that, and there can be no question about it. Mr. King said, "Well, I have just moved to Detroit a short while ago and am engaged in the practice of the law. I must go home and consult my partner and some other friends. I can not let you know now." But later on he decides that he will accept the position.

Mr. HEFLIN. If the Senator will permit me, I desire to suggest that after Paul King told Mr. Newberry it would cost him \$50,000 he said he would take the matter under advisement, and later on he notified Mr. King that he would be a candidate.

Mr. POMERENE. Oh, yes; that is correct. Then Mr. King goes on to say that after talking it over—he had some talk with Mr. Templeton and some others—he decided that he would accept the chairmanship. Then they organized the committee. Templeton, the business partner, is made the general chairman, and Mr. King is made the active chairman. I may not use exactly the proper designations as they are in the record, but what I have said will make my thought clear. Mr. Blair, the banker, a high-class man, is made treasurer, but, except that moneys were deposited in his bank and he paid out moneys to the representatives of the committee, he did not know one thing about the fiscal part of that campaign. I want to say to the Senate that is another case of a man with a fine reputation and standing in a community giving his reputation and his character to the financing of a campaign when he knew nothing about it.

Mr. WILLIAMS. Or at least he said he did not.

Mr. POMERENE. Yes; he said he did not; and I think he is right. When the account was brought in, which is contained in the bill of exceptions, Senators will find that Mr. Blair signed on the dotted line; he did not know anything about it at all.

I am going a long way around in order to answer the question of the Senator from Arkansas, but I think Senators will find that it is necessary that I lay this groundwork before I give the answer, in order that Senators may see the pertinency of it.

Mr. King goes around spending money by the thousands of dollars; Floyd, who in part has charge of the campaign in the western portion of the State, is spending money by the thousands of dollars. Floyd is referred to as the distributee of a part of this money, but there is very little, if anything, in the record to show that Floyd used the money to employ workers at the polls or to show the persons to whom he paid the money; and yet nobody can read the statutes of Michigan without coming to the conclusion that the State legislature intended that the names of the ultimate recipients of the money, and not the intermediaries, were to be contained in the accounts which were to be filed. King knew that; Floyd knew it; Templeton knew it; all of them knew it.

Mr. President, what was Mr. Smith's connection with the Newberry interests? He testified that there were 12 of these interests, all with one central office. Two of them were corporations; ten of them were individual interests and estates. There were 12 bank accounts. Frederick P. Smith was there operating as the confidential attorney in fact of all these interests, the one for the other, under a general power of attorney. I hope Senators will do me the honor of reading John Newberry's testimony. John Newberry is the brother of Truman H. Newberry, and John Newberry testifies, in substance, that he had never talked with his brother about being a candidate; that he never wrote to him about it; that not one word on the subject passed between them. John Newberry was upon a little wooden ship up in the lakes somewhere, and Truman Newberry was on a wooden ship in Central Park, at least long enough to have his picture taken. John Newberry says, "Because of my love and affection for my brother, I decided that I wanted to finance his campaign."

Then what does he do? John Newberry calls in Frederick P. Smith, his confidential man, and says, "Mr. Smith, I have heard that my brother intends to be a candidate for the United States Senate, and if he is I want to finance his campaign, and you draw such checks upon my account as the campaign committee may call for." Senators will find that testimony if they examine the record—and I beg them to read it, for I do not want to do any injustice to anyone, and if I am wrong about this I hope somebody will set me right. John Newberry said, "I do not know anything about it; I simply gave that general blanket authority to Mr. Smith. Mr. Smith drew checks as they were wanted." "You do not know the amount?" "No." "Did not Mr. Smith advise you as to the state of your bank account?" "No." "Did you not hear from him on the subject?" "No." "Did you know what your balance was; whether it was getting low or not?" "No." "If it was getting low, did you know how it was depleted?" "No; I did not know anything about it." "Have you asked him for an accounting since the election?" "No." "Do you know how much you gave?" "Well, I think \$99,900." "Did you place any limit on the amount that Mr. Smith was authorized to draw?" "No." "Could he have checked out of your account \$200,000 if he had thought it necessary?" "Yes; he could."

John Newberry says that Truman Newberry, his older brother, was the executive head of the family. Now, I want to call attention to Fred P. Smith's testimony. He is one of the witnesses that I wanted to cross-examine.

Mr. WILLIAMS. He is the Smith who was acting as a general sewer for checks?

Mr. POMERENE. Yes, sir. He is the first general attorney in fact, who could do anything he saw fit with his principal's money and the principal not be held responsible for it.

Mr. WILLIAMS. And not know about it?

Mr. POMERENE. And not know about it.

Mr. HARRISON. Mr. President, in view of the fact that there are only about seven Senators on the other side of the Chamber, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Secretary will call the roll.

The reading clerk called the roll, and the following Senators answered to their names:

Ashurst	Harris	Myers	Simmons
Borah	Harrison	Nelson	Smith
Broussard	Heflin	New	Smoot
Capper	Hitchcock	Nicholson	Spencer
Caraway	Jones, N. Mex.	Norbeck	Stanley
Curtis	Jones, Wash.	Norris	Sterling
Dial	Kendrick	Oddie	Sutherland
Edge	Kenyon	Overman	Swanson
Elkins	Keyes	Page	Townsend
Ernst	King	Phipps	Tremmell
Fernald	Ladd	Poin Dexter	Walsh, Mont.
France	La Follette	Pomerene	Watson, Ga.
Frelinghuysen	McCormick	Ransdell	Weller
Gerry	McCumber	Robinson	Williams
Glass	McKellar	Sheppard	Willis
Gooding	McKinley	Shields	
Hale	McNary	Shortridge	

The PRESIDING OFFICER. Sixty-six Senators have answered to their names. A quorum is present. The Senator from Ohio will proceed.

Mr. KING. Mr. President, will the Senator yield?

Mr. POMERENE. I yield.

Mr. KING. I asked the Senator a few moments ago whether Mr. Newberry had volunteered or had asked to be permitted to testify before the committee. The Senator from Iowa made an inquiry as to whether he had been invited to testify. In looking over the record, I find at page 807 these proceedings:

The attorney for Mr. Newberry made a formal offer of certain parts of the report of the testimony of a number of witnesses, and then said:

With that, I have nothing further to offer.

Evidently meaning that Mr. Newberry would offer no further testimony.

Mr. POMERENE. From what page does the Senator read?

Mr. KING. Page 807. Thereupon Senator Wolcott said:

You are not going to call Senator Newberry himself?

Mr. MURFIN.—

The attorney for Mr. Newberry—

I am not. That is a matter we have discussed at length, and frequently, and have changed our minds frequently; but that is the conclusion I now have.

Later Senator Wolcott said:

Suppose this committee should determine that it desired to have Senator Newberry as a witness. Are counsel prepared to come back here any day the committee may fix?

Mr. ALFRED LUCKING. I shall come, of course.

Senator WOLCOTT. I want the question of Senator Newberry's appearing as a witness left open for decision by the full subcommittee. My own view is that if nobody else makes that application or motion before the subcommittee, I will do it myself. So let us understand that that is not closed.

So the record shows that the attorneys for Mr. Newberry positively stated that they did not propose to call him. Later, as stated by the Senator from Ohio, as I understood him, it was moved in the full committee that he be invited to attend, and the majority of the committee voted down that motion.

Mr. POMERENE. I thank the Senator for his contribution to the record. I am sorry that the empty benches on the other side of the Chamber will not be able to transmit that part of the record to the men who ought to be in their seats.

Mr. President, I was about to call attention to the testimony of the confidential man, the man who could use Truman Newberry's money and put it into John Newberry's account, and then, as John Newberry's attorney in fact, check it out to the campaign committee, and Truman Newberry be permitted to say: "I did not touch the unholy money. I contributed nothing."

Let me say, before I go to this, there has been a great ado here in the Chamber by those who support the majority of this committee to the effect that the case has already been decided by the Supreme Court. I do not know how lawyers can be so reckless with facts. Senators have some privileges that lawyers would not have, and they can not be called to account for their exercise. Bear in mind, please, that the United States Supreme Court reversed the Newberry case for two reasons: First, because the majority felt that the Federal law, so far as it related to primaries, was unconstitutional; and secondly, the entire Supreme Court found that there was error in the charge of the trial court, and I think the Supreme Court was right about it. The Supreme Court, however, did not pass upon the facts in the case. If it should be claimed that they discussed the facts, I admit that; but they discussed the facts only so far as it was necessary to discuss them in order to lay down clearly what in their judgment the law was, and to point out the errors made in the charge of the court. More than that—

Mr. KING. Mr. President, will the Senator yield?

Mr. POMERENE. Yes.

Mr. KING. I may be anticipating the Senator, and, if so, I tender a humble apology. The record now before the Senate is much fuller, has been supplemented, and shows expenditures and actions and conduct not exhibited in the original record.

Mr. POMERENE. Oh, certainly. Undoubtedly that is true.

Mr. McKELLAR. Mr. President—

Mr. POMERENE. Let me suggest, before the Senator from Tennessee interrupts, that in the record in the Supreme Court John Newberry's testimony was not there, because he was not called upon to testify at the trial at Grand Rapids. Fred P. Smith, the confidential attorney in fact, testified before our committee, but he did not testify in the criminal case in Grand Rapids.

Mr. King, who was a codefendant in the criminal case in Grand Rapids, testified in chief, but because of the strain, perhaps, he unfortunately became ill, and the case could not have proceeded if the Government was going to insist upon its right of cross-examination. The Government waived the cross-examination of Mr. King and went to the jury without that cross-examination, so that the only part of King's testimony before the criminal court was the direct testimony of Mr. King. Here we cross-examined him fully, and I shall take the privilege of reading from his cross-examination a little later.

I call attention to those facts as indicating that no matter what the record in the Supreme Court may have been and no matter what the decision of the Supreme Court may have been, the record before us is an entirely different record so far as the facts are concerned.

Mr. McKELLAR. Mr. President—

The PRESIDING OFFICER. Does the Senator from Ohio yield to the Senator from Tennessee?

Mr. POMERENE. I yield.

Mr. McKELLAR. The Senator stated a few moments ago that the Supreme Court reversed the case on two grounds, one that the act limiting the expenditures was unconstitutional and the other error in the charge of the trial court. I call the Senator's attention to pages 1 to 11 of the opinion of the Supreme Court. That is the opinion of the court; that is the judgment of the court. It is put upon one ground only, and that is the unconstitutionality of the act.

Mr. POMERENE. And error in the charge.

Mr. McKELLAR. Nothing was said about error in the charge. The opinion of the majority of the court, delivered by Mr. Justice McReynolds, does not discuss the charge of the trial court at all, but founds its judgment upon the following:

We can not conclude that authority to control party primaries or conventions for designating candidates was bestowed on Congress by the grant of power to regulate the manner of holding elections. The fair intendment of the words does not extend so far; the framers of the Constitution did not ascribe to them any such meaning. Nor is this control necessary in order to effectuate the power expressly granted. On the other hand, its exercise would interfere with purely domestic affairs of the State and infringe upon liberties reserved to the people.

That is the only question discussed in the majority opinion. I think the Senator has momentarily confused the dissenting opinion of Mr. Justice White, in which he said he thought the court was in error in its charge; but the judgment of the court was based wholly on the unconstitutionality of the act.

Mr. POMERENE. I think I was right about that; but I may be wrong. However, reference to the opinion will settle that question.

Now, I desire to read some of the testimony of Mr. Frederick P. Smith, the confidential agent and attorney in fact for Truman H. Newberry and John S. Newberry. I am reading from the testimony as it is found in the minority report, beginning on page 19:

Mr. SMITH. No; I call myself agent.

Mr. ALFRED LUCKING. You are their confidential financial man, are you not?

Mr. SMITH. Yes.

Mr. ALFRED LUCKING. You have, I think it has been said here, powers of attorney from both Mr. Truman and Mr. John Newberry?

Mr. SMITH. Yes; practically all of the interests in the office. I carry their powers of attorney.

Mr. ALFRED LUCKING. And there are others also interested?

Mr. SMITH. Yes.

Mr. ALFRED LUCKING. What others?

Mr. SMITH. Mrs. Truman Newberry's individual interests and Mrs. John S. Newberry's individual interests, and their sons.

Mr. ALFRED LUCKING. Did you make contributions to the campaign funds during the primary?

Mr. SMITH. I gave contributions for Mr. John S. Newberry to Mr. Templeton.

Mr. ALFRED LUCKING. Were they all made to Mr. Templeton?

Mr. SMITH. Practically all of them. There were a very few made to cash to take care of emergencies.

Mr. ALFRED LUCKING. Your first contribution was how much?

Mr. SMITH. I do not remember. It would be a hard thing to say what it was.

Mr. ALFRED LUCKING. A check to Mr. Templeton?

Mr. SMITH. Yes; Mr. A. A. Templeton.

Mr. ALFRED LUCKING. It appears here that certain checks were made to Mr. Templeton and by him indorsed to Mr. Paul King as chairman, about \$5,083. Were those the checks of John S. Newberry by yourself?

Mr. SMITH. They might be.

Mr. ALFRED LUCKING. Have you not a record of those?

Mr. SMITH. I did not give any other checks except Mr. John S. Newberry's checks, so I conclude they must have been his checks.

Mr. ALFRED LUCKING. The only checks you gave to anybody for that purpose were the checks of John S. Newberry?

Mr. SMITH. John S. Newberry.

Mr. ALFRED LUCKING. What I want to get at is about that \$5,000. Have you got your checks for that?

Mr. SMITH. No; I have not.

Mr. ALFRED LUCKING. Have not you your record with you of that?

Mr. SMITH. No; I have not.

Mr. ALFRED LUCKING. Have you got your record of the other deposits?

Mr. SMITH. No; I have not.

This is the testimony before our committee.

Mr. ALFRED LUCKING. Or of your other checks?

Mr. SMITH. No. (R., 754, 755.)

Mr. ALFRED LUCKING. This subpoena, if your honors please, was issued on the 1st of June by this committee and is in the usual form, and contains the following duces tecum:

"And to bring with you all records, books, papers, documents, letters, telegrams, etc., connected with or relating to the Truman H. Newberry campaign for Senator and all payments and contributions connected therewith."

You read that, Mr. Smith?

Mr. SMITH. Yes, sir.

Mr. ALFRED LUCKING. I may say that this was issued at the instance of the contestant. Just why have not you the records?

Mr. SMITH. I made a search and could not find them. We have a storeroom that we have used for 25 or 30 years. It is up back of the old Newberry house, on Jefferson Avenue. I went up there Saturday as soon as I could after I got this subpoena and gave the afternoon to it. I could not find a check since 1917 in the place.



Mr. ALFRED LUCKING. You mean none of the checks since 1917?  
 Mr. SMITH. None of the checks. I could not find any of the matter pertaining to this affair. I did find some campaign material. How it got there I do not know. It was there and I brought it along. That is all I could find.

That is, he brought the campaign literature. He continues:

Mr. SMITH. When I got there the door was open. It had always been under lock and key. It has been broken open several times. Where they went I do not know. I certainly never saw them.

Mr. ALFRED LUCKING. Where the records of the payments and contributions and all that are, you do not know anything about?

Mr. SMITH. No.

Senator WOLCOTT. Were they put in there?

Mr. SMITH. Oh, yes; they were put in there.

Senator WOLCOTT. Did you put them in there personally?

Mr. SMITH. No; I did not. My cashier put them in there. I do not remember just what time. It seems to me it was either when we came back from the grand jury with the books and papers, or it was after the close of the trial; I do not know which.

Senator WATSON. Were these books and papers at the grand jury hearing and at the final trial in Grand Rapids?

Mr. SMITH. I do not know. I was not subpoenaed. My cashier was subpoenaed.

Mr. SOUTER. The books were before the grand jury.

Senator WOLCOTT. Do you mean the books and records that this witness kept?

Mr. MURFIN. Yes; that is right.

Senator WATSON. Were the books and records kept by the Government or were they turned back?

Mr. SMITH. They were turned back. (R., 755, 756.)

Mr. ALFRED LUCKING. Is there any way we can definitely find out about this \$5,000 of checks that went to Paul H. King, chairman, or were indorsed to Paul H. King?

Mr. SMITH. I do not think there is any question about the fact that it was issued.

Mr. ALFRED LUCKING. Were those in addition to the \$99,000?

Mr. SMITH. I do not know anything about the report.

Mr. ALFRED LUCKING. You do not know anything about the report?

Mr. SMITH. No; I had absolutely nothing to do with it.

Mr. ALFRED LUCKING. Well, do you know the total amount that you charged against John S. Newberry on the books?

Mr. SMITH. I do not know what was charged, but I know that the credits, taking credits for what came back, because there were moneys coming back along about the time that the report was made up. It made, as near as I recollect, either \$99,000 or \$99,900. There was a discrepancy of \$900.

Mr. ALFRED LUCKING. What do you mean by a discrepancy?

Mr. SMITH. Well, the report showed after it was filed by this office \$99,000, and his books showed \$99,900.

Mr. ALFRED LUCKING. I think my recollection is that the report shows \$99,900. I may be in error about that.

Mr. SMITH. I do not think so. I think it is the other way about.

Mr. ALFRED LUCKING. Did you advance moneys in cash to anybody?

Mr. SMITH. Probably half a dozen times, something like that.

Mr. ALFRED LUCKING. To whom?

Mr. SMITH. When somebody would telephone in to meet their pay roll, and they would be out of town, they would ask me to protect their pay rolls, and Mr. Emery would come up, or Mr. Templeton, or Mr. Paul King, and I would give them the check there for cash.

Mr. ALFRED LUCKING. For how much?

Mr. SMITH. Well, a thousand dollars; I don't remember particularly the amounts.

Mr. ALFRED LUCKING. Have you any books showing those checks?

Mr. SMITH. No; I have not.

Senator WATSON. Was that in addition to the \$199,000?

There is a misprint here. In this report it is given as \$199,000. It should be \$99,000.

Mr. ALFRED LUCKING. We do not know, your honor. That is what we are investigating. Did you know, Mr. Smith, that they had a bank vault box for cash?

Mr. SMITH. No; I did not.

Mr. ALFRED LUCKING. You did not know about that at all?

Mr. SMITH. No.

The ACTING CHAIRMAN. What did you mean by "some checks coming back?"

Mr. SMITH. Some money coming back. They sent back some money and a readjustment sometimes of checks; they brought me in a paper bag full of money.

The ACTING CHAIRMAN. Who did?

Mr. SMITH. Mr. Emery.

This Mr. Emery, one of the witnesses, was bumped by a Ford machine and hurt, and some question was raised about whether he should be brought to trial. I do not know anything about that. Suffice it to say, the very able attorneys representing the defendants consented to go on to trial in his absence. The right to do that may depend upon the practice in each particular district; but the significant thing about it is this, that when we subpoenaed him to come before our committee, the process server said to Mr. Lucking, "That man is not able to go to Washington," and I think the attorney, or somebody else, made some suggestion of that kind. He said, "Well, if he is not able to go, I do not want him to go," and canceled the process, and straightway the process was canceled Mr. Emery hiked to the woods in Canada, and Mr. Emery stayed in the woods in Canada until the majority of the subcommittee closed the case here, and then he went back to Detroit, and we were not even allowed to have a further examination at that time.

Mr. SPENCER. Mr. President—

The PRESIDING OFFICER. Does the Senator from Ohio yield to the Senator from Missouri?

Mr. POMERENE. I yield.

Mr. SPENCER. I wondered if the Senator from Ohio, in that connection, would explain to the Senate that while the going to Canada has a certain amount of bad odor, Canada in that case was across the river, and all that the testimony showed was that this invalid, this man who, as was said, is probably now on the operating table again—

Mr. POMERENE. Does the Senator state that as a fact?

Mr. SPENCER. No; except that the information I had—

Mr. POMERENE. "Probably"; I observed the word.

Mr. SPENCER. The information I had was that he is now in the hospital under an operation. I know his skull was fractured in five places—

Mr. POMERENE. I know that.

Mr. SPENCER. The testimony merely showed that when he was excused by the attorney for Henry Ford from appearing, they advised him to go over and visit some friends across the river, and that is all there is to the statement about Canada.

Mr. POMERENE. Yes; but the infamy of his going to Canada was such that the Senator did not refer to it in his able argument on yesterday.

Mr. SPENCER. His going to Canada was about the same as if the Senator from Ohio were to go to Georgetown.

Mr. POMERENE. Suffice it to say, he was beyond the jurisdiction of the process server of the United States Senate. We have no right to serve witnesses over in Canada.

Mr. SPENCER. Because by the consent of Henry Ford's counsel his subpoena had been canceled.

Mr. POMERENE. Yes; but they relied upon the representation of the process server and of the attorney for that man, and though 30 days had intervened, and we wanted to call him again, thinking that perhaps his physical condition might have been improved so that he could come here, or that we could take his testimony up there by interrogatories, the Senator from Missouri, as the chairman of the subcommittee, refused to grant that permission.

Mr. SPENCER. Does the Senator from Ohio think that a man with five fractures of the skull can be cured within a week or 10 days? Does the Senator from Ohio think that if a man loses his leg there is any use in subpoenaing him the next week, in the hope that his leg may have grown out again? Some common sense must be used in subpoenaing witnesses.

Mr. POMERENE. O, Mr. President, the Senator is "still harping on my daughter." The fact is that this man came back after the adjournment, after they had closed the case, and was in Detroit attending to his business, but we were not permitted to have him examined at that time by impartial physicians.

Mr. SPENCER. Does the Senator from Ohio deny that the only medical testimony which was given in regard to his condition by either side showed that his examination, whether in Washington or Detroit, would have been at the very risk of his life, and that that stands uncontradicted?

Mr. POMERENE. Mr. President, I wish my very genial friend, who ordinarily is fair, would be able to give to the Senate the facts in this behalf, that at one time this man was not able to appear, that he then went to the woods, and then came back after 30 days or more had intervened. It seems to me that if a man is able to attend to his business, he is able to give testimony. I know and practicing lawyers here know that often, in anticipation of the fact that they may die and in order that we may preserve their testimony, we take the testimony of witnesses on their deathbed. That is what the Senator from Missouri would have done if he had been sitting as a judge.

Mr. SPENCER. The Senator from Missouri would have been ashamed of himself for life if he had ordered a subpoena to be issued for a man who was in the physical and mental condition in which the uncontradicted testimony shows this man was.

Mr. POMERENE. I am a better friend of the record of the Senator from Missouri than he is himself. He would have insisted under those circumstances that there be an examination by an impartial physician.

Mr. SPENCER. If the Senator from Ohio had any doubt about the impartiality or the accuracy of the physician's certificate which he had, why did not the Senator from Ohio or some one representing the contestant bring another certificate?

Mr. POMERENE. The record will show that that man was there doing business. The Senator knows that, and there is no use carping over those matters.

Mr. SPENCER. The record will not show that fact, if the Senator from Ohio will pardon me.

Mr. POMERENE. Does the Senator from Missouri deny that this man was in Detroit attending to business after that?

Mr. SPENCER. The Senator from Ohio will find nothing in the record except to the effect that one man testified that he was in Detroit, as he was, and that he was in his place of business; that he would walk back and forth once in a while. There is nothing in the record to show that he was transacting business.

Mr. POMERENE. I am obliged to the Senator for the admission that he walked back and forth once in a while.

Mr. JONES of New Mexico. Mr. President—

Mr. POMERENE. I yield to the Senator from New Mexico.

Mr. JONES of New Mexico. I have been very much impressed with the remarks of the chairman of the subcommittee, the Senator from Missouri, from which it appears that the Senator feels that all was done which should have been done when the attorneys for the contestant and the contestee failed to go any further. That raises the query in my mind as to whether or not the subcommittee contented itself upon this hearing with whatever might have been submitted by the contestant and the contestee and considered this as a mere trial between two parties to a suit.

Mr. POMERENE. I discussed that question, I think perhaps in the Senator's temporary absence from the Chamber.

Mr. JONES of New Mexico. I recall that the Senator did, and I was in the Chamber when he was discussing that; but notwithstanding the discussion of the Senator from Ohio, in the remarks of the Senator from Missouri just made it seems that that Senator considers that it was only a trial between the two parties and that the subcommittee had no duty devolving upon it to go any further than the parties contestant and contestee might desire.

Mr. POMERENE. If we had gone further we might have found out something.

Mr. SPENCER and Mr. KING addressed the Chair.

The PRESIDING OFFICER. Does the Senator from Ohio yield, and if so, to whom?

Mr. POMERENE. I yield first to the Senator from Missouri.

Mr. SPENCER. What I desire to do is to answer the Senator from New Mexico. Certainly it was furthest from my thought to create the impression that this was a trial between two persons, between the contestant and the contestee. The rights of both of them sink into insignificance in comparison with the rights of the Senate itself. Yet it is true that in the trial of the case before the committee both parties were represented by their counsel and either side had the opportunity of presenting such evidence as they saw fit. If there was any possible evidence to show that the mental condition of the witness Emery, whom both sides wanted, would have warranted his attendance, it would doubtless have been shown.

Mr. POMERENE. Mr. President, again I am under obligations to my good friend from Missouri for his further admission that this was not an adversary proceeding, and that we had a right, for the sake of the honor of the United States Senate, to go on of our own motion and inquire into it further. Then I recall that while he takes that position now, he insists that Members of the Senate shall content themselves with the denial under oath by Mr. Newberry that he had nothing to do with it and that we have not the right to cross-examine.

Mr. KING. Mr. President—

Mr. POMERENE. I yield to the Senator from Utah.

Mr. KING. A few moments ago the Senator from Missouri made some suggestion as to the consent alleged to have been given by counsel for Mr. Ford for the cancellation of the subpoena. May I direct the attention of the Senator to the record bearing upon that point?

Mr. POMERENE. I shall be very glad to have the Senator do so.

Mr. KING. It is as follows:

Senator WOLCOTT. Do you think they would excite the man and kill him? Is there any danger of asking a question by written interrogatories that will kill him?

Mr. ALFRED LUCKING. As to Mr. Emery, your honor, he is such a tremendously important witness. They have passed responsibility for pretty nearly everything on to him.

Mr. MURKIN.—

The attorney for Mr. Newberry—

You admitted that he could not be examined.

Mr. ALFRED LUCKING. I did so on these representations, which I found were not correct. I knew nothing about it. I never saw the man in my life to know him. And, besides, when I consented to the cancellation of his subpoena, on the certificates and on his attorney's statement, I had no idea that there was going to be nobody else that would know anything about it.

The point to which I wish to call attention is that he consented to the cancellation upon representations made by counsel for Mr. Newberry "which I found were not correct."

Mr. HARRISON. Mr. President—

The PRESIDING OFFICER. Does the Senator from Ohio yield to the Senator from Mississippi?

Mr. POMERENE. Certainly.

Mr. HARRISON. This is a matter of such importance, and there being only five Republican Senators in their seats, that I suggest the absence of a quorum, in order that Senators may have an opportunity to remain here and listen to this argument in the case which they are trying to jam through without any consideration.

The PRESIDING OFFICER. The absence of a quorum is suggested. The Secretary will call the roll.

The Assistant Secretary called the roll, and the following Senators answered to their names:

Borah	Harris	Nicholson	Spencer
Broussard	Harrison	Norbeck	Stanley
Cameron	Heflin	Norris	Sterling
Capper	Hitchcock	Oddie	Swanson
Caraway	Jones, N. Mex.	Overman	Townsend
Culberson	Jones, Wash.	Page	Trammell
Curtis	Kendrick	Polindexter	Walsh, Mont.
Dial	Kenyon	Pomerene	Warren
Ernst	King	Ransdell	Watson, Ga.
Fernald	Ladd	Robinson	Watson, Ind.
France	La Follette	Sheppard	Weller
Frelinghuysen	McCumber	Shields	Willis
Glass	McKellar	Simmmons	
Gooding	McNary	Smith	
Hale	New	Smoot	

The VICE PRESIDENT. Fifty-seven Senators having answered to their names, a quorum is present. The Senator from Ohio will proceed.

Mr. POMERENE. Mr. President, I desire now to resume the reading of the extracts from Mr. Smith's testimony, beginning on page 21.

It will be remembered that after the primary some one from the committee brought back in a paper bag some money, and Mr. Smith was asked by the acting chairman how much there was in it:

Mr. SMITH. As near as I can recollect, it was around \$21,000.

The ACTING CHAIRMAN. When was that?

Mr. SMITH. It seems to me that was the first week in September. (R., 758.)

The ACTING CHAIRMAN. Was it supposed to be some readjustment on account of these late large contribution that they had?

Senator WOLCOTT. Does that mean that your office did not contribute \$99,900?

Mr. SMITH. No; that is the net amount. They contributed an amount which with this \$21,000 and the \$99,000 added must have come up to \$120,000, because when this came back, taking that credit out of the amount of checks given, it left this net amount of \$99,900.

Mr. ALFRED LUCKING. Mr. Smith, you say that they did this and they did that. Do you mean yourself? You knew how much was being paid out by you, did you not?

Mr. SMITH. Oh, yes; I knew from time to time I gave them checks.

Mr. ALFRED LUCKING. Well, you had a record of it, had you not?

Mr. SMITH. Yes; there was a record, but I did not keep the books.

Mr. ALFRED LUCKING. Did you give it to them in currency at any time?

Mr. SMITH. I think there were probably half a dozen times, but not over that.

Mr. ALFRED LUCKING. Small amounts, did you say?

Mr. SMITH. I do not remember now. It might have been \$3,000 and it might have been more.

Mr. ALFRED LUCKING. You mean the few times taken all together, \$3,000? (R., 759.)

Mr. ALFRED LUCKING. You think you must have advanced \$120,000?

Mr. SMITH. I think it must have been.

Mr. ALFRED LUCKING. Because you got some back?

Mr. SMITH. Yes, sir.

Mr. ALFRED LUCKING. Have you ever mentioned to somebody, before to-day, that you got any money back in cash?

Mr. SMITH. I do not remember whether I have or not.

Mr. ALFRED LUCKING. In connection with this investigation at any time in the last two and a half or three years has any person ever heard before that you got money back until to-day?

Mr. SMITH. I do not know whether they have or not.

Mr. ALFRED LUCKING. Who handed you that cash back?

Mr. SMITH. Mr. B. F. Emery.

Where is Emery? In the Canadian woods.

He brought it in a paper bag about that high [indicating].

Mr. ALFRED LUCKING. Did you count it?

Mr. SMITH. I think I did.

Mr. ALFRED LUCKING. And it was about \$21,000?

Mr. SMITH. It was about \$21,000, as I remember it.

Senator WATSON. Can we find out there just when that was?

Mr. SMITH. I can not tell exactly, but I think it was the first week in September.

Senator WOLCOTT. What was the date of Andrew Green's check?

Let me explain to Senators that Andrew Green was one of the good angels who, after the account had been filed and they had \$12,000 or \$15,000 of bills to pay, came in with his check. That was after the primary.

Mr. ALFRED LUCKING. Do you mean the \$5,000 check or the \$15,000 check?

Senator WOLCOTT. The \$15,000 check.

Mr. ALFRED LUCKING. He could not tell, but he thought it was several weeks after the primary. Mr. Smith, what did you do with the \$21,000 that you got?

Mr. SMITH. It was undoubtedly put in the bank.

Mr. ALFRED LUCKING. What bank?

Mr. SMITH. In John S's.



Mr. ALFRED LUCKING. In John S. Newberry's bank account in the National Bank of Commerce.

Mr. SMITH. I think it was. There is not any question about that.

Mr. ALFRED LUCKING. Mr. Smith, was it just exactly \$21,000, or might it have been some odd dollars?

Mr. SMITH. It might have been odd dollars; I do not think it was even money.

Mr. ALFRED LUCKING. Did he make any explanation as to why he was returning this money to you?

Mr. SMITH. I do not remember that he did, except on the large contributions that were coming in or readjustments or something.

Mr. ALFRED LUCKING. It appears that the checks on which he got about \$35,000 at that time were dated the 5th day of September, and they were canceled on the 7th. It appears that they were deposited on the 6th. Between those two dates \$10,000 in currency. I mean from John S. Newberry. Did you give them that?

Mr. SMITH. No; I did not.

Mr. ALFRED LUCKING. Do you know anything about it?

Mr. SMITH. No.

Mr. ALFRED LUCKING. They are getting from you \$10,000 and handing you back the next day \$21,000. Do you know anything about it at all?

Mr. SMITH. No; I do not.

Mr. ALFRED LUCKING. There are no books to enlighten you in connection with it?

Mr. SMITH. I do not believe there was any such thing. (R., 765, 766.)

Mr. ALFRED LUCKING. Did you give further checks later?

Mr. SMITH. Further checks?

Mr. ALFRED LUCKING. Further checks later?

Mr. SMITH. No.

Mr. ALFRED LUCKING. You do not remember whether you did or not?

Mr. SMITH. No.

Mr. ALFRED LUCKING. Have you any way of showing that?

Mr. SMITH. No; I have not.

Mr. MURFIN. Do you mean after September?

Mr. ALFRED LUCKING. I mean after he got the \$21,000. That is as plain as anything in the world. You can not remember whether you paid out other moneys or not or gave other checks?

Mr. SMITH. No; I can not.

Mr. ALFRED LUCKING. What did John Newberry say to you?

Mr. SMITH. He came to me, as near as I can remember it, the latter part of February or the first part of March—it was the late winter—and told me that if the committee made any demands for campaign funds, if his brother should be in the senatorial race, to give them the money.

Let me digress there just a moment. This awful man Ford had to be beaten. So they started in on this money campaign the latter part of February or early in March, although Ford did not announce his candidacy until June 14.

I do not remember whether he mentioned Mr. Templeton's name or not. I knew Mr. Templeton quite well.

He was chairman of the committee.

The first call was from him. The checks that were given after that were all given to Mr. Templeton the same as the first one.

Mr. ALFRED LUCKING. You have given us, in substance, all that transpired, have you?

Mr. SMITH. Yes, sir.

Mr. ALFRED LUCKING. No other discussion, except to direct you, if they wanted money and came and asked for it, to give it to them?

Mr. SMITH. Yes, sir.

Mr. ALFRED LUCKING. No limits as to amounts placed on you?

Mr. SMITH. No, sir.

Mr. ALFRED LUCKING. And no reports made to him as to the amounts you paid?

Mr. SMITH. No, sir.

Mr. ALFRED LUCKING. And no inquiries made by him as to what it was used for?

Mr. SMITH. No.

Mr. ALFRED LUCKING. Or as to how much was used?

Mr. SMITH. My power of attorney is a very broad one. (R., 767.)

Mr. ALFRED LUCKING. But you would not have paid out money without directions from somebody?

Mr. SMITH. Absolutely not.

Mr. ALFRED LUCKING. And you have told us the only directions you had?

Mr. SMITH. Yes, sir.

Mr. ALFRED LUCKING. You never rendered any statement or account to John Newberry for it?

Mr. SMITH. No, sir.

Mr. ALFRED LUCKING. And he never asked for any?

Mr. SMITH. He never has.

Mr. ALFRED LUCKING. And he made no inquiries about whether it was running to an excessive amount or anything of that kind?

Mr. SMITH. He never has.

Mr. ALFRED LUCKING. He never has to this day?

Mr. SMITH. No, sir; not to my recollection.

Think of it! John Newberry advances \$120,000 and gets back \$21,000; checks were being drawn constantly on his account, and yet he never concerns himself for one minute about his bank balance or the amount of checks that are drawn on his account for the purpose of corrupting the sentiment of the people of the State of Michigan.

Mr. ALFRED LUCKING. Mr. Truman Newberry asked you about the expenses at times, did he not?

Mr. SMITH. I do not remember that he did.

Truman Newberry, Lieut. Commander Newberry, Senator Newberry, the executive head of the Newberry millions, never asked him about it, but see how that is modified later on.

Mr. ALFRED LUCKING. You reported to him every day what was going on, did you not?

Mr. SMITH. No.

Mr. ALFRED LUCKING. Did you not send him a telegram every night of what occurred during the day?

Mr. SMITH. I sent him a telegram generally at night regarding what the papers said.

Mr. ALFRED LUCKING. About what the newspapers were saying?

Mr. SMITH. About what the newspapers were saying.

Mr. ALFRED LUCKING. One witness here, a Miss Kilfoyle, testified that every night you sent a telegram to Mr. Newberry concerning the campaign.

Miss Kilfoyle was a stenographer in Smith's office. That is what she testified to, as is shown in another part of the record. Mr. KING. She was one of many.

Mr. POMERENE. She was one of a number of them at least.

Mr. MURFIN—

He was Mr. Newberry's attorney—

Mr. MURFIN. Fix the time when that happened, Mr. Lucking.

Mr. ALFRED LUCKING. All right; perhaps you can for me. I suppose she was there in the office.

Mr. MURFIN. I must not be a witness. I have a distinct recollection of what the record shows.

Mr. ALFRED LUCKING. You mean the time. I suppose it was while she was in the office.

Mr. MURFIN. I will whisper it to you.

Mr. ALFRED LUCKING. Now, you had only to do with the finances, as I understand it, of the campaign, Mr. Smith?

Mr. SMITH. All I had to do was to furnish some money from Mr. John S. Newberry's account.

Mr. ALFRED LUCKING. But I asked you if you had anything to do with the campaign except the finances, and you said no.

Mr. SMITH. No; nothing whatever.

Mr. ALFRED LUCKING. You got no reports from them or anything of that kind?

Mr. SMITH. No, sir.

Mr. ALFRED LUCKING. She says—

That is, Miss Kilfoyle—

"During the couple of months or more preceding the primary election in Michigan, in 1918, Mr. Smith sent telegrams to Mr. Newberry with reference to the campaign. It was his custom for three months to dictate a telegram each evening—

Do Senators think that young lady could be mistaken about that? What interest would she have in misrepresenting the situation?

By Mr. Smith I mean Mr. Fred T. Smith, the defendant in this case. Is that substantially correct? (R., 768.)

That should be Fred P. Smith, who was one of the defendants in the criminal case.

Mr. SMITH. No; it is not. I telegraphed him every night after the articles began to appear in the papers.

Think of it! Is that true? Are Mr. Newberry and Mr. Smith more concerned about some political gossip that there may be in the newspapers than they are about the money that is being used from the Newberry funds in order to finance this campaign? If Senators will notice all through the record, Mr. King and all of the other witnesses steer clear from the financing when it comes to connecting Mr. Newberry with it.

Oh, yes; Mr. Newberry took a very active part in everything, but he did not know anything about the financing. If he did not, it was because he was willfully ignorant. If Mr. King and these other men did not give him any information upon this subject, it was because they willfully and purposely tried to keep it from him.

Mr. SMITH. After the articles began to appear in the Evening News, I telegraphed him what the papers said.

The ACTING CHAIRMAN. When was that?

Mr. SMITH. It must have been along the last week of the primary.

Mr. ALFRED LUCKING. I guess it started about the 10th of August. Mr. Vandenberg's letter, which has been put in here, was published on the 8th day of August—Mr. Vandenberg, of the Grand Rapids Herald—

That is former William Alden Smith's paper—

Do you remember Mr. Vandenberg wrote some open letters or something of that kind?

Mr. SMITH. Yes.

Mr. ALFRED LUCKING. You advised him about how long the heavy expenses were going to run, did you not?

Meaning Senator Newberry.

Mr. SMITH. No; he was talking to me about some other matters—

That is, Truman Newberry was. Now, just think of it:

No; he was talking to me about some other matters, and, as I recollect, he mentioned something about when the primary was, and I told him July 27. That is as much as I knew about it.

Mr. ALFRED LUCKING. You mean August 27?

Which was the day of the primary.

Mr. SMITH. Yes; August 27. I meant August 27. Instead of that I told him July.

And Mr. Murfin, the counsel, with that delicate way that a skilled lawyer has, desires to have a little fun out of him, and he says:

Mr. MURFIN. You are some politician.

Mr. ALFRED LUCKING. Are you quite sure about that?

Mr. SMITH. Yes. So I wired him an explanatory telegram.

Mr. ALFRED LUCKING. The trouble with that explanation—and it is evident you are just mistaken about dates—was that your telegram was not sent until July 28, so it could not be July 27 that the primary was going to be.

Mr. SMITH. No; there is where I made my mistake. I told him on the telephone July 27. Then I got a wire right off to him.

Now, just think of it! A little while ago he tells us that he began to tell him about what the newspapers were saying.

Then, when he makes a mistake in the date of the primary in his talk by telephone, when he recalls that fact straightway he gets off a wire to him. The purpose will develop as you go along.

Mr. ALFRED LUCKING. You could not have told him it was the day before, because you would know that the primary had not been held the day before you were talking.

Mr. SMITH. That is the gist of it.

Mr. ALFRED LUCKING. But you could not on the 28th day of July tell him the primary would be July 27, the day before you were talking.

Mr. MURFIN. Is not that a matter of argument?

The ACTING CHAIRMAN. Yes.

That was a very judicial statement from the acting chairman.

Mr. ALFRED LUCKING. I do not want anybody to accuse us of absolutely misleading the witness when it is plain he is mistaken. May I call your attention to page 219, to the following telegram:

Now, note this telegram:

DETROIT, MICH., July 28, 1918.

Lieut. TRUMAN H. NEWBERRY,  
Third Naval District, 280 Broadway, New York:

I misinformed you this morning the date of close of regular expenses.

Oh, he is just telling him about what the newspapers have said, and though he has had a talk with him by telephone, it becomes very necessary that Truman Newberry, the candidate, shall know when the expenses are going to stop. Smith knows that, and Smith wires him. Let me read that again:

I misinformed you this morning the date of close of regular expenses. Should have said August 27.

Now, note:

The circular work, advertising, clerical help, postage, and all regular overhead expenses will naturally continue until primary. Have written.

FRED P. SMITH.

Ab, Mr. Newberry knows nothing about this. He files his affidavit with the Secretary of the Senate, and says: "I contributed nothing. I spent nothing. The campaign was conducted voluntarily by my friends." Why is he interested in the expenses of the campaign? Why should his confidential man, Smith, report by wire to Truman Newberry the day when these expenses would stop? Let our friends, the majority of the committee, explain that; and the explanation we get is that Truman Newberry filed his denial in the office of the Secretary of the Senate.

Something was said about perjury the other day. I am not going to use that word; but, in the language of the Negro, he was "powerful reckless with the truth."

Did you send that telegram?

Mr. SMITH. Yes; I did.

Mr. ALFRED LUCKING. Then, it was not about when the primary was; it was when the expenses were going to stop, did he not?

Mr. SMITH. That is probably it. Is that right?

Mr. SMITH. That is probably it. I do not know what the conversation was, but I had told him July 27. I misinformed him as to the month.

Mr. ALFRED LUCKING. You had been talking to him. He wanted to know when these expenses were going to stop, did he not?

Mr. SMITH. I do not believe so. I think his conversation was about the drain on the balances in the office, and he was complaining about the money that was being spent.

Why, he was not spending any, according to them. Oh, no. Do we not know now why he did not want to come before the subcommittee? Do we not know now why the majority of that subcommittee did not want him to come?

Mr. ALFRED LUCKING. Complaining about the large amount of expenses being drawn?

Mr. SMITH. Or the money that was being spent and drawn from the account all the time and put into his brother's account to keep from being overdrawn.

Think of it!

Mr. HARRISON. Mr. President, may I ask the Senator a question in that connection?

Mr. POMERENE. Yes.

Mr. HARRISON. The Senator said that Truman Newberry did not appear before the committee and make denial of that statement.

Mr. POMERENE. No; he did not.

Mr. HARRISON. What did he say when he was on trial in Michigan, when he appeared before the jury?

Mr. POMERENE. Mr. President, that is another interesting chapter. Now, bear in mind, there were a great many defendants in this case. The Department of Justice had gotten busy, and a number were indicted; and when it came to the trial, here were some of these men out in the districts who were indicted, who were handling some of the Newberry funds; and at certain times during the trial, if you will examine this record, you will find that some of these lesser luminaries among the list of defendants went on the stand and told their story. Of course, they could not be put on the stand by the Government unless they consented; but they were put on, some of them, as a part of the defendants' case, and then they put King on the stand, the king bee among the managers, and he testifies and unfortunately breaks down. But what did

Truman Newberry do, the king bee of all the defendants, the man in whose behalf all of these other defendants got into trouble? The men who were aiding him to get the coveted seat in the United States Senate went to Newberry's defense, but Truman Newberry claimed his privilege as a defendant not to be made a witness either against himself or in his own behalf without his consent. Truman Newberry, Senator Newberry, silent! Other defendants go to his defense. He does not go to their defense. Explain it, if it can be explained.

Mr. HEFLIN. Mr. President—

The VICE PRESIDENT. Does the Senator from Ohio yield to the Senator from Alabama?

Mr. POMERENE. I yield to the Senator.

Mr. HEFLIN. The Senator from Ohio will recall that when Paul King, the manager of Mr. Newberry's campaign, testified in that case, he finished his testimony for the defense and collapsed just as the prosecutors were about to cross-examine him.

Mr. POMERENE. Yes.

Mr. HEFLIN. And none of his testimony was allowed to go in as in cross-examination.

Mr. POMERENE. No; he was not cross-examined at all, due to his physical condition, and I have no doubt he was in a state of collapse. The fact is that his health was not very good when he was before our committee, and we tried in every way to husband his strength by excusing him, and if you examine the record you will find that he was excused three or four different times. I have not any doubt at all about the state of his health and the tremendous strain under which he was placed.

Now, let me go on with this interesting testimony.

Mr. ALFRED LUCKING. You had been talking to him. He wanted to know when these expenses were going to stop, did he not?

Mr. SMITH. I do not believe so. I think his conversation was about the drain on the balances in the office, and he was complaining about the money that was being spent.

Mr. ALFRED LUCKING. Complaining about the large amount of expenses being drawn?

Mr. SMITH. Or the money that was being spent and drawn from the account all the time and put into his brother's account to keep from being overdrawn.

Mr. ALFRED LUCKING. And his funds as well as his brother's were used?

Mr. SMITH. And everybody else's.

There were 10 of these accounts—the dead father's estate, the dead mother's estate, the brother's account, Truman's account, their wives' accounts, and their sons' accounts—and Mr. Smith, the attorney in fact, says they were drawing from everybody's account.

I continue reading:

Mr. ALFRED LUCKING. To keep up the amounts that were on the books charged against John?

Mr. SMITH. To keep his account from being overdrawn.

Mr. ALFRED LUCKING. And he wanted to know when this thing was going to end. Is that the idea?

Mr. SMITH. I think that is right.

Mr. ALFRED LUCKING. You got the date wrong in your talk, and so you sent this telegram to him?

Mr. SMITH. Yes, sir; that is right.

Mr. ALFRED LUCKING. And you say:

"I misinformed you this morning the date of close of regular expenses. Should have said August 27."

In other words, you should have said that the expenses would then be cut off?

Mr. SMITH. Yes, sir.

Mr. ALFRED LUCKING (reading):

"The circular work, advertising, clerical help, postage, and other regular overhead expenses will naturally continue until primary."

Mr. SMITH. Yes, sir.

Mr. ALFRED LUCKING. And that is what he had been talking with you about over the phone?

Now, note Mr. Smith's answer:

Mr. SMITH. He was kicking about the balances.

The expenditures to secure the senatorial toga for Truman Newberry were so extravagant that he who was to wear it was kicking about the expenses, and yet he swears he knew nothing about it.

Mr. JONES of New Mexico. Making his kick against whom?

Mr. POMERENE. I do not know against whom he was kicking. He was kicking to his confidential attorney in fact.

Mr. JONES of New Mexico. The one who was handling the funds for his campaign?

Mr. POMERENE. Oh, yes.

Mr. CARAWAY. Mr. President, if he was not satisfied he could have canceled the power of attorney to sign his checks any day, could he not?

Mr. POMERENE. Certainly. I never knew of a general power of attorney which could not be canceled. This is the first time in my life I ever heard that a candidate's money could be used in furtherance of his own campaign and he not be held responsible for it; in other words, that he should have the usufruct of the campaign, but is not to be charged with the fact that his own money helped to secure the results of it.



Let us go a little further:

Mr. ALFRED LUCKING. Yes; the drain was pretty heavy, and he wanted to see it stop?

Mr. SMITH. Yes, sir; that is true.

Mr. ALFRED LUCKING. You say, "Have written."

Mr. SMITH. Yes.

Mr. ALFRED LUCKING. Have you got that letter or a copy of it?

Mr. SMITH. No; I have not.

Mr. ALFRED LUCKING. That is lost, too, is it, with the other things?

Mr. SMITH. It is not in our office, however. (R., 770.)

Let us pause here just a minute. Here is the telegram; there is no question about that. The telegram was sent to Lieut. Commander Newberry, and he was advised by that telegram that a letter had been written. The distinguished chairman of the subcommittee and the majority members were not interested in that letter. If they are right, if there was nothing in that letter which could not be open to public gaze or to the committee's gaze, why is it not forthcoming? If Senator Newberry is not able to come before the committee and tell us what he knows about it, why does he not send the letter? I am sure every Senator would be interested in it.

I used to try some criminal cases. I gave up the trial of criminal cases a good many years ago, but I am afraid we have gotten into one. Have Senators ever noticed the progress of criminal trials when there is an effort to conceal things?

Oh, what a tangled web we weave,  
When first we practice to deceive.

Let us go a little further.

Mr. HEFLIN. Mr. President—

The VICE PRESIDENT. Does the Senator from Ohio yield to the Senator from Alabama?

Mr. POMERENE. I yield.

Mr. HEFLIN. If the Senator will permit me, he is making a magnificent speech, one in which the whole American people are interested, and I observe that on the other side there are only 9 or 10 Senators present, and the Senators on that side ought to be here listening to the arguments of this case; so I suggest the absence of a quorum.

The VICE PRESIDENT. Does the Senator from Ohio yield for that purpose?

Mr. POMERENE. I yield for that purpose.

The VICE PRESIDENT. The Secretary will call the roll.

Mr. SPENCER. I make the point of order that there has been no business transacted since the last roll call.

Mr. CARAWAY. The Senator is too late.

Mr. SPENCER. I hope the Senator from Alabama will also enumerate the 14 Senators on the other side of the Chamber, not more than there are on this side.

Mr. POMERENE. Mr. President, I want to make a request of the Senator from Alabama. In view of the fact that it is quite patent that the chairman of the subcommittee does not want the Senators to hear the argument in the case, I hope he will withdraw his point.

Mr. HEFLIN. Under those circumstances I withdraw the suggestion of the absence of a quorum.

Mr. POMERENE. I read further:

Senator WOLCOTT. Yes; I want to find out about the checking out of these funds by you, Mr. Smith, to the Newberry primary committee. Those checks were all drawn against what account in your office?

Mr. SMITH. Against Mr. John S. Newberry's account.

Senator WOLCOTT. Are you positive they were invariably drawn against that account and no other?

Mr. SMITH. Absolutely.

Senator WOLCOTT. You spoke of transferring funds from the other accounts into his.

Mr. SMITH. Yes, sir. It is a procedure that has been current for years. When one account gets low it is fed from the others. We have 12 different accounts. Of course, we do not feed from the corporations, but the personal ones. I have done it this last week.

Senator WOLCOTT. How many of those personal accounts were there?

Mr. SMITH. There were 10 at that time?

Senator WOLCOTT. Did you transfer funds from Truman H. Newberry's account over to John S. Newberry's?

Mr. SMITH. Yes, sir; or Mr. Truman's to John S., or from Mrs. John S., around either way, and always have done it.

Senator WOLCOTT. All these funds in those various accounts, barring the corporation accounts, went to supply ready money to John S. Newberry's account?

Mr. SMITH. No; I do not think they all did in this case.

Senator WOLCOTT. Then, the funds in their two accounts went to keep the John S. Newberry account up to a sufficient fund so as to enable you to have enough money out of that account to take care of these primary expenses?

Mr. SMITH. In cases where there were overdrafts they would make up enough balance to cover the overdraft.

Senator WOLCOTT. Were those funds advanced from Truman H. Newberry's account and Mrs. Truman H. Newberry's account to John S. Newberry returned in due course to those accounts from which they were originally taken?

Mr. SMITH. Yes, sir.

Senator WOLCOTT. Have you the books showing all these transactions?

Mr. SMITH. No; I have not.

Senator WOLCOTT. Were those books taken by the cashier down to Grand Rapids?

Mr. SMITH. I do not remember about it. I did not pay any attention to what he took. He got his own stuff. He got a subpoena and

went and saw the attorney and got his material together and went over that night.

Mr. HAL H. SMITH. But he was subpoenaed with the books?

Mr. SMITH. Yes, sir.

Mr. HAL H. SMITH. The books, records, checks, and letters.

Senator WOLCOTT. Was he subpoenaed by the Government?

Mr. SMITH. Yes, sir. (R., 772, 773.)

Senator WOLCOTT. What is the last you recall of seeing these books and checks that had to do with these transactions about which I have inquired?

Mr. SMITH. I do not remember whether it was after the grand jury or after the trial.

Senator WOLCOTT. You were aware of the fact that there was considerable notoriety concerning the expenditure of money in that campaign?

Mr. SMITH. Oh, yes.

Senator WOLCOTT. You were aware of the fact, were you not, that it was charged by prominent men in Michigan that this extravagant expenditure of money was either by, or occasioned by, Mr. Newberry?

Mr. SMITH. Yes, sir.

Senator WOLCOTT. Was there talk of investigation of that business? In the newspapers, I mean, was there talk of investigation of that statement?

Mr. SMITH. Well, there has been all along.

Senator WOLCOTT. I mean back there at the time we are now speaking of, about contemporaneous with the happening of all these events; we will say in August, 1918?

Mr. SMITH. I do not remember that.

Senator WOLCOTT. You do not recall any demands for an investigation or demands that there should be an investigation of the thing?

Mr. SMITH. There was a lot of notoriety in the newspapers about expenditures, but I could not say now whether I remember when it was or not.

Senator WOLCOTT. Mr. Smith, I am at a loss to understand, and I want you to explain to me why it is, that in view of that talk and more or less of a scandal about the expenditure of Newberry funds, that you, the man who had the written evidence of the expenditures and to whom disbursed and how the accounts were kept, should be so much at a loss to tell this committee anything about the whereabouts of those books and checks and that you were apparently so indifferent about their safe-keeping.

Mr. SMITH. We must have had them a considerable period in our files down there at the office.

But they did not have them when they were wanted.

Senator WOLCOTT. Well, you do know that yourself?

Mr. SMITH. I can not tell what time they went up.

Senator WOLCOTT. What do you mean—went up to the barn?

Mr. SMITH. Up to the barn. At Grand Rapids they were tied in a sack.

Senator WOLCOTT. You took no special precaution to take care of them?

Mr. SMITH. I put them where we have always put all our checks, under lock and key, and not only that, there is a man and his wife living right in the place.

Senator WOLCOTT. Yes; but there was a grand jury investigation of this business when these books and checks came back into your possession.

Mr. SMITH. Yes, sir.

Senator WOLCOTT. The subject matter was being investigated, and yet you allowed these evidences, written evidences, of the entire business of this whole transaction to get from under your sight. That is correct, is it not? (R., 774.)

Mr. SMITH. We only have a limited space there in our offices. Every so often we have to clean them out with the enormous amount of business that comes through that office every year.

Senator WOLCOTT. Yes; but this was only a period of about two or three months of financing. How did you keep your books—in loose leaves or bound books?

Mr. SMITH. In bound books.

Now, note this:

Senator WOLCOTT. Did you ever inquire of this cashier what he did with the books and checks?

Mr. SMITH. No, sir.

Just think of it! Except, perhaps, to be President of the United States or Chief Justice of the United States, the highest political honor which can come to any man is the honor which you and I, my colleagues, possess at the hands of the people of our sovereign States, and when the mementos of Mr. Newberry's title were being attacked the written evidence was gone; and it was either in the possession of Mr. Newberry or in the possession of his business or political associates.

Mr. President, I have been speaking about four hours, much longer than I anticipated speaking. I have been advised that some Senators are desirous of speaking upon the conference report, on which there is a unanimous-consent agreement to vote to-morrow at 12 o'clock, and unless there is objection I would rather suspend at this time and take the subject up to-morrow, after the disposition of the conference report, if I may have the consent of Senators.

Mr. SPENCER. I make no objection.

Mr. CURTIS. There is no objection to that on this side of the Chamber.

Mr. SPENCER. There is no objection. I wonder whether the Senator from Ohio and the Senator from Mississippi would also deem it desirable to endeavor to agree upon some time when we may vote upon the resolution now pending, so as to relieve the embarrassment of Senators about their engagements in the interim.

Mr. POMERENE. I sincerely hope that we can arrive at an agreement for a vote at a reasonably early time. Although I am quite willing to do it, I am disposed to think that it would be

rather difficult now. Perhaps if we can have some negotiations on both sides of the Chamber we may be able to reach an agreement.

Mr. CURTIS. That will be satisfactory.

Mr. POMERENE. I assure Senators that I have no desire to unduly delay the matter. I realize its importance, and I say frankly that, though reference has been made to the trip which a committee is compelled to take to Haiti, I shall not even think of going away so long as this resolution remains the unfinished business, unless there is some agreement which will be entirely satisfactory to everybody. I usually try one lawsuit at a time.

#### GOVERNMENTAL AGENCIES DURING THE WAR.

Mr. JONES of Washington. Mr. President, I have here an article entitled "The status of Government-owned and Government-controlled corporations, a discussion of the law applicable to governmental agencies created during the war emergency," by Eldred E. Jacobson, of the New York bar. It is very interesting and I think a very valuable treatise upon the status of those corporations.

With a view to having it printed, I ask to have it referred to the Committee on Printing, and if that committee thinks favorably of it I would like to have it printed as a public document.

The VICE PRESIDENT. Without objection, it is so referred.

#### AMENDMENT OF NATIONAL PROHIBITION LAW.

Mr. STANLEY obtained the floor.

Mr. BROUSSARD. Mr. President—

Mr. STANLEY. I yield to the Senator from Louisiana.

Mr. BROUSSARD. I suggest the absence of a quorum.

The VICE PRESIDENT. The Secretary will call the roll.

The reading clerk called the roll, and the following Senators answered to their names:

Ashurst	Harrison	Myers	Spencer
Broussard	Heflin	New	Stanley
Bursum	Hitchcock	Nicholson	Sterling
Cameron	Jones, N. Mex.	Norbeck	Townsend
Capper	Jones, Wash.	Norris	Trammell
Caraway	Kendrick	Oddie	Walsh, Mass.
Curtis	Kenyon	Overman	Walsh, Mont.
Dial	Keyes	Page	Warren
Edge	King	Philpps	Watson, Ga.
Fernald	Ladd	Pomerene	Watson, Ind.
Gerry	La Follette	Robinson	Willis
Glass	McKellar	Sheppard	
Hale	McKinley	Shields	
Harris	McNary	Simmons	

Mr. TRAMMELL. I wish to announce the absence of my colleague [Mr. FLETCHER] on official business.

The VICE PRESIDENT. Fifty-three Senators having answered to their names a quorum is present. The Senator from Kentucky will proceed.

Mr. STANLEY. Mr. President, there persists a misapprehension with regard to the purposes of the so-called Campbell-Willis beer bill and the amendments to it adopted by the Senate. An effort has been made, whether innocently or designedly I know not, to create and to foster the impression that the bill is passed for the purpose of preventing an inundation of brewed beverages in the event the bill is not passed immediately.

It is charged by an insidious propaganda that those who oppose the bill are the secret and sinister friends and emissaries of the brewers and the bootleggers; that this fight for constitutional liberty is a mere camouflage, a mask behind which they are secretly aiding and abetting the violators of the law, the petty and contemptible vendors of alcoholic liquors.

Mr. President, that argument—no, it is not an argument; it is a statement which hardly deserves an answer. It is absurd upon its face. The Senate does not determine by this bill whether beer shall be sold or prohibited as a beverage or whether any other beverage shall be sold or prohibited.

This is not a question as to the enforcement of the eighteenth amendment; this is not a question as to the enforcement of the Volstead Act. Good or bad, the eighteenth amendment has been adopted; wise or unwise, the Volstead Act is a part of the organic law of the land. No Senator who opposes this bill is opposing the eighteenth amendment. No Senator who opposes this bill is opposing the Volstead Act. No Senator who opposes this bill is advocating the sale of any kind of an alcoholic beverage. This bill has nothing to do with the sale of beverage alcohol.

This bill, in the first place, provides for prohibition of the medicinal use of alcohol in certain forms, although the eighteenth amendment does not prohibit the medicinal use of alcohol in any form whatever. This bill proposes that a legislative

body, comprising one doctor in its membership, shall pass upon a question which no man who is not a doctor can determine. With the exception of the Senator from Delaware [Dr. BALL] I doubt if there is a Senator in this body who knows anything more about the medicinal use of alcohol than he does about repairing his watch; and yet, in answer to the demand of a propaganda, laymen, lawyers have resolved themselves into a pharmaceutical association and are passing upon a technical question about which doctors differ and in open violation of the Constitution of the United States.

Outside of the constitutional question involved it is a matter of comparatively small importance to the average man whether doctors be permitted to prescribe medicinal beer or not. In that connection I ask to have inserted in the Record at the conclusion of my remarks a letter written to the Senator from Ohio [Mr. POMERENE] by Dr. Chadwick Oliver, of Cincinnati, Ohio, on this subject.

The PRESIDING OFFICER (Mr. KING in the chair). Without objection, the request will be granted.

[The letter referred to will be found at the conclusion of Mr. STANLEY's remarks.]

Mr. STANLEY. Mr. President, the Volstead Act has been on the statute books for some time, and yet I have never heard any complaint of doctors abusing the right to prescribe beer. I do not believe that, with the present regulations, if this proposed act were not passed, beer would be used even for medicinal purposes to any great extent. Under the regulations beer must be first prescribed by a doctor for a person who needs it; then it must be bought from a drug store. Drug stores are dainty places; they are not better qualified to handle beer by the case than they are to handle lard by the pound or salt by the barrel. No sensible bootlegger, no brewer with any knowledge of his business has any hope that he will ever be able to flood the community with beverage beer by virtue of the failure of the enactment of the Willis-Campbell bill. So as far as that proposition is concerned, it may be dismissed.

The Secretary of the Treasury, Mr. Mellon, admits that there were very few brewers demanding permits to sell medicinal beer. I know of no interest or concern among the manufacturers of any kind of liquor who are opposing the passage of this bill; some distillers are very much in favor of it. They have telegraphed the Senator from South Dakota [Mr. STRELLING], in charge of the bill, urging its passage. So this is not a question of the sale of beverage alcohol; it is not a question of preventing the use of beverage alcohol as wine or beer or whisky; it is not a temperance question; it is purely a legal question.

It becomes necessary for this propaganda to have something to do or "Othello's occupation's gone"; there is no reason for the Anti-Saloon League unless there is some law to be passed; there is no need for a lobby unless there are Senators and Representatives to be lobbied. Were it not that this bill is utterly in violation of the Constitution and were it not that no man, be he wet or dry, in the liquor business or out of it, need concern himself about this innocuous thing that simply gives a lot of people something to do and something to talk about.

Mr. President, let us look now at section 6 of the conference report. It provides:

That any officer, agent, or employee of the United States engaged in the enforcement of this act, or the national prohibition act, or any other law of the United States, who shall search any private dwelling as defined in the national prohibition act, and occupied as such dwelling, without a warrant directing such search, or who while so engaged shall without a search warrant maliciously and without reasonable cause search any other building or property, shall be guilty of a misdemeanor and upon conviction thereof shall be fined for a first offense not more than \$1,000, and for a subsequent offense not more than \$1,000 or imprisonment not more than one year, or both such fine and imprisonment.

That is to say, this amendment provides, first, a fine and then a fine and imprisonment for any officer who shall without a warrant "search any private dwelling as defined in the national prohibition act, and occupied as such dwelling." As defined in the national prohibition act it must be a permanent residence occupied as a private dwelling, in which event a search warrant is necessary to enter it under this proposed act in case the owner is suspected of having contraband liquors in his possession. If, however, any other part of the curtilage is suspected, any other house or any other building, no safeguard is thrown around it. If a man is a guest in a hotel, his bedroom may be searched and his property may be seized without a warrant; his papers and effects may be searched and seized in his office, in his hotel, in any other place than a private dwelling.

It is claimed by the propaganda which is behind this amendment that it extends the privilege conferred by the Constitution of the United States. It is a little surprising, Mr. President,



after houses which are occupied as dwellings have been repeatedly searched without a warrant right here in Washington, after such practice has been so common as to demand and to occasion a nation-wide protest, to find they have suddenly become so tender of the rights of those suspected of moonshining or of selling or having alcoholic liquors in their possession that they throw about a dwelling a safeguard not demanded by the Constitution; that they give to violators of the prohibition law security not hitherto contained in the Constitution of the United States and not hitherto provided by statute. Just why this tenderness, I do not know; but, Mr. President, the trouble about it is if that is the case it is worthless. If the citizen has no constitutional guaranty, if the organic law of the land has not thrown around him and his person certain privileges and immunities, and if he is dependent upon this propaganda for this ephemeral protection, the same power that gave can take away, and when finally the last remnant of the love of personal liberty, the last fleeting thought of the sanctity of the home has been undermined and poisoned thus, this proviso will go as easily as it is now temporarily inserted.

Mr. President, this provision was placed in there because they dared not at this time boldly proclaim their interpretation of the law of the land as applied to the citizen. The Senator from Minnesota [Mr. NELSON], while refusing to be interrupted, at last replied to a single question while addressing the Senate. I asked:

Is it the contention of the Senator that prohibition officers can search the property of citizens upon bare suspicion?

Certainly—

Said Senator NELSON—

In respect to that subject matter they have the powers of constables.

The Senator maintained that a constable can search at will the person and property of any citizen upon bare suspicion. They did not dare to tell the public that they so interpreted the Constitution of their country and the law of the land as to enable any prohibition officer, vague as that term may be, any inspector, or any snooping spy, to invade the sanctity of the home without any kind or character of authorization from any kind or character of magistrate. All that you have to do is to fix a star on an inspector, and the Senator from Minnesota says that he has the right to break open any door, to enter any curtilage, to spy into any baggage, to poke his nose into any conveyance, to run his hands over the body of any man or woman, if he suspects that there is liquor there; and now, says the Senator from Minnesota, and say the propagandists for this measure, "We do not propose to exercise this authority to search and seize without a warrant in so far as a dwelling is concerned if it is a private dwelling and actually occupied by the owner thereof." If it is a rented house you can go in, I presume.

Mr. President, if they have a right to enter one house, they have a right to enter another. I have defied the proponents of this measure, who are great lawyers, and I now challenge any lawyer on either side of this Chamber to produce one single, solitary decision of the Supreme Court of the United States that winks at the idea that in so far as the right to enter without a search warrant is concerned there is any difference in the protection afforded by the law to one house owned by the citizen and another. It does not matter whether it is a dwelling house or a storehouse or a warehouse or an office; his protection against having his private papers searched, his private property invaded, is just as sacred in one case as in another.

They have utterly confused the difference between the sanctity of property and the privacy of premises. There is an impropriety about entering the bedroom of a lady without knocking, but you have the same legal right to go into one room that you have to go into another. The law does not make one room, the room in which you sleep, more sacred than the room in which you eat, or the room in which you entertain your friends more sacred than the room in which you dine. It is amazing that it should be necessary for any lawyer to explain simple and elementary principles of this character to the lawyers of the Senate.

The fourth amendment provides that "the right of the people to be secure in their persons, houses"—not dwellings, not homes, but houses—"shall not be violated." Did they use the word "houses," meaning "homes?" Was it a loose expression on the part of the makers of the Constitution of the United States? Let us see. It was only a few years before this amendment was written, as I shall further show, as Mr. Justice Bradley tells us in the case of *Boyd* against The United States, that the general warrants issued against the citizens of New England, against which James Otis inveighed; and the case of *Wilkes* was then fresh in the minds of the makers of

the Constitution, said the court in that case, when they wrote that amendment into the organic law of the land. Now, the facts are that these general warrants were not aimed at the homes of the citizens of Boston or anywhere else. These general warrants were used to enter the warehouses of the citizen, to enter their storehouses, and, as I have already called to the attention of the Senate, the news came that warehouses and storehouses were to be invaded by these spies.

Mr. President, I shall discuss at length the cases just decided by the Supreme Court of the United States of *Gould* against The United States and *Amos* against The United States, in which the doctrine is laid down that any search without a warrant is unreasonable, because it is unconstitutional. In the *Amos* case they searched a storehouse. In the case which I shall read at length, just decided in Kentucky, of *Youman* against Commonwealth, they searched a storehouse. There never has been any difference between the sanctity, the security of a citizen's house against a search, if he made it the repository of his private papers and his private property; between the house in which he slept and the house in which he attended to his business; between his dwelling and his store.

It is an absurd distinction. It is the artificial creation of these men who dare not to invade the home, not that they respect any provision of the Constitution of the United States, but they respect a certain Saxon instinct that rises above law; and even those who obey the whip, those who listen to the threat, who cower under the lash of this propaganda that has threatened all of us with destruction—I presume the Senator from Tennessee has been warned—

Mr. SHIELDS. Certainly.

Mr. STANLEY. And the Senator from Louisiana [Mr. BROUSSARD] and the Senator from Georgia [Mr. WATSON]—you have been notified that you are marked men?

Mr. WATSON of Georgia. Oh, yes.

Mr. STANLEY. That sort of a threat has its effect even in this body; but even the threat of political death is not yet able to make an avowed prohibitionist sit idly by while a snooping spy runs his nose under the bed and into the closets of the wife of a reformer, and for very shame they put this provision in here. We do not ask to enjoy the rights guaranteed us by the Constitution of the United States at the capricious grace of any propagandist.

Let us see: What is secure from search and seizure? The person, houses, papers, and effects. If one is secure, another is secure. The house is no more secure than the effects. What are a man's effects? In those days they traveled by coach. His conveyance—his portmanteau, his carpetbag, his baggage—are not these his effects? The citizen shall be secure, says the Constitution—

Against unreasonable searches and seizures, \* \* \* and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

Let us see whether this immunity from search and seizure attached merely to the dwelling or threw its aegis about the property, the curtilage, the castle of the citizen.

How mean, how small, how shrunken, is the measure of our liberties compared to that enjoyed by our fathers!

We are going to agree that nothing shall be immune from the insolent intrusion of the meanest petty officer except the parlor, bedroom, and bath of a citizen. Outside of that, come when you please, spy as much as you like, take what you want; the Constitution does not protect anything except the place where we sleep and the place where we eat.

The greatest of English orators has said that, "The poorest man in his cottage may bid defiance to all the forces of the Crown. It may be frail; its roof may shake; the wind may blow through it; the storm may enter; but the King of England can not enter it, and with all of his powers dares not cross the threshold of that ruined tenement."

An Englishman in his castle can defy the King, but an American 3 feet from the place where he slept or ate must submit to intrusion and insult from the meanest spy the Government ever commissioned to invade the sanctity of his person and his property.

Mr. WATSON of Georgia. Mr. President, when Lord Chat-ham uttered those sentences, which are immortal, and which were then thought to be axiomatic—

Mr. STANLEY. They were, for a hundred years after that.

Mr. WATSON of Georgia. And had been for a thousand years—he was speaking upon just such a bill as this, an excise bill.

Mr. STANLEY. Mr. President, let us see whether this was the conception of the sanctity of the freeman's person and property when this question was determined. You have been

told in the case of Boyd against United States that the recent revolt against search warrants was against general warrants, the invasion of the citizen's home, which had been tried in England in the Wilkes case and the case of Entick against Carrington, and in the United States in the cases in which James Otis appeared immortally.

In the case of Entick v. Carrington (19 Hornell's State Trials, p. 1030), which is quoted at such length and is declared by the Supreme Court of the United States to be an eternal landmark, a monument of abiding and immutable law, Lord Camden discusses the property of the citizen, and states that it is immune from the invasion of a civil officer without a search warrant. After describing the power to search and seize, the court said:

Such is the power, and therefore one should naturally expect that the law to warrant it should be clear in proportion as the power is exorbitant.

If it is law it will be found in our books. If it is not to be found there it is not law.

The great end for which men entered into society was to secure their property. That right is preserved sacred and incommunicable in all instances where it has not been taken away or abridged by some public law for the good of the whole. The cases where this right of property is set aside by positive law are various. Distresses, executions, forfeitures, taxes, etc., are all of this description.

This was a case, mind you, Mr. President, where a man entered not without a warrant but with a warrant improperly executed. In this case this officer came from the secretary of state of England. He came with a warrant which described the person but was general as to the things to be seized. He came with the kind of a warrant which had been issued for a hundred years, which had been sustained by the Crown. It was a thousand years from the time men threw the first barriers about the sanctity of the home before any man in Europe or America ever dreamed of entering the sanctity of the citizen's possessions without any character of warrant or authorization.

Does Lord Camden stop him at the front door? Does he stop him at the bedroom, where women are in negligee? No; he stops him at the point where the property of the citizen has its outermost boundary. He said:

The great end for which men entered into society was to secure their property. That right is preserved sacred and incommunicable in all instances where it has not been taken away or abridged by some public law for the good of the whole. The cases where this right of property is set aside by positive law are various. Distresses, executions, forfeiture, taxes, etc., are all of this description, wherein every man by common consent gives up that right for the sake of justice and the general good. By the laws of England every invasion of private property, be it ever so minute, is a trespass. No man can set his foot upon my ground without my license but he is liable to an action, though the damage be nothing, which is proved by every declaration in trespass, where the defendant is called upon to answer for bruising the grass and even treading upon the soil. If he admits the fact, he is bound to show by way of justification that some positive law has empowered or excused him. The justification is submitted to the judges, who are to look into the books, and if such a justification can be maintained by the text of the statute law or by the principles of common law.

If no such excuse can be found or produced, the silence of the books is an authority against the defendant, and the plaintiff must have judgment.

According to this reasoning it is now incumbent upon the defendants to show the law by which this seizure is warranted. If that can not be done it is a trespass.

The great Camden said that to enter with an improperly executed warrant and set your foot upon the soil of a citizen, bruise his grass, or cross the outermost boundary is unlawful.

Papers are the owner's goods and chattels, and they are his dearest property.

Are they less dear because they are in his office? Are they less dear because they are in his hotel? Are they less dear because they are in his effects and not locked in a cellar? This distinction between one house and another house, this effort to split before you defile the Constitution, is absurd. The court further said in that case:

Papers are the owner's goods and chattels; they are his dearest property; and are so far from enduring a seizure that they will hardly bear an inspection; and though the eye can not by the laws of England be guilty of a trespass, yet where private papers are removed and carried away, the secret nature of those goods will be an aggravation of the trespass and demand more considerable damages in that respect. Where is the written law that gives any magistrate such a power? I can safely answer there is none; and therefore it is too much for us without such authority to pronounce a practice legal which would be subversive of all the comforts of society.

Observe, too, the caution with which the law proceeds in this singular case, even where they have a law:

There must be a full charge upon oath of a theft committed. The owner must swear that the goods are lodged in such a place. He must attend at the execution of the warrant to show them to the officer, who must see that they answer the description. And, lastly, the owner must abide the event at his peril, for if the goods are not found he is a trespasser, and the officer being an innocent person will be always a ready and convenient witness against him.

On the contrary, in the case before us nothing is described, nor distinguished; no charge is requisite to prove that the party has any criminal papers in his custody; no person present to separate or select; no person to prove in the owner's behalf the officer's misbehavior. To say the truth, he can not easily misbehave unless he pilfers, for he can not take more than all.

If it should be said that the same law which has with so much circumspection guarded the case of stolen goods from mischief, would likewise in this case protect the subject by adding proper checks; would require proofs beforehand; would call up the servant to stand by and overlook; would require him to take an exact inventory and deliver a copy; my answer is that all these precautions would have been long since established by law if the power itself had been legal, and that the want of them is an undeniable argument against the legality of the thing.

Cooley, on page 372 of the sixth edition of his work on Constitutional Limitations, has determined this matter categorically. He said:

In other cases than those to which we have referred, and subject to the general police power of the State, the law favors the complete and undisturbed dominion of every man over his own premises—

Not his house—

and protects him therein with such jealousy that he may defend his possession against intruders, in person or by his servants or guests, even to the extent of taking the life of the intruder, if that seem essential to the defense.

And this means not simply the dwelling house proper but includes whatever is within the curtilage, as understood at the common law.

Then he cites the case of Pond v. The People (8 Mich., 150), in which case a man was assaulted in an outhouse in which he used to keep fishing tackle, nets, and so forth; State v. Scheele (18 Atlantic Repts., 256), in which the trouble occurred near an outhouse, and the court held the citizen had the same right as if the attack had been made in the home; Parrish v. Commonwealth (81 Va.); and Bledsoe v. Commonwealth (7 S. W. Rept.), a Kentucky case.

Mr. WATSON of Georgia. Mr. President—

Mr. STANLEY. I yield to the Senator from Georgia.

Mr. WATSON of Georgia. Before the Senator leaves that point, I would be glad to have him remind the public through his address that the doctrine which he has stated so clearly does not rest totally upon American decisions, but is laid down in the standard law books of England, such as the Commentaries of Blackstone and the decisions of Lord Mansfield. It is one of the elemental principles of law that one can expel a trespasser and use just such force as is necessary to expel him.

Mr. STANLEY. As I said in the beginning, I feel it incumbent upon me to apologize to the lawyers of the Senate and to so great a lawyer as the Senator from Georgia for discussing this elemental proposition at such length. It is like repeating the multiplication table to a great engineer. However, the stubborn fact remains that if I am right in my contention, this so-called article 6 of the conference is palpably unconstitutional.

If the Senator from Georgia will recall, this amendment provides—and the Senator from Minnesota is perfectly sincere in what he said—that a spy, an inspector, a constable—constable is his idea—can upon suspicion, for the purpose of search and seizure, enter any part of any property not actually occupied as a dwelling. Now, it would be none the less unconstitutional if it left out the word "dwelling." As a legal proposition, I will say to the Senator from Georgia that I can not, to save my life, see where the amendment is helped by this gratuity, this bonus, on the part of the propagandists.

Again, Mr. President, I wish to call the attention of the Senate to another matter. The Senator from Minnesota [Mr. Nelson] said, and he is chairman of the Committee on the Judiciary and most active in this behalf, that any constable has the right to search and seize, upon suspicion, upon probable cause. Why, in all the history of American and English jurisprudence no constable was ever given any discretion except to arrest for a misdemeanor committed in his presence or to apprehend a felon about to escape. Constables are not chosen on account of their discretion. They are chosen on account of their vigor and their fearlessness. I do not mean to speak disrespectfully of a constable, but the duties of the office of a constable, the duties of the office of an apprehending officer of any kind, do not require any great amount of discretion; they require often daring and courage. For that reason the right to search and seize was never vested in a constable.

A constable can not issue a search warrant. He can not do it in England and he can not do it in the United States. To procure a search warrant one must go before a magistrate, a judge, before some man of judgment and discretion. Magistrates are elected, judges are selected, on account of their probity, their discretion. Before a search warrant can issue two men must have a suspicion. The officer must have it or he would not ask for the search warrant. The magistrate must have it or he would not issue the search warrant.



A great judge in a case recently decided in New York has elaborated this question. I ask permission to incorporate that decision in the Record without reading.

The VICE PRESIDENT. Without objection, it is so ordered. Says Judge Mulqueen:

You know the old axiom, "An Englishman's home is his castle." What did that mean? It meant that every Englishman's home was a sacred place which could only be entered in the way prescribed by law, by invitation of an occupant, or in the King's name, or in the regular way by lawful warrant for search or seizure.

In modern times we are apt to forget those conditions. But that was one of the principles that the founders of our Government adhered to, that every man is sacred and safe in his home, secure from invasion except in the way prescribed by law.

No man can say, "I will go into that house because I suspect that something wrong is going on." A judge must first issue a warrant, or a magistrate, and if that magistrate acts on improper and insufficient evidence he is held personally responsible.

So if evidence is brought before you which has been secured by violation of the constitutional rights of the individual, ratified and affirmed by the constitution of this State and by our bill of rights, reject it.

Mr. STANLEY. If the magistrate issues the search warrant without probable cause, he is held responsible. Now, we have the anomalous situation of leaving naked and defenseless the house of the citizen, the property of the citizen, to the suspicion not of a magistrate but of a spy, not of a judge but of an inspector, a hired sleuth.

Mr. President, the right to arrest with or without a warrant, the right to apprehend the person committing a felony or suspected of having committed felony or to apprehend him in the act of committing a misdemeanor, with or without a warrant, and to immediately deprive him of certain things then in his possession that will enable him to escape or to do violence to the arresting officer or that tends to establish his guilt, is entirely different from the right to search the property of that same person not then in his possession or under his control. It is entirely different. The distinction has been drawn a thousand times.

In order that there might be no distinction touching the right of the officer to arrest with or without a warrant and to search the body of an offender, and the right to issue search warrants or warrants authorizing the search of premises and the seizure of property, when the Stanley amendment was offered I deliberately cut out of it the word "person," so that as originally drawn there was no question about the immunity of the person from search before arrest or from search after arrest. It is not questioned by the amendment. The question has never been raised by those opposed to the bill. The right of an officer to apprehend a person charged with a felony or to apprehend a person charged with committing a misdemeanor is not questioned by those who oppose this legislation, never has been, and is not now questioned. Those two things differ entirely.

In order that the twilight zone between them might not obscure a concise definition of the rights of the citizen, we eliminated any immunity which the citizen might have from arrest or search and seizure, as far as his person is concerned. Notwithstanding that fact, the Senator from Minnesota has spoken for hours and quoted case after case, State decision after State decision, every one of which has to do with the right of an officer to arrest without a warrant a person suspected of or charged with an offense or in the act of committing an offense, and not a single case touching the right to search his property or his house.

This question was lately decided in the city of Lexington by an accomplished judge. A man was charged with having committed a robbery, was arrested by an officer.

After the man was put in jail the officer went into his home and searched it and found some of the stolen property. That property was brought into court, and the judge very properly said, "You had no warrant to go into that man's house. That property can not be used for evidence, because it was wrongfully obtained. You had a perfect right to arrest the person of the offender upon probable cause, but you had no right to search his premises without a warrant." The distinction is perfectly palpable and perfectly simple.

Mr. President, an attempt has been made to split this amendment. It has been claimed that the right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures is all the protection thrown about the citizen; that there are two classes of seizures, reasonable and unreasonable; that unreasonable seizures are prohibited by the Constitution, but reasonable seizures are permitted. In this connection I wish to read one section from Story on the Constitution, as follows:

Sec. 1902. This provision seems indispensable to the full enjoyment of the rights of personal security, personal liberty, and private property. It is little more than the affirmance of a great constitutional doctrine of the common law; and its introduction into the amendments was doubtless occasioned by the strong sensibility excited, both in England and America, upon the subject of general warrants almost

upon the eve of the American Revolution. Although special warrants upon complaints under oath, stating the crime, and the party by name against whom the accusation is made, are the only legal warrants upon which an arrest can be made according to the law of England, yet a practice had obtained in the secretaries' office ever since the restoration (grounded on some clauses in the acts for regulating the press) of issuing general warrants to take up, without naming any persons in particular, the authors, printers, and publishers of such obscene or seditious libels as were particularly specified in the warrant. When these acts expired in 1694 the same practice was continued in every reign and under every administration, except the last four years of Queen Anne's reign, down to the year 1763. The general warrants so issued in general terms authorized the officers to apprehend all persons suspected, without naming or describing any person in special. In the year 1763, the legality of these general warrants was brought before the King's Bench for solemn decision, and they were adjudged to be illegal and void for uncertainty. A warrant, and the complaint on which the same is founded, to be legal must not only state the name of the party but also the time and place and nature of the offense with reasonable certainty.

Let us analyze this argument. Said the Senator from Minnesota [Mr. NELSON] and the Senator from South Dakota [Mr. STERLING], the Constitution prohibits only unreasonable searches and seizures; reasonable searches and seizures are permitted; and for that reason, because reasonable searches and seizures are not absolutely prohibited, they can be made without a warrant.

That contention ends in an absolute absurdity. If there are two classes of searches and seizures, reasonable and unreasonable, and reasonable searches and seizures can be made without a warrant, then the only kind of seizures for which a warrant is necessary are unreasonable searches and seizures, and unreasonable searches and seizures can not be made at all. A reasonable search and seizure is one for which you can give a reason. You can not secure a warrant unless you have probable cause; you can not have probable cause, i. e., a reason for doing an unreasonable thing, because you can not give a probable cause for a thing when there is no cause. Unreasonable searches and seizures are absolutely prohibited by the Constitution of the United States without regard to a warrant. With or without a warrant, no man can make an unreasonable search and seizure. The Constitution provides that citizens shall at all times in their persons, houses, papers, and effects be secure from unreasonable searches and seizures. There is only one kind that can be made, and that kind is a reasonable search. The meaning of the Constitution is that no warrant for a reasonable search shall issue "but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the persons or things to be seized." The effort to draw a distinction between two kinds of searches and seizures and to leave an inference that one kind requires a warrant and that the other kind does not must fall utterly to the ground.

From the case of Boyd against the United States the Senator from South Dakota [Mr. STERLING] and the Senator from Minnesota [Mr. NELSON] quoted the following language in arguing that there are two kinds of searches and seizures, one needing a warrant and the other not, intimating that the Supreme Court had such a distinction in mind in the Boyd case:

The search for and seizure of stolen or forfeited goods or goods liable to duties and concealed to avoid the payment thereof are totally different things from a search for and seizure of a man's private books and papers for the purpose of obtaining information therein contained or of using them as evidence against him. The two things differ *toto coelo*.

Is reference here made to the difference between searches and seizures that require a warrant and searches and seizures that do not? That is not in the judge's mind; that had nothing to do with it. It was the difference between things which can be seized after a search and things which can not be seized; the difference between the right of an officer to take property after it has been found, because of the fact that the Government had some title to it or that the holder had none, and to take things to which neither the Government nor the officer had any right, and the officer's only claim was for the purpose of using it as evidence elsewhere.

In the one case the Government is entitled to possession of the property; in the other it is not.

The court is referring not to the right to search but to the right to seize.

The seizure of stolen goods is authorized by the common law; and the seizure of goods forfeited for a breach of the revenue laws, or concealed to avoid the duties payable on them, has been authorized by English statutes for at least two centuries past (note by the court, 12 Car. 2, ch. 19; 13 and 14 Car. 2, ch. 11; 6 and 7 W. & M., ch. 1; 6 Geo. 1, ch. 21; 26 Geo. III, ch. 59; 29 Geo. III, ch. 68, sec. 153; etc.; and see the article "Excise, etc." in Burn's Justice and Williams's Justice, passim, and Evans's Statutes, vol. 2, p. 221, subpages 176, 190, 225, 361, 431, 447), and the like seizures have been authorized by our own revenue acts from the commencement of the Government. The first statute passed by Congress to regulate the collection of duties, the act of July 31, 1789 (1 Stat., 29, 43), contains provisions to this effect. As this act was passed by the same Congress which proposed for adop-

tion the original amendments to the Constitution it is clear that the Members of that body did not regard searches and seizures of this kind as "unreasonable," and they are not embraced within the prohibition of the amendment. So, also, the supervision authorized to be exercised by officers of the revenue over the manufacture or custody of excisable articles and the entries thereof in books required by law to be kept for their inspection.

But, when examined with care, it is manifest that there is a total unlikeness of these official acts and proceedings to that which is now under consideration. In the case of stolen goods, the owner from whom they were stolen is entitled to their possession; and in the case of excisable or dutiable articles, the Government has an interest in them for the payment of the duties thereon, and until such duties are paid has a right to keep them under observation, or to pursue and drag them from concealment; and in the case of goods seized on attachment or execution, the creditor is entitled to their seizure in satisfaction of his debt; and the examination of a defendant under oath to obtain a discovery of concealed property or credits is a proceeding merely civil to effect the ends of justice, and is no more than what the court of chancery would direct on a bill for discovery. Whereas by the proceeding now under consideration the court attempts to extort from the party his private books and papers to make him liable for a penalty or to forfeit his property.

Mr. STERLING. Mr. President—

The VICE PRESIDENT. Does the Senator from Kentucky yield to the Senator from South Dakota?

Mr. STANLEY. I yield.

Mr. STERLING. I was not in the Chamber when the Senator from Kentucky began reading. May I ask from what he is reading?

Mr. STANLEY. I am reading from the case of Boyd against The United States (116 U. S., 616), I will say to the Senator. The Senator has, as I understand, argued that Justice Bradley in that case has spoken of two kinds of searches and seizures that differ *toto coelo*, and has drawn the inference that one was a search and seizure which required a warrant and the other was a search and seizure which did not require a warrant. The court was not talking about anything of the kind; the court was not talking about searches at all; the court was talking then about seizures when it said:

You have a right, whether you search or not, if you come across goods that are excisable or if you come across stolen goods and you know they are stolen, to seize them; but you can not seize a man's books and papers, because the Government has no title to them, for the purpose of using them in evidence against him in violation of the fifth, not the fourth, amendment to the Constitution.

That is the distinction which is drawn by Justice Bradley.

Mr. STERLING. Will the Senator yield to me?

Mr. STANLEY. I yield.

Mr. STERLING. If the Senator will permit an observation in that connection, I desire to say that the court had before it a case in which it would be unlawful to seize under a search warrant property that was taken for the purpose of obtaining incriminating evidence.

Mr. STANLEY. Certainly; in the Boyd case the court referred to the seizure of books and papers, and Justice Bradley quoted—and there is no use of repeating it—with complete and unequivocal affirmation the case of Entick against Carrington, in which Lord Camden says:

You can not search without a warrant; you can not enter the premises for the purposes of seizure or search without a warrant, no matter whether it is for the purpose of seizing stolen goods or whether it is for the purpose of seizing books and papers which are the private property of the owner; your right to seize depends upon the title of the owner to the property; but the right to search is predicated upon a warrant, whether the goods are stolen or whether it is some property of the owner which you want for evidential purposes.

Am I correct in that?

Mr. WATSON of Georgia. That is correct. I was going to remark to my friend from South Dakota [Mr. STERLING], who, no doubt on account of illness, was not present when I addressed the Senate the other day on this very subject, that the principle which was announced by the Senator from Kentucky is found in Boutwell's work on the Constitution, which is one of the most recent, one of the most thorough, and one of the highest standing volumes on the subject. In that work the right of the Federal Government to keep under surveillance—not to seize, but to keep under observation—certain imported goods was put upon the ground that the Federal Government had an interest in those goods so long as the import duties had not been paid.

I will say further that, in my judgment, there is no Senator who can construe the fourth amendment and account for the manner in which the word "warrants" is used after the comma in the second clause without necessarily coming to the conclusion that no warrant shall issue unreasonably, and that the second clause simply provides what shall be the reasonable ground upon which a warrant shall be issued.

Mr. STANLEY. I think I shall be able to show that beyond any doubt.

Mr. STERLING. Mr. President, let me suggest in connection with what the Senator from Georgia has said that the case of

Boyd against United States goes much further than to permit the seizure of goods on which duties or imposts are due. Let me quote briefly from the decision.

Mr. STANLEY. I understand the Senator is about to quote from the case of Boyd against United States. From what page?

Mr. STERLING. I read from page 623, as follows:

So, also, the supervision authorized to be exercised by officers of the revenue over the manufacture or custody of excisable articles and the entries thereof in books required by law to be kept for their inspection are necessarily excepted out of the category of unreasonable searches and seizures.

I call especial attention to the next sentence:

So, also, the laws which provide for the search and seizure of articles and things which it is unlawful for a person to have in his possession for the purpose of issue or disposition, such as counterfeit coin, lottery tickets, implements of gambling, etc., are not within this category.

So, Mr. President, intoxicating liquors, the transportation, sale, and possession of which are forbidden by law, would by perfect analogy come within the opinion expressed by the court.

Mr. STANLEY. But there is no intimation in the case that there can be a search for excisable articles or gambling tools or counterfeit money or anything else without a warrant; the Senator from South Dakota seems to have overlooked that; because Justice Bradley in the Boyd case quotes with unqualified affirmation the opinion in Entick against Carrington, in which Lord Camden goes back to the days of my Lord Coke, declaring that even in the case of searching for stolen goods the law looked with disfavor upon the practice under a warrant, and quotes with approval the language of Entick against Carrington, in which the court says that it does not matter whether it be stolen goods or counterfeit money or what not, the premises of the person suspected can not be entered without a warrant describing the thing to be taken. Does the Senator mean to claim that under the Boyd case or under any other case a house or other premises can be entered and searched for stolen goods without a warrant? Is that the contention of the Senator from South Dakota?

Mr. STERLING. That is not the contention, and it is not necessary for the Senator from South Dakota to make any such contention as that. I am taking the case where goods are unlawfully in the possession of a person and the use or disposition of which by that person is unlawful, in which case the seizure was authorized without a warrant under the authority of the Boyd case, just as I read it a few moments ago.

Mr. STANLEY. I am not questioning and nobody here has questioned, and I have just so stated to the Senator from Georgia, as the record will show, that you can seize stolen property if you happen to find it; you can seize counterfeit money if you happen to see it lying around; you can seize excisable articles or contraband whisky if you see it; but you have no right to search for it without a warrant in any kind of a house that belongs to any citizen, and that is what the court says in the case of Boyd against The United States.

Does the Senator from South Dakota contend that if an individual is suspected of having gambling implements in his possession his premises can be entered without a warrant to search for them? The only thing for which you contend you have a right to enter a man's premises is liquor. You are driven to that—an absurd proposition on its face.

Mr. WATSON of Georgia. Mr. President, will the Senator from Kentucky allow me to interrupt him?

Mr. STANLEY. Certainly.

Mr. WATSON of Georgia. The Senator from South Dakota was very unfortunate in citing the Boyd case without having read the decision. He read from obiter; but the decision of the court, as all lawyers know, is in the syllabus. It is just exactly the opposite of what the Senator from South Dakota said it was.

Mr. STERLING. Mr. President, the Senator from Georgia adopts a new rule when he says that the decision of the court is in the syllabus. We read the syllabus or the syllabi of the decision, of course, for the main features or points of the case. I do not stop with reading the syllabus. I read the opinion of the court in order to know just what the court has decided; and I read not from the syllabus but from the court's opinion.

Mr. WATSON of Georgia. Mr. President, the court did not decide what the Senator from South Dakota says it decided.

Mr. STANLEY. Why, nothing that winks at it.

Mr. WATSON of Georgia. And the Senator will find, in Boutwell's work on the Constitution, the law just exactly as I put it in the Record here two or three days ago.

Mr. STANLEY. To throw a flood of light upon this question, I will say to the Senator from Georgia, after reviewing the case of Entick against Carrington, in which Camden goes back, reviewing Coke, and takes the position that you have not the right to place your foot upon the grass in the execution of



a search warrant without a trespass, that every part of the curtilage, everything within the widest area of private property, is immune from this outrage, again referring to this case of *Boyd* against United States—into which the Senator from South Dakota would read this strained and utterly baseless construction—the right to search without a warrant is categorically challenged.

In quoting *Entick* against *Carrington* with approval, the court says:

"I have now taken notice of everything that has been urged upon the present point, and upon the whole we are all of opinion that the warrant to seize and carry away the party's papers in the case of a seditious libel is illegal and void."

The principles laid down in this opinion affect the very essence of constitutional liberty and security. They reach further than the concrete form of the case then before the court, with its adventitious circumstances; they apply to all invasions on the part of the Government—

All invasions on the part of the Government, whether after counterfeit money, or contraband booze, or what not—

all invasions on the part of the Government and its employees of the sanctity of a man's home and the privacies of life.

All invasions of the sanctity of a man's home and the privacies of life. Can you make it broader than that?

It is not the breaking of his doors and the rummaging of his drawers that constitute the essence of the offense, but it is the invasion of his indefeasible right of personal security, personal liberty, and private property where that right has never been forfeited by his conviction of some public offense, it is the invasion of this sacred right which underlies and constitutes the essence of *Lord Camden's* judgment. Breaking into a house and opening boxes and drawers are circumstances of aggravation, but any forcible and compulsory extortion of a man's own testimony or of his private papers to be used as evidence to convict him of crime or to forfeit his goods is within the condemnation of that judgment. In this regard the fourth and fifth amendments run almost into each other.

Can we doubt that when the fourth and fifth amendments to the Constitution of the United States were penned and adopted, the language of *Lord Camden* was relied on as expressing the true doctrine on the subject of searches and seizures, and as furnishing the true criteria of the reasonable and "unreasonable" character of such seizures?

The court refers to the doctrine of *Lord Camden* in *Entick* against *Carrington*, in which he said that no search could be made without a warrant.

Mr. WATSON of Georgia. Mr. President, I suggest to my friend, the Senator from Kentucky, to have the decision, the syllabus, or syllabi, whereby the court announce what they do decide, printed in his remarks, because they absolutely blow the Senator from South Dakota out of the water.

Mr. STANLEY. I shall be more than delighted to incorporate this syllabus into the *RECORD*, and I ask leave to print such portions of this decision as may be pertinent.

The VICE PRESIDENT. Without objection, it is so ordered. The matter referred to is as follows:

It does not require actual entry upon premises and search for and seizure of papers to constitute an unreasonable search and seizure within the meaning of the fourth amendment; a compulsory production of a party's private books and papers to be used against himself or his property in a criminal or penal proceeding, or for a forfeiture, is within the spirit and meaning of the amendment. \* \* \* The seizure or compulsory production of a man's private papers to be used in evidence against him is equivalent to compelling him to be a witness against himself, and, in a prosecution for crime, penalty or forfeiture is equally within the prohibition of the fifth amendment.

Both amendments relate to the personal security of the citizen. They nearly run into and mutually throw light upon each other. When the thing forbidden in the fifth amendment, namely, compelling a man to be a witness against himself, is the object of the search and seizure of his private papers, it is an "unreasonable search and seizure" within the fourth amendment.

Mr. STANLEY. Mr. President, again an effort has been made to split and to put a strained and fictitious interpretation upon this great case. Justice Miller also delivered a concurring opinion; and this great justice, considered by some to have been the most astute legal mind on that bench since John Marshall, in concurring, says:

The things here forbidden are two—search and seizure. And not all searches nor all seizures are forbidden, but only those that are unreasonable. Reasonable searches, therefore, may be allowed, and if the thing sought be found, it may be seized.

An effort has been made to read into this decision the right to search without a warrant. There is nothing in Justice Miller's decision that winks at such a right, and the most casual reading of the decision will show it. Justice Miller does not concur in the opinion expressed by Justice Bradley that the fourth amendment is violated, and he quotes the statute under which this case arose providing that where excisable goods or goods subject to duty were smuggled, a notice could be served upon the person possessing such goods to produce his books and papers connected with the transaction, and upon failure to produce them the allegations of the petition describing such papers and stating their contents should be taken as confessed.

Justice Miller says that there was no violation of the fourth amendment, since it was in the nature of a subpoena duces tecum, and was not in the nature of a seizure, the possession of the books and papers remaining in the defendant, and the two things had no reference whatever to searches with or without a warrant. He says that the things here forbidden are two—search and seizure—and that there was no effort to seize, and for that reason in this case the constitutional question of immunity from search and seizure was not raised.

Justice Day [in *Weeks v. U. S.*, 232 U. S., p. 383] says:

While the framers of the Constitution had their attention drawn no doubt to the abuses of this power of searching private houses and seizing private papers, as practiced in England, it is obvious that they only intended to restrain the abuse, while they did not abolish the power. Hence, it is only unreasonable searches and seizures that are forbidden, and the means of securing this protection was by abolishing searches under warrants which were called general warrants, because they authorized searches in any place, for any thing.

This was forbidden, while searches founded on affidavits—

Searches founded on affidavits only, is what he means—

and made under warrants which described the thing to be searched for, the person and place to be searched, are still permitted.

There are two kinds of searches and seizures—reasonable and unreasonable. Unreasonable searches and seizures, says Justice Miller, can not be made at all, and reasonable ones must be made under warrants founded on affidavits, according to the Constitution.

Mr. President, Cooley in his work on Constitutional Limitations has stated the same question with remarkable clearness. I read from page 364:

Near in importance to exemption from any arbitrary control of the person is that maxim of the common law which secures to the citizen immunity in his home against the prying eyes of the Government, and protection in person, property, and papers against even the process of the law, except in a few specified cases. The maxim that "every man's house is his castle" is made a part of our constitutional law in the clauses prohibiting unreasonable searches and seizures, and has always been looked upon as of high value to the citizen.

The constitution of Kentucky is almost identical with the Constitution of the United States in so far as the provisions touching searches and seizures are concerned; and the learned justice, Justice Carroll, in deciding the case of *Youman* against Commonwealth, on October 5, 1920, discusses these two provisions as one—that is, the provision in the constitution of Kentucky and that in the Constitution of the United States.

In this case *Youman* had alcoholic liquors concealed in an outhouse—a garage, I think. It was not in his dwelling. The man was suspected of having this liquor for purposes of sale, and after having arrested him the officers entered this garage—not his dwelling, but his outhouse—and found large quantities of moonshine whisky in such containers as indicated a purpose to sell it. The man was convicted. The whisky was used as evidence against him, and he sought to have the whisky restored and complained that the constitutional privilege had been violated, that the premises could not have been searched without a warrant, and that the liquors obtained under the circumstances could not be used in evidence.

Said Judge Carroll, in speaking of the taking of this whisky out of this warehouse, not out of the citizen's residence:

That it is a flagrant violation of this section of the Constitution, which is only applicable to public officers, for an officer of the law without a valid search warrant to search the premises and possessions of an alleged offender for the purpose of discovering evidence against him, or to seize or take possession of any species of property discovered in such unlawful search, or to search his person until after he has been lawfully arrested, has been made so plain by the words of the section, and is so well known to people generally and has been so often decided by the courts of the country, that it would appear to be unnecessary to refer to any authority on the subject.

But notwithstanding this general knowledge of the prohibition against unlawful search it is not an uncommon thing in this State for officers of the law, urged in some cases by popular clamor, in others by the advice of persons in a position to exert influence, and in yet others by an exaggerated notion of their power and the pride of exploiting it, to disregard the law upon the assumption that the end sought to be accomplished will justify the means, and therefore no attention need be given to constitutional authority when public approval will commend the unlawful conduct.

And as there appears to be a growing public sentiment against the observance of or obedience to any constitutional restraint that obstructs or stands in the way of the desires of those who seek to accomplish their purposes regardless of Constitution or laws, we will be at some pains to set down in this opinion the constitutional provisions protecting the citizen against unlawful search and seizure and a few of the principal authorities in which the force and effect of these provisions have been explained and expounded.

He then, quoting the fourth amendment to the Constitution, cites the case of *Boyd* against The United States, to which the Senator from South Dakota has referred, saying:

In *Boyd v. United States* (116 U. S., 616, 29 Law. Ed., 746) Justice Bradley, in speaking for the court in a case in which the admissibility of evidence secured by means of an unlawful search and seizure was challenged, said, in speaking of the incalculable value to the citizen of the section of the Federal Constitution referred to and in commending what was said by an English judge on the subject, that "the prin-

ciples laid down in this opinion affect the very essence of constitutional liberty and security. They reach further than the concrete form of the case then before the court, with its adventitious circumstances; they apply to all invasions on the part of the Government and its employees of the sanctity of a man's home and the privacies of life."

Then he quotes Weeks against United States, and continues:

In *Cooley's Constitutional Limitations* (p. 367) this is also said: "Near in importance to exemption from any arbitrary control of the person is that maxim of the common law which secures to the citizen immunity in his home against the prying eyes of the Government; and protection in person, property, and papers against even the process of the law, except in a few specified cases. The maxim that 'every man's house is his castle' is made a part of our constitutional law in the clauses prohibiting unreasonable searches and seizures; and has always been looked upon as of high value to the citizen."

Now, I wish to call the Senate's attention especially to this conclusive and sweeping statement. Said Justice Carroll:

It will be observed that the Constitution secures the people against "unreasonable search and seizure," and from the use of the word "unreasonable," it might be thought that a reasonable search and seizure, or one that was not unreasonable, would be allowed without a search warrant. But there is no foundation for this construction. The section does not permit any kind or character of search of houses, papers, or possessions without a search warrant.

Mr. President, if there ever was a case in which a home could have been entered without a search warrant it was in the case of Weeks against the United States. Weeks was charged with having lottery tickets in his possession and of passing them through the mail, not with having a pint of whisky but with having gambling instruments in his possession. He was arrested, and evidence was found upon his person. They then entered his home without a warrant and took possession of the lottery tickets. They found the evidence of his guilt, and the court held not only that the man should be returned to his liberty but that the lottery tickets could not be used in evidence. In the face of a decision of that kind, as unequivocal and sweeping as that is, to attempt to tell the Senate, or to attempt to maintain to any court of the country, that the only things which can not be seized are papers or some innocent article; that excisable articles, that gambling instruments, or alcoholic liquors can be taken from the premises of a citizen, his house, or his effects without a warrant is to insult the intelligence of any lawyer who can read and write.

Again quoting, with approval, *Boyd* against the United States and *Bramm* against the United States, the court said:

"It was in that case demonstrated that both of these amendments contemplated perpetuating, in their full efficacy, by means of a constitutional provision, principles of humanity and civil liberty which had been secured in the mother country only after years of struggle, so as to implant them in our institutions in the fullness of their integrity, free from the possibilities of future legislative change."

The effect of the fourth amendment is to put the courts of the United States and Federal officials, in the exercise of their power and authority, under limitations and restraints as to the exercise of such power and authority, and to forever secure the people, their persons, houses, papers, and effects against all unreasonable searches and seizures under the guise of law. This protection reaches all alike, whether accused of crime or not, and the duty of giving to it force and effect is obligatory upon all entrusted under our Federal system with the enforcement of the laws.

Does that settle the question asked by the Senator from South Dakota? Again I read:

The accused, without awaiting his trial, made timely application to the court for an order for the return of these letters, as well as other property. This application was denied, the letters retained and put in evidence, after a further application at the beginning of the trial, both applications asserting the rights of the accused under the fourth and fifth amendments to the Constitution. If letters and private documents can thus be seized and held and used in evidence against a citizen accused of an offense, the protection of the fourth amendment declaring his right to be secure against such searches and seizures is of no value, and, so far as those thus placed are concerned, might as well be stricken from the Constitution. The efforts of the courts and their officials to bring the guilty to punishment, praiseworthy as they are, are not to be aided by the sacrifice of those great principles established by years of endeavor and suffering which have resulted in their embodiment in the fundamental law of the land.

For that reason the court directed that the gambling instruments be returned to the man who owned them.

Mr. President, this question has been eternally settled. I do not like to prophesy what a court will do, but I have no more doubt that I will live to see to-morrow's sun than I have that the Supreme Court of the United States will spew this thing out of its mouth.

I have here the advance sheets of the United States Supreme Court issued April 1, 1921. On January 4, 1921, two decisions were handed down by Justice Clarke of the Supreme Court of the United States, one the case of *Gould* against The United States, in which papers were taken without a warrant. The other was the case of *Amos* against The United States, in which whisky was taken from a storehouse without a warrant, not from a dwelling, and Justice Clarke, in deciding the *Amos* case, said:

Mainly the questions just presented for decision are ruled by the conclusions this day announced in No. 250, *Gould v. United States*.

So that the law in the *Gould* case is made applicable to the case of liquors taken without a warrant. The question as to whether the seizure was reasonable or unreasonable was raised there, and every question raised by the Senator from South Dakota was raised in that case. In that case the plaintiff was represented by Charles E. Hughes, the present Secretary of State. The court said:

It would not be possible to add to the emphasis with which the framers of our Constitution and this court (in *Boyd v. United States*, 116 U. S., 616; 29 L. ed. 746; 6 Sup. Ct. Rep., 524; in *Weeks v. United States*, 232 U. S., 383; 58 L. ed., 652; L. R. A., 1915B, 834; 34 Sup. Ct. Rep., 341; Ann. Cas. 1515C, 1177; and in *Silverthorne Lumber Co. v. United States*, 251 U. S., 385; 64 L. ed., 319; 40 Sup. Ct. Rep., 182) have declared the importance to political liberty and to the welfare of our country of the due observance of the rights guaranteed under the Constitution by these two amendments. The effect of the decisions cited is: That such rights are declared to be indispensable to the "full enjoyment of personal security, personal liberty—

How strange that those words should be in there—

"and private property"; that they are to be regarded as of the very essence of constitutional liberty, and that the guaranty of them is as important and as imperative as are the guaranties of the other fundamental rights of the individual citizen—the right to trial by jury, to the writ of habeas corpus, and to due process of law. It has repeatedly decided that these amendments should receive a liberal construction so as to prevent stealthy encroachment upon or "gradual depreciation" of the right secured by them by imperceptible practice of courts or by the well intentioned but mistakenly overzealous executive officers.

The wording of the fourth amendment implies that search warrants were in familiar use when the Constitution was adopted, and plainly that when issued "upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the persons or things to be seized," searches and seizures made under them are to be regarded as not unreasonable, and therefore not prohibited by the amendment.

It must be remembered that searches and seizures are authorized by the fourth amendment as well as prohibited by the fourth amendment. The fourth amendment is not only inhibitory, it is directory. It prescribes the way by which searches and seizures can be made, but in doing so, as Justice Clarke has well said, prescribes the only way:

Searches and seizures are as constitutional under the amendment when made under valid search warrants as they are unconstitutional, because unreasonable, when made without them—the permission of the amendment has the same constitutional warrant as the prohibition has, and the definition of the former restrains the scope of the latter. All of this is abundantly recognized in the opinions of the *Boyd* case.

I would like to call the attention of the Senator from South Dakota to this statement. Justice Clarke said:

Searches and seizures are as constitutional under the amendment when made under valid search warrants as they are unconstitutional, because unreasonable, when made without them—the permission of the amendment has the same constitutional warrant as the prohibition has, and the definition of the former restrains the scope of the latter. All of this is abundantly recognized in the opinions of the *Boyd* case, the *Weeks* case, etc.—

So that my interpretation is assured by the Supreme Court of the United States, Mr. Justice Hughes included.

I continue reading:

in which it is pointed out that at the time the Constitution was adopted stolen or forfeited property or property liable to duties—

I hope the Senator from South Dakota will give me his attention—

property liable to duties and concealed to avoid payment of them, excisable articles, and books required by law to be kept with respect to them; counterfeit coins, burglars' tools and weapons, implements of gambling, "and many other things of like character," might be searched for in home or office, and if found might be seized under search warrants lawfully applied for, issued, and executed.

Is there any doubt about that? And yet for days and weeks we have been told that any constable, without going before a magistrate of any kind, can, in search of half a pint of contraband whisky, enter any premises on earth and search them if a woman does not hide it under the bed.

I either do not know any law or I have lost my capacity to read it understandingly. It makes me absolutely ashamed, it is embarrassing, it is humiliating to read to the Senate of the United States a case practiced by Mr. Justice Hughes, in which the ink is hardly dry, in which it is stated with such reiterated emphasis that "a wayfaring man, though a fool, shall not err therein," that any search is unreasonable, because it is unconstitutional, that is made without a warrant, for excisable articles, for gambling instruments, for stolen goods, for counterfeit money, or for contraband whisky; and yet when a Senator offers an amendment applying that principle to existing legislation, what is the answer? From obscure and unknown sources, through anonymous propaganda, he is charged with every character of corruption, and good and holy and well-meaning people are induced to notify him that his political career is at an end because he has become the willing tool of the bootlegger and the crook.



Oh, Mr. President, that might affect me, if I did not recall that when Thomas Jefferson stood against the union of the church and the state he was denounced as an atheist, when Galileo recognized the movement of the earth he was denounced as an infidel, when the great commoner from Kentucky stood for the maintenance of the Union his foes denounced him as a traitor, his friends warned him that his efforts to save the Union would cost him the Presidency, and the immortal Clay declared that he would rather be right than President. As a child I gazed upon the sarcophagus in which rests all that is mortal of that imperial and deathless spirit. Upon his tomb is inscribed:

I stand with unshaken confidence appealing to the Divine Arbitrator for the truth of the declaration that I have been influenced by no ulterior purpose, no personal motive, have sought no personal aggrandizement, but that in all my public acts I have had a sole and single eye and a warm and devoted heart, directed and dedicated to what is my best judgment and I believe to be the true interests of my country.

A greater than Clay has said:

If you have the light, you must bear witness to the light.

Men have borne witness to the light, have followed the light into the reeking and blood-stained arena of a Roman amphitheater. Men have followed the light into prison and to fields of battle. How small a thing it is to follow the light even though it lead you out of the United States Senate and into the shadows of private life, with your self-respect unimpaired, your courage unquestioned, and your devotion to the best interests of your country and its Constitution unswerving.

I swore, and I called the Senate to witness, I called God to witness, that I would protect, preserve, and defend the Constitution, and I know as I know that God reigns that I can not keep that oath; that no Senator seeing it as I do can keep that oath, and vote for this conference report. This is a lofty place in which I stand, a coveted honor, but I had rather go down to the vile dust from which I sprang, unwept, unhonored, and unsung—aye, better the oblivion of the humblest citizen true to his country, than to wear the toga of a Senator, the heart of a coward and the purposes of a traitor.

#### APPENDIX.

CINCINNATI, OHIO, November 14, 1921.

HON. ATLEE POMERENE,  
Washington, D. C.

MY DEAR SENATOR: I have read your speech of August 8, 1921, delivered in the Senate of the United States, and feel that I can not do otherwise than commend your position.

It seems to me that the question of the use of alcohol for beverage purposes and its use for medicinal purposes are two separate and distinct questions, and should be so regarded.

No physician worthy of the name would care to prescribe alcohol as a beverage even though this privilege were extended to him; but when anybody or any body presumes to say that he shall not have the right to employ any remedy he believes will be of value in the treatment of disease, his judgment is subordinated to that of people who have either made no study of the science and art of medicine, or his judgment is overruled by a member of the profession who differs from him as to the proper treatment of the patients who come under his care.

I think it requires no argument to show the absurdity of getting medical opinions from those who have never studied medicine. One might just as well obtain legal opinions from grocers.

When it comes to a consideration of the therapeutic value of remedies one encounters the very widest range of opinions, and, strange as it may seem, this divergence of opinion is what has led to therapeutic progress. The physician who endeavors to dictate to another physician in the matter of treatment must either be omniscient or very ignorant. I have never met an example of the former variety, but have met physicians whose ignorance gave them great assurance. It is my contention that each physician is required to use his individual judgment and ought not to be swayed or overcome by the mob spirit that condemns anything that does not agree with the opinions of those who raise a great clamor. Scientific progress has never been accompanied by much noise or dogmatic assertion.

There are fortunately many differences of opinion among physicians, but I think there is one point upon which they should all agree, i. e., that each physician be permitted to practice his profession according to his knowledge and best judgment. If this can not be granted, all further argument is futile, but if it is granted how is it possible for a physician to practice successfully if hedged about with restrictions which limit or annul his judgment? If Dr. Kelly does not believe that alcohol is of any value as a medicine, does Dr. Murphy have to accept the former's views? No more, I think, than that the former's opinion on every subject should be accepted and the latter's rejected.

Were some more deadly and more rapid poison, such as strychnia, substituted for alcohol, I venture the prediction that every physician in the country would rise up and protest more vehemently against Congress telling us whether we can prescribe more than one-fortieth of a grain at a dose, or that not more than six doses could be given in six days.

The main objection to the present law regulating the prescribing of alcoholic mixtures is the implied assumption that the medical profession can not be trusted to prescribe them according to the dictates of their judgment, but that they will be swayed by commercial or pecuniary motives; that they will sacrifice their consciences in order to gather in a few paltry dollars.

We all know that every profession, organization, or trade has some unworthy members, but I submit that the great mass of the medical profession are men and women of high ideals; that they, as a class, are less swayed by pecuniary considerations than are the vast majority of mankind. It is an indubitable fact that physicians have done more

for the uplift of mankind than have any other class of persons. It is equally true that physicians have always been most earnest advocates of temperance and sobriety. Not only this but they have done more to prevent disasters and discourage the formation of bad habits than any other class.

Thus the question resolves itself into whether the medical profession can be trusted to continue prescribing according to the light they have, or whether they shall be hedged about with restrictions imposed upon them by persons assuming to know more about these matters.

If it is true that physicians will prostitute their noble calling by prescribing alcohol improperly, then by all means take every privilege away from them. Pass laws preventing them from learning enough about medicine to know how to produce an abortion—prevent them from acquiring enough familiarity with surgery to know how to use a knife, because they might use knives for improper purposes—do not let them acquire knowledge of poisonous drugs, because they might for a pecuniary consideration put some one out of the world.

If the medical profession has demonstrated its fitness, then by what process of reasoning should its hands be tied?

I, for one, am ready to agree that a physician who is venal enough to improperly prescribe alcohol is unfit to practice medicine, and I would advocate preventing him from practicing at all. This plan seems much more logical than that of putting the entire profession under suspicion—nay, of openly asserting that it can not be trusted. It is much more logical to punish the offenders than to besmirch the reputation of honest, conscientious men.

The suggestion has been made that physicians should not apply for permits to prescribe alcohol, because they can then say that they can not comply with requests for prescriptions containing alcohol. This suggestion is anything but complimentary to the medical profession, because it presupposes a weakness of conscience and a lack of judgment. A physician can not practice medicine a day without meeting conditions that require more courage and firmness than is required to refuse to do an improper thing. People trust their lives to physicians and yet are told that they can not trust them to know when to prescribe alcohol and when to refuse.

My object in this communication is to call attention to the fact that our law-making bodies are encroaching upon the prerogatives of the medical profession in such a way as to limit its powers and at the same time besmirch its reputation for honesty, integrity, and courage.

I am perfectly well aware that most physicians will not prescribe alcohol very often, but there is an immense difference between not prescribing and not being permitted to prescribe.

Before leaving this subject permit me to call your attention to the absurdity of the regulation which permits a physician to prescribe but a half-pint of whisky every 10 days for the same individual. The very wording of this regulation shows that it should be applied to alcohol as a beverage and not to alcohol as a medicine. It implies that a man can get one drink a day in this way, but a patient can get no more. Should the doctor give him 8 ounces in 1 day he will have to wait 10 days before the treatment can be continued. Could anything be more absurd from a medical standpoint?

In conclusion, Mr. Senator, permit me to say that Congress will either have to trust the honesty and integrity of the medical profession or it will have to assume the responsibility of absolutely refusing to recognize its right to use alcohol as a remedy under any circumstances.

Very sincerely, yours,

J. C. OLIVER.

Mr. WADSWORTH obtained the floor.

Mr. CURTIS. Mr. President—

Mr. WADSWORTH. I do not know what is the desire of the Senate at this time. I yield to the Senator from Kansas.

Mr. CURTIS. We would like to have an executive session for a few moments and then take a recess until 11 o'clock in the morning, because the conference report is to come up the first thing in the morning. If the Senator from New York desires to speak on it, I suggest that he yield at this time and he can be recognized when we meet to-morrow morning.

Mr. WADSWORTH. I yield the floor at this time in the hope that I may be recognized to-morrow morning.

#### EXECUTIVE SESSION.

Mr. CURTIS. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to, and the Senate proceeded to the consideration of executive business. After five minutes spent in executive session, the doors were reopened.

#### RECESS.

Mr. CURTIS. I move that the Senate take a recess until 11 o'clock to-morrow morning.

The motion was agreed to; and (at 5 o'clock and 15 minutes p. m.) the Senate took a recess until to-morrow, Friday, November 18, 1921, at 11 o'clock a. m.

#### NOMINATIONS.

*Executive nominations received by the Senate November 17 (legislative day of November 16), 1921.*

#### CHARGÉ D'AFFAIRES.

Ellis Loring Dresel, of Massachusetts, to be chargé d'affaires of the United States of America to Germany to date from November 14, 1921.

#### PROMOTIONS IN THE CONSULAR SERVICE.

CONSUL GENERAL OF CLASS 3 TO CONSUL GENERAL OF CLASS 2.

Nathaniel B. Stewart, of Georgia.

Evan E. Young, of South Dakota.

## CONSUL GENERAL OF CLASS 4 TO CONSUL GENERAL OF CLASS 3.

Alexander W. Weddell, of Virginia.  
William H. Gale, of Virginia.  
Leo J. Keena, of Michigan.

## CONSUL OF CLASS 3 TO CONSUL GENERAL OF CLASS 4.

DeWitt C. Poole, of Illinois.  
Douglas Jenkins, of South Carolina.  
Claude I. Dawson, of South Carolina.  
Augustus E. Ingram, of California.

## CONSUL OF CLASS 3 TO CONSULAR INSPECTOR.

William Dawson, of Minnesota.  
Nelson T. Johnson, of Oklahoma.  
Roger Culver Tredwell, of Indiana.

## CONSUL OF CLASS 4 TO CONSUL OF CLASS 3.

Tracy Lay, of Alabama.  
Harry A. McBride, of Michigan.  
Clarence E. Gauss, of Connecticut.  
Homer M. Byington, of Connecticut.  
Clarence Carrington, of California.  
Ely E. Palmer, of Rhode Island.  
Ezra M. Lawton, of Ohio.  
Edwin L. Neville, of Ohio.

## CONSUL OF CLASS 5 TO CONSUL OF CLASS 4.

Louis G. Dreyfus, jr., of California.  
Charles M. Hathaway, jr., of Pennsylvania.  
Addison E. Southard, of Kentucky.  
George S. Messersmith, of Delaware.  
Henry P. Starrett, of Florida.  
Theodore Jaeckel, of New York.  
Kenneth S. Patton, of Virginia.  
Thomas D. Bowman, of Missouri.  
Walter A. Leonard, of Illinois.  
J. Paul Jameson, of Pennsylvania.  
Henry H. Balch, of Alabama.  
Alfred R. Thomson, of Maryland.  
Wilbur Kablinger, of Virginia.  
Claude E. Guyant, of Illinois.

## CONSUL OF CLASS 6 TO CONSUL OF CLASS 5.

Samuel W. Honaker, of Texas.  
Irving N. Linnell, of Massachusetts.  
Felix Cole, of the District of Columbia.  
J. Klahr Huddle, of Ohio.  
Ernest L. Ives, of Virginia.  
Paul Knabenshue, of Ohio.  
George K. Donald, of Alabama.  
William L. Jenkins, of Pennsylvania.  
Algar E. Carleton, of Vermont.  
Elliott Verne Richardson, of New York.  
Hamilton C. Claiborne, of Virginia.  
Leslie E. Reed, of Minnesota.  
Frank C. Lee, of Colorado.  
Harris N. Cookingham, of New York.  
Keith Merrill, of Minnesota.  
Leland B. Morris, of Pennsylvania.  
Thomas H. Bevan, of Maryland.  
Charles Roy Nasmith, of New York.  
Hugh H. Watson, of Vermont.  
Robert Harnden, of California.  
John J. C. Watson, of Kentucky.  
Francis R. Stewart, of New York.  
James P. Davis, of Georgia.  
Frank Anderson Henry, of Delaware.

## CONSUL OF CLASS 7 TO CONSUL OF CLASS 6.

S. Pinkney Tuck, of New York.  
Coert du Bois, of California.  
Thomas M. Wilson, of Tennessee.  
Reed Paige Clark, of New Hampshire.  
John Randolph, of New York.  
William P. Blocker, of Texas.  
Avra M. Warren, of Maryland.  
Homer Brett, of Mississippi.  
Chester W. Davis, of New York.  
Harry L. Walsh, of Maryland.  
Carol H. Foster, of Maryland.  
Theodore B. Hogg, of Pennsylvania.  
William C. Burdett, of Tennessee.  
Charles R. Cameron, of New York.  
Harry M. Lakin, of Pennsylvania.  
Henry S. Waterman, of Washington.  
John P. Hurley, of New York.  
Thomas R. Owens, of Alabama.  
James P. Moffitt, of New York.

## VICE CONSUL DE CARRIERE OF CLASS 1 TO CONSUL OF CLASS 6.

William R. Langdon, of Massachusetts.  
Ernest B. Price, of New York.

## INTERPRETER AT \$3,000 TO CONSUL OF CLASS 6.

Erle R. Dickover, of California.  
Samuel Sokobin, of New Jersey.  
Joseph E. Jacobs, of South Carolina.  
Bernard Gotlieb, of New York.

## CONSUL OF CLASS 8 TO CONSUL OF CLASS 7.

John R. Bradley, of Oklahoma.  
Samuel H. Wiley, of North Carolina.

## APPOINTMENTS IN THE CONSULAR SERVICE.

## CONSULS OF CLASS 7.

Thomas W. Chilton, of New York.  
Raymond Davis, of Maine.

## COMMISSIONER OF IMMIGRATION.

Luther Weedon, of Washington, to be commissioner of immigration at the port of Seattle, Wash.

## AID IN THE COAST AND GEODETIC SURVEY.

Max Leff, of New York, to be aid, with relative rank of ensign in the Navy (by promotion from deck officer), in the United States Coast and Geodetic Survey in the Department of Commerce, vice F. W. Hough, promoted.

## UNITED STATES ATTORNEY.

Fred Cubberly, of Florida, to be United States attorney, northern district of Florida, vice John L. Neely, resigned.

## POSTMASTERS.

## ALABAMA.

Ella M. Sullins to be postmaster at Hackleburg, Ala. Office became presidential April 1, 1921.

Alma Collins to be postmaster at Kennedy, Ala. Office became presidential October 1, 1921.

William A. Dodd to be postmaster at Nauvoo, Ala. Office became presidential January 1, 1921.

Daisy White to be postmaster at River Falls, Ala. Office became presidential January 1, 1921.

## CALIFORNIA.

Ella Pratt to be postmaster at Fall River Mills, Calif. Office became presidential July 1, 1921.

William L. Robbins to be postmaster at Orange Cove, Calif. Office became presidential April 1, 1921.

Harold G. McCurry to be postmaster at Sacramento, Calif., in place of Thomas Fox, removed.

## CONNECTICUT.

Robert Whittaker to be postmaster at Stamford, Conn., in place of J. J. Bohl. Incumbent's commission expired July 21, 1921.

Alfred W. Jaynes to be postmaster at Ansonia, Conn., in place of Stephen Charters, resigned.

## FLORIDA.

Daniel C. Smith to be postmaster at Center Hill, Fla. Office became presidential October 1, 1920.

William W. Zipperer to be postmaster at Jennings, Fla. Office became presidential July 1, 1920.

Thomas J. Nobles to be postmaster at Wildwood, Fla. Office became presidential October 1, 1920.

## GEORGIA.

Elizabeth L. Ragan to be postmaster at Brothwood, Ga. Office became presidential July 1, 1920.

E. Stanley Burnett to be postmaster at Leslie, Ga. Office became presidential July 1, 1920.

## ILLINOIS.

John P. Kopp to be postmaster at Baldwin, Ill. Office became presidential July 1, 1921.

Philip W. Maxeiner, jr., to be postmaster at Dorchester, Ill. Office became presidential July 1, 1921.

Fred Schroeder to be postmaster at Matherville, Ill. Office became presidential October 1, 1921.

John E. Miller to be postmaster at Tamms, Ill. Office became presidential April 1, 1921.

Olin L. Browder to be postmaster at Urbana, Ill., in place of C. M. Webber, resigned.

## INDIANA.

Priscilla M. McDole to be postmaster at Clarks Hill, Ind. Office became presidential July 1, 1920.

Roy L. McCullough to be postmaster at New Palestine, Ind. Office became presidential April 1, 1921.

Marion L. Medcalf to be postmaster at Dale, Ind., in place of W. R. Dunn, deceased.



## IOWA.

Amel F. Wunn to be postmaster at Everly, Iowa, in place of H. P. Gordon, declined.

H. H. Ahlff to be postmaster at Grandmound, Iowa, in place of V. R. Northrop. Incumbent's commission expired March 16, 1921.

Arthur M. Burton to be postmaster at Grinnell, Iowa, in place of W. J. Nelson, resigned.

Clyde E. Wheelock to be postmaster at Hartley, Iowa, in place of Albert Tagge. Incumbent's commission expired March 16, 1921.

Irene Goodrich to be postmaster at Lehigh, Iowa, in place of J. E. Lowrie, resigned.

Benjamin F. Shirk to be postmaster at Linn Grove, Iowa, in place of H. E. Erickson, resigned.

## KANSAS.

Leslie Fitts to be postmaster at Reading, Kans. Office became presidential April 1, 1921.

## MAINE.

Nellie O. Gardner to be postmaster at Smyrna Mills, Me. Office became presidential April 1, 1921.

## MASSACHUSETTS.

George T. McLaughlin to be postmaster at Sandwich, Mass., in place of G. T. McLaughlin. Incumbent's commission expired July 21, 1921.

## MINNESOTA.

Nels J. Amble to be postmaster at Peterson, Minn. Office became presidential January 1, 1921.

Louis E. Olson to be postmaster at Nicollet, Minn., in place of L. E. Olson. Incumbent's commission expired March 16, 1921.

Arthur H. Rowland to be postmaster at Tracy, Minn., in place of O. J. Rea. Incumbent's commission expired May 6, 1920.

## MISSOURI.

Raymond E. Miller to be postmaster at Carl Junction, Mo., in place of Effie Chitwood. Incumbent's commission expired July 10, 1920.

Peter S. Ravenstein to be postmaster at Hayti, Mo., in place of M. A. York. Incumbent's commission expired December 20, 1920.

John Kerr to be postmaster at Newburg, Mo., in place of W. E. Duncan. Incumbent's commission expired January 30, 1921.

## NORTH DAKOTA.

Norton T. Hendrickson to be postmaster at Hoople, N. Dak. Office became presidential January 1, 1921.

## NEW MEXICO.

Ira Allmon to be postmaster at Estancia, N. Mex., in place of Ira Allmon. Incumbent's commission expired March 16, 1921.

## NEW YORK.

Norman L. Bedle to be postmaster at Spring Valley, N. Y., in place of G. W. Runyon. Incumbent's commission expired January 28, 1920.

## PENNSYLVANIA.

Edith M. Phelps to be postmaster at Ludlow, Pa., in place of E. M. Phelps. Incumbent's commission expired March 16, 1921.

Willa Saylor to be postmaster at South Brownsville, Pa., in place of Matthew Storey, resigned.

## SOUTH CAROLINA.

Charles C. Withington to be postmaster at Greenville, S. C., in place of T. H. Pope. Incumbent's commission expired March 16, 1921.

## VIRGINIA.

Charles E. Black to be postmaster at Fordwick, Va. Office became presidential July 1, 1921.

Mary L. Addison to be postmaster at Emory, Va., in place of S. F. Akers. Incumbent's commission expired December 20, 1920.

John R. Rowland to be postmaster at Hollins, Va., in place of G. P. Murray. Incumbent's commission expired December 20, 1920.

Leonard G. Perkins to be postmaster at Mineral, Va., in place of J. N. Walker, resigned.

William H. Dunlap to be postmaster at Stanley, Va., in place of C. N. Graves. Incumbent's commission expired January 18, 1920.

Leslie M. Gary to be postmaster at Victoria, Va., in place of W. C. Spencer. Incumbent's commission expired December 17, 1919.

## WEST VIRGINIA.

Freda W. Mason to be postmaster at Bayard, W. Va. Office became presidential January 1, 1920.

James A. Little to be postmaster at Waverly, W. Va. Office became presidential April 1, 1921.

## WYOMING.

Albert J. Schils to be postmaster at Cokeville, Wyo., in place of A. J. Schils. Incumbent's commission expired December 20, 1920.

## CONFIRMATIONS.

*Executive nominations confirmed by the Senate November 17 (legislative day of November 16), 1921.*

## AID IN THE COAST AND GEODETIC SURVEY.

Nathan November to be aid, with relative rank of ensign in the Navy, in the Coast and Geodetic Survey.

## PROMOTIONS IN THE ARMY.

John James Baker to be second lieutenant, Infantry.  
Robert Clyde Padley to be second lieutenant, Coast Artillery Corps.

James Richmond Simpson to be second lieutenant, Infantry.  
Philip Schwartz to be second lieutenant, Ordnance Department.

Richard Brown Thornton, to be second lieutenant, Infantry.  
William Bradford Plummer to be second lieutenant, Chemical Warfare Service.

Pacifico C. Sevilla to be second lieutenant, Philippine Scouts.  
Charles Nicholas Senn Ballou to be second lieutenant, Infantry.

Homer Wilbur Ferguson to be second lieutenant, Field Artillery.

Harry Starkey Aldrich to be second lieutenant, Coast Artillery Corps.

John Cyril Delaney to be second lieutenant, Coast Artillery Corps.

Samuel Rubin to be second lieutenant, Coast Artillery Corps.  
James Goodwin Hall to be second lieutenant, Field Artillery.  
Donald Wallace Norwood to be second lieutenant, Air Service.  
Joseph Rexford Vernon to be second lieutenant, Corps of Engineers.

Cecil Elmore Archer to be second lieutenant, Air Service.  
Dudley Warren Watkins to be second lieutenant, Air Service.

Waldon Sharp Lewis to be second lieutenant, Infantry.  
Andrew Julius Evans to be second lieutenant, Infantry.

Paul Corson Howe to be second lieutenant, Coast Artillery Corps.

Lindon John Murphy to be second lieutenant, Corps of Engineers.

Albert Ruth to be second lieutenant, Infantry.

Joseph George Nathanson to be second lieutenant, Infantry.  
Paul Ainsworth Berkey to be second lieutenant, Field Artillery.

Robert Edward Robillard to be second lieutenant, Air Service.  
Donald McKechnie Ashton to be second lieutenant, Infantry.

Dana Gray McBride to be second lieutenant, Cavalry.  
Clarence Edward Patterson to be second lieutenant, Infantry.

Juan Rosales Labrador to be second lieutenant, Philippine Scouts.

Cecil Byron Jamieson to be second lieutenant, Infantry.  
Clifford Oscar Webster to be second lieutenant, Infantry.

Edward Alfred Mueller to be second lieutenant, Infantry.  
Lisle Burroughs Swenson to be second lieutenant, Infantry.

Robert William Calvert Wimsatt to be second lieutenant, Air Service.

Amado Martelino to be second lieutenant, Philippine Scouts.  
Victor Z. Gomez to be second lieutenant, Philippine Scouts.

David Theodore Rosenthal to be second lieutenant, Corps of Engineers.

Clayton Huddle Studebaker to be second lieutenant, Field Artillery.

John Macklem Perkins to be second lieutenant, Infantry.  
Howard Criswell to be second lieutenant, Infantry.

Albert James Kiley to be second lieutenant, Field Artillery.  
Robert Brice Johnston to be second lieutenant, Infantry.

Albert James Wick to be second lieutenant, Coast Artillery Corps.

Earl Albert Hutchings to be second lieutenant, Infantry.  
Ray Henry Clark to be second lieutenant, Air Service.

Joseph Brenner to be second lieutenant, Infantry.  
Raymond Taylor Tompkins to be second lieutenant, Field Artillery.

George Alfred Arnold Jones to be second lieutenant, Field Artillery.

Thomas Edward Moore to be second lieutenant, Field Artillery.

Victor Friedrichs to be second lieutenant, Air Service.

Lyman Early Whitten to be second lieutenant, Air Service.

George Evans Burritt to be second lieutenant, Field Artillery.

Charles Jacob Williamson to be second lieutenant, Infantry.

Donald Boyer Phillips to be second lieutenant, Air Service.

Arthur Nathaniel Willis to be second lieutenant, Cavalry.

Louis Meline Merrick to be second lieutenant, Cavalry.

William Madison Mack to be second lieutenant, Signal Corps.

Robert Crane Hendley to be second lieutenant, Air Service.

Walter J. Klepinger to be second lieutenant, Field Artillery.

Grady David Epps to be second lieutenant, Infantry.

John Otis Hyatt to be second lieutenant, Infantry.

Frank Charles McConnell to be second lieutenant, Coast Artillery Corps.

Dale Phillip Mason to be second lieutenant, Signal Corps.

Donald Fowler Fritch to be second lieutenant, Field Artillery.

Nemesio Catalen to be second lieutenant, Philippine Scouts.

William Peyton Campbell to be second lieutenant, Field Artillery.

Le Roy Ponton de Arce to be second lieutenant, Air Service.

James Madison Callicutt to be second lieutenant, Field Artillery.

Walter Matlack Gormley to be second lieutenant, Field Artillery.

Rox Hunter Donaldson to be second lieutenant, Field Artillery.

Albert Raymond Nolin to be second lieutenant, Infantry.

Herbert Melancthon Federhen, 3d, to be second lieutenant, Field Artillery.

Lawrence William Kinney to be second lieutenant, Field Artillery.

Reginald Pond Lyman to be second lieutenant, Cavalry.

Lee Roy Woods, jr., to be second lieutenant, Field Artillery.

Hugh Perry Adams to be second lieutenant, Field Artillery.

Robert Du Val Waring to be second lieutenant, Field Artillery.

Warren Penn Knox to be second lieutenant, Cavalry.

Stephen Yates McGiffert to be second lieutenant, Field Artillery.

James Stuart Wallingford to be second lieutenant, Infantry.

Albert Sidney Howell, jr., to be second lieutenant, Infantry.

John Sharpe Griffith to be second lieutenant, Infantry.

William Wallace Robertson to be second lieutenant, Infantry.

George Louis Boyle to be second lieutenant, Infantry.

Pio Quevedo Caluya to be second lieutenant, Philippine Scouts.

Eli Alva Helmick to be inspector general with rank as major general.

Clement Augustus Trott to be colonel, Infantry.

George Van Horn Moseley to be colonel, Field Artillery.

Charles Michael Bundel to be colonel, Field Artillery.

Arthur David Haverstock to be captain, Medical Corps.

David Lloyd Stewart to be captain, Medical Corps.

Bernard Anthony McDermott to be captain, Medical Corps.

John Moorhaj Tamraz to be captain, Medical Corps.

Vivian Z. Brown to be captain, Dental Corps.

William Herbert Murphy to be captain, Signal Corps.

#### POSTMASTERS.

##### ARKANSAS.

Claude G. Felts, Alicia.

Louella Boswell, Almyra.

Mary Brown, Alpena Pass.

Frederick H. Burrow, Altus.

William C. Allen, Amity.

Edwin E. Blackmon, Augusta.

Adine Connevey, Bauxite.

Weddell W. Watkins, Belleville.

Floyd F. Nichols, Buckner.

Audie F. Hunter, Casa.

Horace C. Hiatt, Charleston.

Marie O. Pitts, Cherry Valley.

Milton T. Knight, Chidester.

Harriett M. Shrigley, Coal Hill.

Ira R. Silvey, Cove.

Floyd M. Carter, De Queen.

Reese D. Henry, Dierks.

Thomas W. Goodson, Fouke.

George H. Mills, Garfield.

Robert R. Wright, Garland.

Ray W. Walker, Gillett.

John W. Bell, Greenwood.

William M. Goucher, Huntsville.

John L. Collett, Huttig.

Flavel G. Briggs, Judsonia.

Ernest R. Clark, Knobel.

Grant B. Sparks, Lamar.

Samuel D. Thomasson, Leachville.

Frederick M. Youmans, Lewisville.

Bruce T. Wilgus, Madison.

Andrew I. Roland, Malvern.

Addison M. Hall, Marmaduke.

Dell W. Lee, Mineral Springs.

James L. Wilson, Moro.

John W. Webb, Mountain View.

Willard L. Brennan, Parkin.

Hugh T. Brown, Scott.

Garrett C. Chitwood, Scranton.

Maud Jackson, Sherrill.

Therese N. Scott, South Fort Smith.

William R. Blakely, Sparkman.

William J. Adams, Star City.

Robert E. Jeter, Wabbaseka.

Mary L. Beasley, Waldo.

William T. McKinnon, Wesson.

Ed C. Sample, West Fork.

John M. Harrell, Williford.

Florence F. McKinzie, Wilson.

Addie Morgan, Winthrop.

Howell A. Burnes, Yellville.

##### COLORADO.

Samuel Coen, Walden.

##### ILLINOIS.

Emma H. Paine, Alpha.

Fred Wilson, Broughton.

William J. Hamilton, Evanston.

William L. Beebe, Manito.

Leslie J. Smith, Mount Auburn.

William J. Thornton, Nebo.

Joseph L. Przyborski, North Chicago.

Polona H. Callaway, Tallula.

##### INDIANA.

Carleton H. Baum, Avilla.

McKinley Ayer, Chrisney.

Martha McGrew, Pleasant Lake.

Loren N. McCloud, Royal Center.

##### KANSAS.

Ralph A. Ward, Alden.

Claude C. Wheat, Augusta.

Robert W. Cyr, Aurora.

Ruth M. Kautz, Irving.

Sarah Lee, Louisburg.

Hollis L. Caswell, McDonald.

Mina V. Townsend, Nashville.

Leroy C. Sandy, Troy.

William T. Brown, Wilsey.

##### MICHIGAN.

William H. Richards, Perrinton.

##### MINNESOTA.

Otto W. Peterson, Audubon.

Bernard McGrath, Barnesville.

Ross Knutson, Bird Island.

Edward H. Hebert, Bricelyn.

William H. Kruse, Calumet.

Chris N. Nesseth, Deer River.

William O'Brien, Eden Valley.

Julius L. Jacobs, Franklin.

James C. Wilson, Grygla.

Henry W. Koehler, Hector.

Charles E. Cater, jr., Herman.

Clara O. J. Holtey, Hendricks.

Erna H. Benjamin, Kasota.

George W. Fried, Luverne.

Edward J. Factor, Montgomery.

Minnie Taipale, Nashwauk.

Edward J. Soland, Oklee.

Lydia Hansel, Palisade.

George H. Tome, Pine Island.

Christoffer Bjorgen, Rothsay.

Minnie W. Hines, Roosevelt.

Ella S. Engelsens, Storden.

Harry S. Gillespie, Virginia.



Iver Tiller, Wanamingo.  
Charles Lindsay, Woodstock.  
August F. Truwe, Young America.

## MONTANA.

Curtis Burns, Coffee Creek.  
Thomas Hirst, Deer Lodge.  
Archie H. Neal, Phillipsburg.

## NEW YORK.

Edward W. Hempstead, Ardsley on Hudson.  
Allie M. Merville, Bliss.  
Frank G. Seeber, Brownville.  
Fred McIntosh, Churchville.  
Elsie J. Moss, Collins.  
William F. Bruno, Crown Point.  
Raymond H. Ferrand, Gardenville.  
Mark J. Balmat, Hermon.  
Harvey W. Boisseau, Keeseville.  
Herbert S. Luther, La Fargeville.  
Mamie B. Evans, Machias.  
Charles B. Stoddard, North Cohocton.  
John Bentley, Ogdensburg.  
Ralph D. Sessions, Palmyra.  
William T. Hinman, Potsdam.  
Elmer J. Conklin, Poughkeepsie.  
George W. Babcock, Ravena.  
Jessie S. McBride, Rensselaer Falls.  
David R. Dunn, Scarsdale.  
Edwin G. Conde, Schenectady.  
Elmer C. Wolfe, Sherrill.  
Walter B. Gunning, Ticonderoga.  
Harry R. Northrup, Wurtsboro.  
Henry C. Patterson, Youngsville.

## NORTH CAROLINA.

Edward A. Simkins, Goldsboro.  
Laura M. Gavin, Kenansville.

## NORTH DAKOTA.

Delia B. Stromstad, Carpio.  
John A. Halberg, Park River.  
Jessie M. Lewis, Werner.

## OHIO.

Carl Ledman, Byesville.  
Edgar H. Bailey, Eaton.  
Orin Breckinridge, Grove City.

## PENNSYLVANIA.

Conrfrey Ickes, Boswell.  
Ruby F. Austin, Edinboro.  
Henry W. Redfoot, Fredonia.  
Fred D. Heilman, Lebanon.  
Patrick J. Molyneaux, Lyndora.  
Boyd W. Brobst, Shickshinny.  
Walter C. Taylor, White Haven.

## SOUTH CAROLINA.

Thomas S. Doar, Sumter.

## SOUTH DAKOTA.

Cecil L. Adams, Frankfort.  
Mary S. Reed, Wasta.

## UTAH.

Clinton Dutson, Lynndyl.

## VIRGIN ISLANDS.

R. H. Amphlett Leader, Frederiksted.

## WEST VIRGINIA.

Nancy J. Knapp, Buffalo.  
Leander A. Lynch, Cowen.  
George B. Thompson, Davis.  
John C. Lowry, jr., Eccles.  
Milton L. Hartley, Farmington.  
Mary White, Matewan.  
Ira W. Folden, Ronceverte.  
Hugh H. Swiger, Shinnston.  
Emmet E. Fowler, Wilsonburg.

## WYOMING.

Arthur M. King, Diamondville.  
Blanche Sutton, Hulett.  
George R. Bringhurst, Lovell.

## HOUSE OF REPRESENTATIVES.

THURSDAY, November 17, 1921.

The House met at 12 o'clock noon.

The Chaplain, Rev. James Shera Montgomery, D. D., offered the following prayer:

O God of Hope, Thou alone art able to go with us through all the scenes of life and be with us when we reach the end. O hear our prayer and establish hope eternal in all our breasts. May not discouragements depress us; may not failures make us weak nor trials leave their mark. Let us gratefully accept all of them as needful portions of life's discipline, and trust Thy unflinching love that outruns all the weariness of earth.

Gracious Lord, give the fullest measure of wisdom to our President and his counselors, that they be to our country the richest blessings, and give a new inspiration to all mankind. Through Jesus Christ our Lord. Amen.

The Journal of the proceedings of yesterday was read and approved.

## CONTESTED-ELECTION CASE—GARTENSTEIN AGAINST SABATH.

The SPEAKER laid before the House a communication from the Clerk transmitting original testimony, papers, and documents relating to the contested-election case of Jacob Gartenstein v. Adolph J. Sabath, which was referred to the Committee on Elections No. 3.

## CALL OF THE HOUSE.

Mr. FORDNEY. Mr. Speaker, I make the point of order that there is no quorum present.

The SPEAKER pro tempore (Mr. WALSH). It is clear that there is no quorum present.

Mr. CAMPBELL of Kansas. Mr. Speaker, I move a call of the House.

The motion was agreed to.

The doors were closed.

The Clerk called the roll, and the following Members failed to answer to their names:

Ackerman	Gahn	Larsen, Ga.	Sabath
Anthony	Garrett, Tex.	Lyon	Schall
Bell	Gorman	Mann	Sears
Bland, Ind.	Gould	Mansfield	Shelton
Brand	Griest	Michaelson	Snell
Brooks, Pa.	Griffin	Morin	Snyder
Burke	Hays	Mott	Stiness
Carter	Herrick	Mudd	Stoll
Cooper, Ohio	Hukriede	Noian	Sullivan
Copley	Husted	Oliver	Taylor, Colo.
Dale	Hutchinson	Perlman	Ten Eyck
Drane	Johnson, Ky.	Peters	Tilson
Elston	Kahn, Calif.	Porter	Tyson
Fess	Kelley, Mich.	Rainey, Ala.	Vare
Fish	Kless	Rainey, Ill.	Vason
Fitzgerald	Kinkaid	Rhodes	Williamson
Flood	Kitchin	Riordan	Wright
Freeman	Knight	Roach	Yates
French	Langley	Rucker	

The SPEAKER pro tempore. On this call 357 members have answered to their names, a quorum.

Mr. CAMPBELL of Kansas. Mr. Speaker, I move to dispense with further proceedings under the call.

The motion was agreed to.

The doors were opened.

## TAX LEGISLATION.

Mr. CAMPBELL of Kansas. Mr. Speaker, I submit a privileged resolution from the Committee on Rules, which I send to the desk and ask to have read.

The Clerk read as follows:

## House Resolution.

*Resolved*, That immediately upon the adoption of this resolution it shall be in order to consider and to vote upon the following resolution without amendment. There shall be three hours of debate on such resolution, the time to be controlled, one-half by the gentleman from Michigan [Mr. FORDNEY] and one-half by the gentleman from Texas [Mr. GARNER]. At the conclusion of the debate the previous question shall be considered as ordered on the resolution.

*Resolved*, That the managers on the part of the House in the conference on the disagreeing votes of the two Houses on the bill (H. R. 8245) entitled "An act to revise and equalize taxation, to amend and simplify the revenue act of 1918, and for other purposes," now in conference, be, and they are hereby, instructed to recede from the disagreement of the House to the amendment of the Senate No. 122, and to agree to the same.

Mr. CAMPBELL of Kansas. Mr. Speaker, I move the previous question on the resolution.

Mr. GARRETT of Tennessee. Mr. Speaker, will the gentleman yield for a moment.

Mr. CAMPBELL of Kansas. Yes.

Mr. GARRETT of Tennessee. Mr. Speaker, I waive any points of order that may lie against the resolution.

The SPEAKER pro tempore. The question is on the motion of the gentleman from Kansas ordering the previous question.

The previous question was ordered.

Mr. CAMPBELL of Kansas. Mr. Speaker, this resolution does what was agreed would be done when this bill was sent to conference. At that time it was stated by the gentleman in charge of the bill that an opportunity would be given to vote squarely upon the proposition as to whether or not the House would concur to the Senate amendment relating to the surtax. This resolution brings the question squarely before the House, and will enable the House to express its judgment upon this question.

I reserve the remainder of my time.

Mr. GARRETT of Tennessee. Mr. Speaker, we upon this side of the Chamber welcome the opportunity to vote on this resolution. Of course, it is very well understood that this is merely giving the House an opportunity to do that which it had an opportunity to do a few days ago, viz, instruct the conferees upon this very vital and important amendment. The situation is well understood. So far as I know, it needs no further explanation. I reserve the remainder of my time.

The SPEAKER pro tempore. The question is on agreeing to the resolution, making the resolution in order.

The resolution was agreed to.

The SPEAKER pro tempore. The Clerk will report the resolution made in order, for consideration and vote.

The Clerk read as follows:

*Resolved*, That the managers on the part of the House in the conference on the disagreeing votes of the two Houses on the bill (H. R. 8245) entitled "An act to revise and equalize taxation, to amend and simplify the revenue act of 1918, and for other purposes," now in conference, be, and they are hereby, instructed to recede from the disagreement of the House to the amendment of the Senate No. 122, and to agree to the same.

The SPEAKER pro tempore. The gentleman from Michigan is recognized for one hour and a half.

Mr. GARNER. Will the gentleman permit a parliamentary inquiry?

The SPEAKER pro tempore. Does the gentleman from Michigan yield?

Mr. FORDNEY. Yes, sir.

Mr. GARNER. Mr. Speaker, a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. GARNER. If I understand it, the time is equally divided between the gentleman from Michigan and myself, and I would like to inquire whether or not I can yield a part of my time to some gentleman on the Republican side who has similar views to mine to be distributed by him as he sees proper?

Mr. FORDNEY. It is perfectly agreeable to me.

The SPEAKER pro tempore. The gentleman from Texas is in control of one hour and a half time for debate—

Mr. GARNER. I understand that.

The SPEAKER pro tempore. Which he may yield as he desires.

Mr. GARNER. But if I yield to some gentleman on the other side, can he in turn yield time to whom he may desire?

The SPEAKER pro tempore. The Chair is of the opinion the gentleman to whom the gentleman from Texas yields time could yield to others with the consent of the gentleman from Texas.

Mr. FORDNEY. Mr. Speaker and gentlemen of the House, the House conferees have kept faith with the House in their understanding that this matter would be brought back and the House given an opportunity to vote for a maximum of 50 per cent on the surtaxes. We have been in discussion with the conferees of the Senate now for several days, and in the outset let me say I most earnestly hope that the House will vote down the resolution. [Applause.] If the House does vote down this resolution, the House conferees have been assured by the Republican members of the Senate conferees that we can agree to 40 per cent as a compromise between the House and the Senate conferees. The House having provided for a maximum of 32 per cent and the Senate a maximum of 50 per cent, the 40 per cent surtaxes would mean a total of 48 per cent of those incomes will be taken by the Government—8 per cent by normal income tax—and when we know that there is added to the taxes of the taxpayer for local taxes anywhere from 5 to 10 per cent of the income we realize that under the maximum of 40 per cent on surtaxes that 65 or 70 per cent of the incomes of people coming under those brackets would be taken from them in taxes. Mr. Speaker, I ask in my time to have the Clerk read a letter from the President which I just received.

The SPEAKER pro tempore. Without objection, the Clerk will read the communication to which the gentleman refers. [After a pause.] The Chair hears none.

The Clerk read as follows:

THE WHITE HOUSE,  
Washington, November 17, 1921.

MY DEAR MR. FORDNEY: In response to your inquiry as to the wisest course in dealing with the difference between the two Houses of Congress in the matter of higher surtax on incomes, I can say only that in view of our earlier conference on tax matters and the ultimate adoption of the higher surtax rate of 32 per cent I still believe the rate approved by the House to be the nearer to a just levy and the more promising one in returns to the Public Treasury.

The responsible administration is anxious, first of all, to lay the necessary taxes to meet the demands of the Treasury. There is a moral obligation, however, on the party in power to do everything possible to keep faith with promises made to the public.

We have been collecting the highest surtax on incomes levied at this time in all the world. The effect has been the restriction of the easy flow of capital in the channels most essential to our normal and very necessary activities. No one challenges the levy of the higher tax in the stress of war, but now we are struggling for the readjustments of peace.

[Applause.]

Where there is so wide a difference in the judgment of the two Houses, I have thought it might be possible, and wholly desirable, to reach an equitable compromise, say a maximum surtax levy of 40 per cent. This would put the higher Federal tax on incomes at a total of 48 per cent, which would measurably meet the expectations of those who are, above all else, concerned with the return of hopeful investment of capital, and the application of our capital resources to profitable productivity. I am wholly confident that the helpful results spreading therefrom to every active participant in our industrial and economic life, from management to every wage earner, would be vastly more advantageous to our people than the maintenance of war-time levies as peace-time penalties on capital which are certain to hamper the restoration of our activities for which we all so much hope.

One experience will afford a convincing illustration. In seeking to hasten the railway settlements growing out of Federal control, I authorized the director general to invite the cooperation of the War Finance Corporation to convert salable securities into the cash needed for the settlements in process of making. During the period of public belief in a 32 per cent surtax as provided by the House, the sale of these bills receivable was progressing in a most promising way. Indeed, we had converted more than a hundred millions of railway notes into ready cash. The very moment the higher surtax became a likely levy, those conversions ceased entirely. Manifestly the prohibitive surtax tends to divert our available and much-needed capital from employment in our every day activities to investment in tax-free securities. The records show that it is making a continued diminution in our receipts from income taxes and it is making more difficult the normal financing of every sort of essential activity and is emphasizing the tendency to turn to the Government for that paternalistic relief of both industry and agriculture which has no rightful place in a peace-time policy.

I am well convinced that a fair compromise between the rates adopted by either House will be the best possible solution of the situation, and an early decision will put an end to existing anxiety, even though the larger expectations of the country are not fully met.

Very truly, yours,

WARREN G. HARDING.

HON. JOSEPH W. FORDNEY,

House of Representatives, Washington, D. C.

(The correction on page 1 is my own—W. G. H.)

Mr. FORDNEY. Gentlemen of the House, for the information of the House I have before me here the figures of the amount that would be raised by the surtaxes under the various proposals and under existing law. To show you what changes suggested would mean in the way of loss of revenue the Treasury Department furnished me with the estimate made of revenue that would be collected under existing rate provided by existing law at \$462,500,000. If the rates were adopted as were provided for in the House bill as it passed the House it is estimated that those rates would gather or collect \$364,000,000, or a loss of in round numbers \$98,000,000 over existing law. The Senate provision, if adopted, provided such incomes are not invested in tax-free securities, would yield \$401,000,000 from this same source. If the compromise of 40 per cent is adopted the estimates show that it would yield \$359,000,000, and if the House were to insist upon the House rates on the lower incomes, then the maximum of 40 per cent in the surtaxes in the high brackets of the law would yield \$399,000,000, or \$2,000,000 less than the rate provided for in the Senate provision. Personally, although that matter has not been settled in conference, I want to accept the Senate rates on the lower incomes because they are lower than provided for by the House. [Applause.] It would make a reduction of surtaxes and income taxes from the beginning to end. Gentlemen, I am sincere in the belief that the Treasury Department will collect more money at the maximum of 40 per cent than would be collected with a maximum of 50 per cent. I will give you one good reason for this opinion. In 1918 under existing law there was collected on incomes of \$50,000 or more \$917,000,000.

In 1919, under the same law, there was collected \$587,000,000, and last year, according to the last obtainable statistics, there was collected \$347,000,000, or a loss of 62 per cent in income from the same people in three years during the operation of that law, which is conclusive evidence to me that the people with large incomes, because of those heavy taxes, especially those surtaxes, diverted their investment into tax-free securities, and therefore escaped the payment of taxes so far as it was possible.



There are outstanding to-day, in round numbers, \$15,000,000,000 of tax-free securities that the people with large incomes may invest in in order to obtain a fair interest upon their income. I know of no sensible man, no matter how scrupulous he may be, who would not take advantage of the law and invest his money where he could get the greatest return lawfully. The law permits the people to do it, and the business interests of this country, when money is wanted to build a factory, to add machinery, to employ additional labor, go where capital may be found in order to get it.

Mr. REAVIS. Will the gentleman yield?

Mr. FORDNEY. I yield.

Mr. REAVIS. I understood the gentleman to say that, in his judgment, a surtax of 40 per cent would give more money to the Government than a tax of 50 per cent?

Mr. FORDNEY. I believe so; yes, sir.

Mr. REAVIS. If we take more money from them under 40 per cent, how will they have more left to invest?

Mr. FORDNEY. If you impose a greater tax you will drive that money into tax-free securities, where 40 per cent will not do it, but will throw it into the ordinary channels of trade, where men employing labor and employing capital must go and find capital. [Applause.]

Mr. Speaker, I reserve the balance of my time. I ask the gentleman from Texas [Mr. GARNER] to use some of his time.

The SPEAKER pro tempore. The gentleman from Texas [Mr. GARNER] is recognized for an hour and a half.

Mr. GARNER. Mr. Speaker, is there any Republican member of the Ways and Means Committee who is in sympathy with the resolution?

Mr. FORDNEY. I did not get the inquiry.

Mr. GARNER. I am sure the gentleman did not. I was directing my inquiry to the Republican members of the Ways and Means Committee in order to see if they were in sympathy with the resolution, because, if they were, I would yield some time to them.

Mr. FORDNEY. You can not yield to me, my friend.

Mr. GARNER. I take it from that that there is no other member of the Ways and Means Committee who is in sympathy with the resolution, and I desire to yield 40 minutes to the gentleman from Wisconsin [Mr. FREAR], to be used as he sees proper. If the gentleman desires to occupy some time, he can do so.

Mr. FREAR. I desire to have a few moments to see those who wish to speak.

The SPEAKER pro tempore. The gentleman from Texas yields 40 minutes to the gentleman from Wisconsin [Mr. FREAR], to be yielded by him as he desires.

Mr. GARNER. Mr. Speaker, I yield five minutes to the gentleman from Kansas [Mr. LITTLE].

Mr. LITTLE. Mr. Speaker, the basic theory upon which a tax of 50 per cent on big incomes is opposed is that they can go somewhere else and invest their money and make more money in tax-free securities. That propaganda has been very assiduously distributed throughout the country for a long time, but where will they go? If you have an income above \$1,000,000 a year, you pay to the Government as tax, for example, 73 per cent of that surplus income above \$1,000,000, and, of course, you do not like it any better than a soldier likes being killed. They tell you there is a "city of refuge" to which you can hurry with your excess baggage and make money out of it and pay no taxes. Well, where is it?

The gentleman from Michigan, Mr. FORDNEY, said a moment ago that a reasonable man will put his money where he can do the best with it. Suppose you with an income of over \$1,000,000 a year invest \$100,000 in Liberty bonds at par. You draw 4½ per cent interest upon your investment. Of that \$4,250 you pay 73 per cent to the Government as taxes. You, therefore, get upon that investment an actual return of less than 1.1 per cent. Is there any reasonable man that is going to make any investment that will bring him 1.1 per cent only and less? I assert without fear of challenge that not one single solitary rich man in the United States with an income of over a million will invest one dollar in Liberty bonds as a money-making proposition now. That the Liberty bond investments have not taken a dollar of the big money out of business is self-evident. This hue and cry in the big newspapers about nontaxable Liberty bonds held by multimillionaires is raised simply because the present law does compel the men with big incomes to pay taxes on their big incomes, and they wish to avoid those taxes. Long since, Bill Nye published an account of his interview with Jay Gould. He learned that Gould had the rheumatism, and inquired with solicitude whether Gould "feared danger to his vitals." Gould answered, "No; I have my pocketbook wrapped up in red flannel." These new

millionaires want us to do this for them. As a matter of fact, those people can not profitably buy any Liberty bonds under the present law which taxes them 73 per cent of that excess, and of course they will put it into business. The minute the House passed a bill reducing the surtax from 65 per cent to 32 per cent the big millionaires began taking their money out of business and buying those Liberty bonds, and they began to go up immediately. At 32 per cent surtax they get 3 per cent return if they purchase at the present rate. If we do reduce their surtax to 32 per cent, millions of the big money will go out of business and into Liberty bonds.

But they assert that there is another "city of refuge" for the big money that goes on a strike and will not work if it must sacrifice a little money annually in a cause for which thousands of Americans lost their lives in battle and thus lost all their capital as well as their incomes. They say that they can safely put that money into municipal and similar bonds that are tax free. Oh, if they will go and live in the community, in the Commonwealth where each bond is issued, they can get away with it; but the minute they take one of those bonds out of the State where it was made, they will pay taxes to the State to which they take it, and a 5 per cent municipal bond only brings them about 3 per cent, unless they have perjured themselves out of it. The supply of nontaxable securities of that kind is taken by many people besides the big millions and will be but a slender relief for those who have so much money they hate to pay taxes on it. The proportion of capital from great fortunes taken out of business and invested in such securities is comparatively infinitesimal and is a local matter in each Commonwealth, for none of them can afford to buy outside his own State. If these municipal bonds were nontaxable away from their own States, they would all be bringing 120 instead of 105 and less. The amount of money withdrawn by big business to invest in securities with small interest is comparatively insignificant. Big business is too good business to take such small returns.

But suppose they did have many millions so invested. What of that? These nontaxable securities are sold and paid for by somebody's money. What difference does it make whether it is your money or my money that buys it? That particular money is not engaged in the business of the country any longer. If not a millionaire in this land had not \$1 invested in tax-free securities, there would still be exactly as much money invested in such securities as there is now, and therefore just as much money taken out of business as there is to-day. That is a fact so plain that the wayfaring man, though a fool, must know it if he will pause a moment and think; yet this fallacious propaganda that the big money will not work but will go into retirement if it is asked to pay its taxes like other people, has been circulated in every great metropolitan newspaper the big money owns, for a year or two till everybody began to think there was something in it. If those people were buying the Liberty bonds, they would long since have been at par.

It is not the amount of money invested in business that is its measure of success, but it is the amount of money that is paid for the products of business that measures its success. Every day now money is becoming cheaper and more and more easily secured to put into business, if you have securities. You will not loan the farmer a fair valuation because you say corn, for example, is so cheap and fluctuating. That is because average men have not the means to buy. What you must do is to take off the surtaxes on men of small means and moderate means and encourage them to buy, to invest their small funds in shoes and clothes and groceries and lumber and implements, in wheat and corn and cattle, and thus bring a renewal of prosperity. You gentlemen have simply got the cart before the horse. The people pull all this big business, and if you will quit your endeavor to put all the taxes on them who can least afford it, if you will begin to be guided by the dictates of common, ordinary horse sense, instead of the selfish flats of big business, your country will thrive and prosper by the prosperity of average men.

There is no more idle fallacy than the theory that the success of a few in amassing great wealth is an indication of sound business. On the contrary, the distribution among all men of the rewards of labor, industry, and genius is the first necessity for the business development of a nation of freemen. Oliver Cromwell said:

He that makes many poor to make a few rich suits not a commonwealth.

What we should have done was to have cut down the high taxes on men of small means and average incomes and modest competences, so that they might be able to put their money into circulation. The minute that a thousand of them spend \$1,000 each, you have \$1,000,000 thrown into business. If 10,000 of

them each put \$1,000 into business, you have ten millions thrown in. According to the information I have received, in 1919, 500,000 men paid taxes on incomes of from \$6,000 to \$100,000 each. If each of these men would put \$1,000 into business, you would have \$500,000,000 invested at once, all coming from safe and sane sources, and bringing with it the ambitions and interests of 500,000 of our very best citizens. You could get that money invested just as fast as you could get money from big sources invested. Why do you not relieve them of their surtaxes and enable them to start the river of prosperity from its source?

Of those having incomes of more than \$100,000 there were only about 6,800. Is it possible, gentlemen, that you great statesmen can not see how much better it is to arouse the invested interest and ambition of 500,000 men, the backbone of our country, rather than the selfish self-aggrandizement of 6,800 poor slackers, who squawk and squeal, squatting on their millions, about paying a few taxes that they would never know they were paying if somebody did not tell them. It is a very curious thing that if you squeeze an eagle owned by a poor man and an eagle owned by a rich man, the rich man's eagle always squalls much louder than the poor man's.

Now, we all promised to try to decrease big taxes, but just whose big taxes are we going to decrease? Those of men who do not need help, or those of men who do? Those of men who are striving to acquire a competence, or those who already have money beyond the dreams of avarice? I never agreed to take any taxes off of any man with an income of over \$1,000,000 a year. If you think that the millions of American voters in this country thought that they were giving you a mandate to keep them paying their taxes, and relieve these abnormal fortunes of their taxes, you have got another think coming to you, gentlemen. What has happened anyway?

In 1919 we had 500,000 paying taxes on incomes of from \$6,000 to \$100,000. At that time we had 284 distressed and downtrodden taxpayers paying on an income of more than a million dollars each, and thus assisting their countrymen in discharging the financial obligations our country incurred backing up the boys who died in the poppy fields. Instead of accepting the opportunity as a medal of honor these poor creatures announce that they are going on a strike. Great God!

One of these men had an income of \$34,000,000. Robbed, as he claims to have been, by his Government, he was reduced to a mere pittance of \$12,000,000 a year as his income and left to struggle along as best he could and support a family of golf balls on that infinitesimal trifle of money. Another by infinite labor secured an income of \$16,000,000, and this high-handed Government, which sent the sons of his employees to France to die, actually reduced him to an actual return of \$5,000,000 only. But it seems that we have solemnly pledged ourselves at the last election to relieve the distress and agony of those noble spirits! There were five men with incomes of more than \$5,000,000 each.

In 1914 there were 114 men who paid taxes on incomes of between \$500,000 and \$1,000,000. In 1919 there were 405 such men. In five years during the war, by virtue of self-denial, by painstaking industry, by noble self-sacrificing patriotism, 291 people advanced their little competences so that they had enough to increase their incomes to \$500,000. Now, gentlemen, these "gallant heroes" seek from you relief.

In 1914 there were 14 men who paid taxes on from \$400,000 to \$500,000 income. In 1919 there were 400 men who paid on incomes from \$400,000 to \$500,000. There were 386 of these war profiteers wringing their hands because a few of their ill-gotten gains will go to pay the debts incurred in prosecuting the deadly war from which they accumulated their swollen fortunes. In 1914, 130 men paid taxes on from \$250,000 to \$400,000, and in 1919 there were 350 such men. There were 233 in 1914 who paid taxes on from \$200,000 to \$250,000 and 750 such men in 1919. In 1914 there were 406 who paid taxes on from \$150,000 to \$200,000, and in 1919 there were 1,300 of them. In 1914 there were 957 men who paid taxes on more than \$150,000 a year, according to the data furnished a United States Senator by the Secretary of the Treasury. In 1919 there were 3,489 of these get-rich-quick people. I take these figures from the statement in the press and presume the figures are correct. They have never been disputed, so far as I know.

Gentlemen, have you the heart to insist on these "noble sons of toil" who amassed these "competences" with the roar of the guns almost in their ears and the wounded and dying about them, contributing from their semisacred funds to the necessities of the Republic? Now, gentlemen, is there a man here who bears a mandate from his constituents to vote to cut their surtaxes and leave undiminished those paid by ordinary, average Americans, who, with their sons, fought the wars on the

fields of France and came home in victory or died in glory and immortal honor?

When the first war-tax bill was brought into this House the gentleman from Illinois [Mr. CANNON] presented the amendment which exempted \$5,000 of each of these Liberty-bond issues from taxation, and thereby made it possible for men of modest means to purchase the Liberty bonds and yet retain a reasonable income upon their investment—in my judgment, the highest single achievement of statesmanship in the American history of the Great War.

That bill levied surtaxes of such a nature as to place vast resources at the command of the Government while it was paying its war debts, and made it difficult for men of great means to accumulate vast issues of these tax-free bonds. Men say that because the war is over great wealth should be freed of this burden. These surtaxes were not levied because there was a war; the surtaxes were levied on great wealth in order that our Government might pay its war debts, and the war debts have not been paid, and every surtax should have remained just as it was during the war, until we have paid these war debts or at least have begun to see over the top of the great mountain of indebtedness in which the war involved our Government. I do not understand how any self-respecting rich man should want to lose such an opportunity to be useful, should be so lacking in patriotism, as not to be proud of so assisting the people of this Republic which protects him.

Every rich man saw hundreds of thousands of young Americans march with measured tread and singing lip to the rendezvous with death. Is there a multimillionaire in America so utterly lacking in all the loftiest attributes of patriotism, in spirit, in nobility of character, that he is not craving the opportunity to make his sacrifice of a few paltry thousands, when the youth of this country have laid their youth, their loves, their ambitions, and their lives on the altar of their country?

#### THE GREAT STRIKE.

On the floor of another body at the other end of this Capitol a distinguished statesman recently said, "Capital has gone on a strike."

The other day 450,000 laboring men began a movement to make a great strike, but stopped when they found that their action would be detrimental to the interests of their country and its people and would meet with the drastic administration of the laws within whose range they came.

Whose are these 3,489 big incomes that have gone on a strike because they are not allowed to accumulate mighty profits and have been compelled to assume some of the burdens of taxation, to an extent that they may feel it? I should think a man would be ashamed to talk about a few taxes, when other men's sons have died for their country. The gentleman from Michigan states an axiom when he says—that a reasonable man will put his money where he can do the best with it. I will give you another axiom: Any reasonable man wants to use his own life to make it as long and successful as possible for his own benefit and that of his family. It is true, no reasonable man wants to pay more taxes than he can help, and it is true, gentlemen, that no man wants to be killed on the field of battle. What are these few millions to these wealthy people compared to the lives of these boys to those that love them?

In all great emergencies, men must be ready to sacrifice their lives and their fortunes if necessary, to the good of their nation and humanity. The axiom the gentleman has quoted has no relation whatever to times like these, when the war debt of billions still hangs over us. Yet these men threaten us to go on a strike and stifle the business of the country if they are compelled to pay a few taxes. Why is this threat dangled in the faces of the people's Representatives as they come to vote? Why should capital have any better right to strike than labor? Can a man of wealth, for purely mercenary reasons, menace the safety of the business of a hundred millions of people and get away with it unpunished and uncontrolled? If so, gentlemen, there is a lack of equity in our legislation and in our civilization. We drafted the youth of the Nation, and until these war debts are paid we must draft the wealth of the Nation, and they should face the situation as patriots and Americans. The boys did their duty, now let the dollars do theirs. If men who labor for day wages can not strike when the country will suffer by it, neither can capital strike against paying its taxes if its strike injures the country's business. Take your gun out of my face while I vote for the interests of average men.

From the noise made you would suppose that such taxes were unheard of. They were in full flight during the war when these profiteers made more money than they ever did in the world. When that time began there were only 957 people in the United States who paid taxes on incomes of \$150,000 a year.



Five years later there were 3,489 such men who made enormous fortunes and carried on a tremendous business under taxes which they say make business impossible. Why, it was possible then under all those difficulties. What happened?

On or about May 24, 1920, the gentleman from Michigan [Mr. FORBNEY] introduced a bill which made still higher surtaxes for the big fortunes. Have you read title 7, called the Victory taxes of H. R. 14157? The subtitle says, "Additional surtax on incomes." Read it and the provisions that follow it. They placed those there to furnish a fund for the bonus bill, and practically every man in the House voted for additional taxes in that bill, including the gentlemen who oppose this 50 per cent, which is 15 per cent lower surtax than we had before the House passed the bonus bill just mentioned. If at that date that was a fair tax, why is this opposed now?

They try to tell us that such taxes as are named in part of this bill are radical and extreme and only radicals will be for them. The Government's indebtedness as a result of the war is radical and extreme. The demands upon the lives of the country were radical and extreme. Young men who deserted from the firing line in time of war were shot. What shall we do with these slackers of great wealth who go on a strike because they have to pay what to them is a mere trifle in money? What punishment is due these who threaten the business of the country if they are compelled to pay taxes to meet its debts accumulated while two-thirds of 3,489 of them grew immensely wealthy?

I can well understand how some poor boy under the fire of the big guns might falter and collapse as he went down into the valley of the shadow of death, but so help me God, gentlemen, I can not grasp and comprehend the infinite baseness of the nature of men who threaten to block and destroy the business of their fellow citizens if they are compelled to contribute to the discharge of our war debts 73 per cent of the excess of their incomes above a million dollars a year.

Radical! PENROSE and LODGE and CAPPER and KENYON and practically all the great conservative Republican leaders at the other end of the Capitol passed this bill, including this 50 per cent surtax, and sent it down asking for your indorsement. Is there anybody here that will tell us that these men are too radical and do not understand the possibilities of business? Who, then, is more conservative than this greatest deliberative body in the world? As for me, I am delighted to have the opportunity to vote with them in their effort to establish equitable taxes on great wealth.

Oh, I know that there are those who tell us that those gentlemen expect us to strike out the 50 per cent, leaving us to bear the brunt of the criticism, while they tell their constituents what they did for average men; but I have too profound a respect for the dignity and character of the greatest deliberative body in the world to even take notice of such an unwarranted and vicious assault upon their integrity of purpose. Come, gentlemen, let us line up with PENROSE and LODGE and CAPPER and KENYON in the great battle for human rights and good business for average men.

Gentlemen, you should represent the wishes of your constituents and vote without fear or favor for your convictions. On the 15th day of May, 1920, I heard an eloquent appeal to the self-respect of the greatest deliberative body in the world from a man of high character and rare ability, which I commend to you. He was speaking of the attempt of the then foremost man of all the world, the President of the United States, to dictate to the Congress of the United States what it should do, and he said:

The World War demonstrated that no one man and no one power can rule the world, and the Knox resolution is going to be a formal demonstration that no one man can run the United States of America. \* \* \* I do not think any one man is big enough to run the United States Government, much less to attempt to run the world; and I believe it is going to be a fortunate hour in American history when the Congress has demonstrated once more that this Republic is not subject to the dictation of one man. I know of nothing in this Republic so valuable in the promise of influence for a popular representative Government as the proof of the capacity of Congress to function. \* \* \* And so, Mr. President, I want to call attention to the fact, more for the record than anything else, that in the passage of this joint resolution we are demonstrating to the people of the United States of America and giving notice to the world that the Chief Executive alone does not run the Republic of the United States of America; that this is still a representative, popular Government under the Constitution. \* \* \* This joint resolution will establish that fact and that a Congress willing to submerge in war is once more functioning in peace. It will be the most wholesome message that can be sent to the world, and it will be the most reassuring message that can be given to the people of the United States of America.

The eloquent orator's philosophical understanding of the responsibilities of the Senate as to treaties suggested to me that such a view was of itself a material equipment for a successful President. As the Senate is vested with the final word of the Nation upon foreign treaties, so in the House is lodged the

powers of the Republic for inaugurating all laws for levying taxes, a much more important and much loftier responsibility than is devolved upon any other department of the Government. For the exercise of that power each Representative of the people in the Congress of the United States must account to his own constituents, and this is a responsibility that he can not shift to any man on earth. Abraham Lincoln was gifted with the quality of never taking bad advice in great emergencies, as he demonstrated when he rewrote the great Seward letter to England, and this is a characteristic essential to the making of a great President. The Constitution assigns to each branch of the Government its work and its powers, and the mighty men who have preceded you in this Hall expect every man here to do his duty under the Constitution. Within the last few days our President has taken the leadership of the world in the greatest movement for the progress of mankind that has ever been practically attempted. As we vote to-day under the directions of the Constitution, our convictions, we join in the universal acclamations of mankind which have been showered upon our splendid President in his wise, discreet, courageous exercise of the great powers the Constitution has conferred upon him.

The administration avoided this anticipated strike of 450,000 workmen. The big strike of 3,489 capitalists must stop, even if Congress finds drastic remedies necessary. These men can not stop the country's trade just because they do not like to pay taxes. When we reflect on the position of our country, the 3,489 are mighty lucky in escaping with the payments required under this bill. Call off your strike.

This 50 per cent provision received the almost universal approval of the greatest deliberative body in the world after weeks of vigorous debate, yet men complain that they will not get time enough to talk about it here. This is a representative body first and a deliberative body secondly. Your first business here is to represent the people, while the elderly statesmen of the Senate were made by the Constitution a deliberative, not a representative, body, and they can talk their heads off if they want to.

Every day money is becoming cheaper and can be obtained at lower rates. The trouble with this country is not that there is not capital to do business, it is that there is not capital enough to buy the products of business. What we need is the money to buy corn and wheat and cattle. You diminish the surtaxes on from the lowest incomes up to \$66,000 or \$100,000 a year and let average men put their money into the purchase of the products of the country and the half million of them will get more money into business investments, too, in the next year than these 3,489 rich slackers will put in in 10 years. Two-thirds of that 3,489 made the capital on which they pay income taxes during five years of war, while the rest of us were making nothing. This is simply the propaganda of the profiteers to escape paying taxes on the immense fortunes they accumulated during the distress of the Republic.

Oh, men say that this tax is paid by the people. If the big incomes were not paying this tax we would never hear of their propaganda. If they were expecting to pay more taxes under a new system every one of them would set up a vicious and determined opposition to a new system.

What we need is not more investment power, but more purchasing power among average men. Come, gentlemen, let us cut down the big taxes on these half million, not upon the 6,800 favorites of fortune and circumstance, who had incomes over \$100,000 in 1919, who can well afford to pay big taxes as long as the country is paying off its vast war debts. Of course, as incomes decrease the taxes on the incomes will decrease automatically, and yet men declaim here on this floor that the income taxes are not as great as they were when incomes were bigger. There is no argument advanced for this proceeding that is not bottomed on a gross fallacy that has its only possibility of success in the indifference of average men to what is really happening. What you want is not more capital, but more sales for the products you now have of capital.

We do not need more men with big fortunes, but we do need more men who possess modest competences. The inheritance tax the Senate has provided in this bill levies a 50 per cent tax on estates of more than \$100,000,000. That is perhaps the wisest and most farseeing provision of all this legislation, and I earnestly hope it will remain in the bill. Coming here with the general approval of the greatest deliberative body on earth after weeks of debate, it will be a practical method not only of enlarging our revenues, but of curtailing the hereditary maintenance of those swollen fortunes which are the greatest menace to a free republic.

As a matter of fact, these people escape much of the surtax. If you are a stockholder in a corporation and they issue you a

stock dividend instead of money, you escape entirely. So you do if they hold the dividend and put it in the business. Of course, the poorer have to get their cash dividends and the rich can get more stock dividends every year. Cut down the surtaxes paid by men of incomes below \$100,000 and let them put their money into the purchasing the products of the farm, the factory, and the mine. Then the wheels of trade will quicken their roll.

This 50 per cent provision and the sections which make it impossible for a multimillionaire to evade the inheritance tax by gifts to his family, were inserted in this bill through the efforts of progressive men, of whom the junior Kansas Senator was one, and I understand that the senior Senator from Kansas in the Finance Committee made the motion to adopt the amendment that inserted the 50 per cent. The gentleman from Kansas [Mr. CAMPBELL] brought in the rule for a vote upon the instruction to the conference committee to agree to the 50 per cent, and every Representative from Kansas will vote for the 50 per cent at the termination of this debate which I have the honor to open for those who believe that a man with income of more than a million dollars a year should pay to this Government 58 per cent of his profits above that million when our country has a war debt of billions, which is the provision inserted by the Republican Senate in this bill and the one on which we are now to vote. There are those who seem to resent with acrimony every effort of average men to compel the profiteers to disgorge from the fortunes they accumulated by profiteering during the war some actual assistance to discharge the great war obligations which still rest upon us.

Between 1914 and 1919, if the figures the newspapers publish as coming from the Treasury are correct, 2,532 men increased their fortunes to incomes of over \$150,000 a year, when other men were dying at the front, and a Nation was putting every dollar it could raise into supporting the boys on the firing line. These men should be thankful that Congress allows them to keep a dollar of their conscienceless profits. Of these men, 224 at the close of that period, had incomes of more than a million dollars, who had never dreamed of such incomes before the war and its chances for these greedy grafters to prey upon the people of the country. Why should they not pay surtaxes on such gigantic ill-gotten profits? I should think that the very rich would have declined to accept any profits at such a time.

But some hysterical statesmen cry, "Oh, yes, you want to soak the rich!" Why, for five years during the war these profiteers soaked everybody else and the country in our hour of need. What did they expect—a medal of honor for valor and sacrifice?

This criticism of the profiteers has arisen in many wars, but never has there been so much cause for it as now. The great Marlboro' is said to have made a lot of money in Flanders out of the quartermaster's bureau. I believe it was our friend Brutus who told Cassius in the Caesarian wars, "Lucius Pella doth condemn thee in this, for that thou hast an itching palm." But these gentlemen whose delicate sensibilities are so profoundly moved every time a millionaire is mentioned in terms of anything but fondest admiration can find still higher source for these utterances they denounce as demagogic. Jesus of Nazareth said, "Verily I say unto you that a rich man shall hardly enter into the kingdom of heaven. And again I say unto you it is easier for a camel to go through the eye of a needle than for a rich man to enter into the kingdom of God."

Those of you who challenge criticisms of the refusal of the multimillionaires to pay their taxes can go and call our Lord and Savior to account for criticisms of their love for their ill-gotten gains. He started it, and that is one of the reasons He was crucified.

Gentlemen, I am not one of those who believe in unjust treatment of the rich or the poor. When this war began they brought in a bill similar to this, which included an inheritance tax on the estates of rich men who died in battle for their country. I endeavored to secure an exemption for such estates, because I did not think that any family should be penalized because their hero died in action under the fire of the enemy's guns, for his country. But more than 4,000,000 young men went to war and placed their lives at the disposal of their country. Those who have come out of that war with vast fortunes can only excuse their profiteered wealth by now dedicating it to the service of their country. Yes; I know that every man wants to put his money where it will bring him the best return, but better men than they would have liked to have placed their lives where their families wanted them, but they considered that their highest value was to place those lives at the disposal of their native land. If the 2,289 are actuated by the same lofty motives every one of them will beg his country

to take all his income over a million dollars a year and apply it to the war debts of the Republic. What, gentlemen, are these paltry dollars that stick to these itching palms as compared with the lives that were lost by the sweethearts and mothers and wives of America? Oh, these dollars the Government can replace and Congress can return them to you, but Congress can not fill one vacant chair.

"Why, uncle, thou hast many years to live," said King Richard. John of Gaunt said—

But not a minute, King, that thou canst give.  
Shorten my days thou canst with sullen sorrow,  
And take life from me, but not lend a morrow.  
Thou canst help time to furrow me with age,  
But not stop one wrinkle of his pilgrimage.  
Thy word is current with him for my death,  
But dead thy kingdom can not buy my breath.

Mr. LONGWORTH. Mr. Speaker, I yield 10 minutes to the gentleman from Ohio [Mr. BURTON].

The SPEAKER pro tempore. The gentleman from Ohio is recognized for 10 minutes.

Mr. BURTON. Mr. Speaker, it would be a mockery to term the bill returned to us as the action of a conservative body, and it is a delusion to consider three hours as a sufficient time for our discussion here. We can hardly call ourselves a deliberative body when we give to this very important question so brief a time. [Applause.]

I am entirely opposed to the 50 per cent surtax. It will not increase revenue. It will not stimulate industry, but rather repress it. It will not benefit business or labor, but rather injure them. It will fail to reach the very men at whom those high rates are aimed.

The figures quoted by the gentleman from Michigan [Mr. FORDNEY] are startling in this regard. They show that the proceeds from taxes on incomes over \$50,000 shrank from \$917,000,000 in 1918 to \$347,000,000 in 1920.

Some months ago I stated in this House the general tendency of all taxation to diffuse itself according to the consumption of each individual. That rule has many exceptions, but nevertheless is of very wide operation. It has been entirely disregarded in the Senate bill and is lost sight of by those who are crying out for this 50 per cent rate.

First of all, the wealthiest capitalist will evade it. He is like one who stands on a commanding eminence—he can forecast the future. He can shift his investments with a view to taking advantage of all taxing laws. He can purchase tax-free securities, which exist in very great number.

The gentleman from Kansas [Mr. LITTLE] has not studied the money market when he says that a 5 per cent tax-free security would be worth 120. [Applause.] The owner of such a security would go away rejoicing if he could sell it even at par. But there is another consideration in this connection which very closely affects the general welfare. Such a tax prevents investments in enterprises of the utmost value to the country. There are different ways in which the accumulated savings of the people are invested. The savings banks, the trust companies, the insurance companies, for the most part, place their funds in high-grade securities, bonds, standard railway stocks, or others which pay a settled return, often in mortgages. With them the motto is, "Invest in first mortgage and have absolute assurance for the future." But industrial enterprises, especially those of exceptional magnitude, which are necessary for the development of this country, are supplied with funds from men who have the larger incomes; not alone the largest but those included in brackets carrying over, say, 30 per cent in the Senate bill; and I may say here with the utmost confidence we would not have been prepared to wage this late war except for that class of investments, made by leaders who take the initiative in finance and industry. I have no brief for them; neither I nor any of mine will be affected by this bill. Neither have I any affiliation with any who will be touched by it. But we must face the facts, that if an enterprise is to be promoted, if new plans are to be made and carried out, or if old plants are to be extended, the support for them must come from those whom you would reach by these high surtaxes. Already the progress of recuperation has been seriously halted. The maintenance of these war-time taxes and the rates proposed in the Senate bill will continue their repressive influence. In fact, when you consider the colossal profits and great inflation during the war the figures proposed are much higher relatively than those in war time. Many who paid the highest taxes in those years now enjoy greatly diminished incomes or even are doing business at a loss. It is a mistake to suppose that those upon whom this burden will be imposed are mere owners of securities. A very large share of them are engaged



in enterprises which give employment to labor and are highly essential to our prosperity.

These are the plain facts. Why, these men reason that if an enterprise promising unusual profit is presented, the risk is proportionately great. But if you add to that risk a surtax of 50 per cent, or even a less percentage, what is the use of an investment if the proceeds are to be taken from them by excessive taxation? You may say that such a view is selfish, but it is deeper than that; it is human nature. So I say this will not benefit the very ones who are advocating it most.

It is, again, an unprecedentedly high rate in a time of peace. We promised the people, in both parties from almost every stump, that the burdens of taxation would be reduced. The surtax, the excess-profits tax, and all these various taxes are reflected in the high cost of living. It is not those men who have these great fortunes alone who are affected; the influence is extended all over the country.

Now, Mr. Speaker, there is one feature of the House bill which I do not approve. I do not think the dividing line at which the highest tax is reached should have been fixed at the figure of \$66,000 or \$68,000. I think it would have been preferable if the brackets had a wider spread after \$20,000, perhaps 1 per cent increase in each up to \$20,000, and then make the spread \$5,000 or more. A great many professional and other men have this income of \$66,000. They are the ones who are quick to find investments. They have an important part in standing behind the growth of industry in this country. It would have been better if the lowest income for the maximum tax had been much more than \$66,000. The result will be, if you pass this bill, a perfect drain on the capital which is so essential for maintaining our present industrial supremacy and for continuing that supremacy.

Mr. Speaker, how much time have I remaining?

The SPEAKER pro tempore. The gentleman has three minutes remaining.

Mr. BURTON. I am willing to vote for 40 per cent, though that is a very high rate. Those who are most able to pay must pay, but there is a limit, and when you go beyond that figure your rate is excessive. We had a rate of 65 per cent during the war and other taxes, and these were perfectly justified, because it was a time of exceptional emergency, when the fate of our country and the welfare of all the progressive world was at stake. But is there no change now when we are at peace? Are we not ready to relieve the burdens of taxation upon the people? This disarmament conference sitting now in Washington is as a rainbow of promise to the whole world. [Applause.] Does it not promise something to us in the way of lessening this heavy load upon the people?

It must be conceded that graded or progressive taxation has come, and come to stay, because it is fair and right; nevertheless it is of comparatively recent origin. It was adopted by Italy in 1864 and later by Austria in 1898. It was not adopted in Great Britain until 1909. The first income taxes in our own Civil War were levied at a flat rate; by a later act in 1864 the tax was 3 per cent on incomes below \$10,000 and 5 per cent on incomes above that sum. The matter of adjustment, however, is one which should be most carefully considered. I can not favor either the gradation or the amount provided in existing legislation enacted under the stress of war, nor yet the rates in the bill as returned to us by the Senate.

Attention should be called to the inevitable tendency to extravagance in expenditure, to waste, to demoralization, the taking over by the Federal Government of that which should belong to the State. This is stimulated by other amendments for increase of taxes carried in the Senate bill. Are we to promote class distinction; are we to listen to the clamor and cry that says tax the rich; are we to show to the people that we believe in that grievous error that taxes are finally paid by those upon whom in the first instance they are levied? I trust, Mr. Chairman, that this House will act dispassionately. If we had time for a campaign of education, I should have no fear but that a correct conclusion would be reached in this matter. But we hear throughout the country a demand for immediate action. Let us pause and think; let us not follow those who shout without thinking. Let us not respond to a public sentiment which is tainted by prejudice, but let us rather act here with our polar star, that of fairness and justice to all; meet our responsibilities to this great country, and not make a mistake this day. [Applause.]

Mr. GARNER. Mr. Speaker, I yield five minutes to the gentleman from Texas [Mr. HARDY].

Mr. HARDY of Texas. Mr. Speaker, of course in that time there could be no discussion of the question. I simply say that wealth has sought by all kinds of devices to avoid taxation.

The reader of history will recall that leading up to the French Revolution was the policy on the part of the French governing class, the powerful aristocracy, the rich landowning nobles, to relieve great wealth of all taxation. Landed estates were exempt, church holdings were exempt, and the burdens of taxation were placed on the poor alone. Wealth and power are in a different form to-day, but that history is trying to repeat itself.

Now it is pure, sheer nonsense to talk about these people of great wealth passing the burden in its entirety, because if they could do it, as argued by the gentleman from Ohio [Mr. BURTON], they would not so much object to being taxed in the higher brackets, at the higher rates.

It is said that wealth if heavily taxed on enormous incomes will retard business by investing in tax-exempt securities. In God's name, do not they do it now wherever they can? How many of the billions invested in tax-exempt securities to-day by great wealth would they take out of tax-exempt securities and invest in industry? It is all play. Whenever capital can combine and make an income of 20 per cent or 50 per cent on the capital invested they will do it. If you tax their net income 50 per cent they still have returns that the ordinary man can not approximate.

There are perhaps \$15,000,000,000 now in tax-exempt securities—great savings corporations invest the money of children and estates that way because it is easily managed, and the ultrarich invest the same way for the same reason. You can not find enough tax-exempt securities to affect the industry of America. That is known by every man, and it is known that every man in industry who gets enough to invest will invest it in tax-exempt securities anyhow unless he can operate it more profitably.

I am not in favor of creating tax-exempt securities except as an urgent necessity, because it tends to create a class, a class of wealth that will always invest in tax-exempt securities, and then we have the fact that they do own them urged as the reason for not taxing them on their exorbitant earnings in their business monopolies. Inordinate earnings on capital invested do not come from the poor man; they do not come from the man who takes risks except in rare instances. The earnings of great wealth are not proportional to the risk as contended by the gentleman from Ohio [Mr. BURTON]. The Steel Trust, the Standard Oil, and those that obtain a monopoly of the great necessities of life and then levy a tribute on the people to such an extent as they see proper are the ones who will pay the 50 per cent. If it were not for that there might be something in the argument of the gentleman from Ohio that taking a great risk is the only way of making great earnings.

Take the Steel Corporation that began with a real capital of about \$400,000,000, capitalized it first at \$700,000,000, and then arbitrarily increased it to \$1,400,000,000, because they had control of the market and could make a dividend on the watered stock equal to the real investment. That stock which was at first not salable at par became worth a premium. The Standard Oil at one time carried stock that sold in the market for \$600 for one share, because they had levied tribute on the people of the whole United States. They paid the men who produce the oil from the ground whatever price they fixed in their office. Then they manufactured it into the final product and, having a monopoly, they sold the finished product at any price they fixed. They sold to the consumer at any price they fixed and they paid those who took it out of the ground what they pleased. I think that great corporations worth billions of dollars that are allowed to earn 8 per cent before the excess-profits tax begins ought to be contented. There is no farmer in this land who would not be willing to take 8 per cent on all investments he has and let the Government take the remainder of it. [Applause.] Why, Mr. Speaker, if you take the average farmer, the average middle-class citizen, and count up the taxes he pays, you will find that he pays more than 50 per cent of his net income every year. And many a farmer in my State paid heavy taxes last year on his farm from which he had no net income, even though his own labor was given free. I confess I have no overpowering sorrow for the man who is taxed heavily after he has put in his pockets a net profit of \$100,000, \$200,000, or \$1,000,000, yet that is the only class the Republican Party seem anxious to relieve, and when they relieve this class they must raise the revenue they remit to them by heavier burdens upon the moderately well-to-do and the poor.

The SPEAKER pro tempore. The gentleman from Wisconsin is recognized for 40 minutes.

Mr. FREAR. Mr. Speaker and gentlemen of the House, the resolution before the House provides that the House conferees be instructed to recede and agree to the Senate amendment substituting a 50 per cent maximum surtax on personal incomes

instead of 32 per cent as reported by the committee and passed by the House. It has been a long, hard fight behind closed doors to secure this right to a record vote on surtaxes. The maximum rate under existing law is 65 per cent, so that a reduction to 32 per cent, as carried in the House bill, without possibility of a record vote, is a cut of more than one-half the present maximum income rate compared with a reduction by the Senate of 15 per cent from the maximum rate of 65 per cent contained in existing law. Let me state the issue in another way: As set forth under the resolution the House bill contained a 32 per cent maximum surtax rate to apply to all net annual incomes over \$68,000, while the Senate rates continue on to 50 per cent on all net annual incomes over \$200,000. As the surtax does not begin to run until the income exceeds \$6,000, and then is raised 1 per cent on every \$2,000 increase, the average surtax rate below \$200,000 income is less than 25 per cent.

The statement is made by Chairman FORDNEY, who has just preceded me, that more income tax will be collected under a reduced 32 per cent rate, which was opposed in committee, than under a 50 per cent rate, because those having to pay a high rate will invest in tax-exempt securities. In a letter from the President to-day on the subject, and read by Mr. FORDNEY a few minutes ago, it is stated, if I heard correctly, that the House rate of 32 per cent is the more promising one in bringing returns to the Public Treasury.

If that be a fact, then it is idle to urge adoption of the higher maximum Senate rate of 50 per cent. The distinguished chairman of my committee, whom I respect very highly, says that the income will not be increased if the maximum surtax is placed at 50 per cent instead of 32 per cent. Consequently, the proposed reduction is not sought by rich men but Congress is remitting that tax without benefit to anyone. That same argument is made by other men who place their own opinions against concrete facts. Is the chairman right?

Let us learn from his statements uttered to-day whether he is not mistaken and whether the President has not been misinformed as to the facts.

The chairman of the committee, the gentleman from Michigan [Mr. FORDNEY] states to the House that a 50 per cent maximum surtax, according to Treasury Department estimates, will bring in \$401,000,000 in personal income tax for 1922, compared with \$462,500,000 under the existing 65 per cent maximum surtax law. Under a 32 per cent maximum surtax rate, as adopted by the House, the estimated Treasury income will be \$364,000,000, or a loss in round numbers of \$98,000,000 between rates under existing law and the House bill. Not a theoretical loss, but a reduction of practically \$100,000,000 in Treasury receipts.

In other words, on the best information obtainable the Senate rate will cause a loss to the Treasury over existing law of \$61,500,000, while adoption of the House rate of 32 per cent will cause an additional loss of \$37,000,000 more for 1922. If that be true—and Treasury experts have determined that between \$35,000,000 and \$40,000,000 more taxes will be collected from large incomes under the 50 per cent Senate surtax than under the House rate of 32 per cent—then why do you, Mr. Chairman, discredit the experts whom you quote and who base their judgment on years of experience and existing conditions?

Mr. FORDNEY. Mr. Speaker, will the gentleman yield?

Mr. FREAR. Yes; certainly.

Mr. FORDNEY. That is on the supposition that the money is not diverted to tax-free securities.

Mr. FREAR. Oh, certainly; but that is a factor in the Treasury estimates to-day and has been during the last year and the year before that. Such investments have been made in the past and will be made in the future, but they are apart from tax-free investments and are the net estimates of receipts by Treasury experts, and I ask, gentlemen, are you to believe the Treasury experts, whom the chairman quotes as the highest authority, or are you to accept the opinion of the chairman, or even of the President, who apparently are both influenced by non-experts in reaching their conclusions?

#### WHY HAVE WE REPEALED THE EXCESS-PROFITS TAX?

We have by this act repealed from January 1, 1922, the excess-profits tax that brings in \$450,000,000 annually under present depressed business conditions. The effort made to date that repeal from January 1, 1921, was reversed by a Republican conference after a close vote, as stated. We have repealed the so-called luxury taxes that largely affected those best able to pay, and now we are cutting surtaxes on incomes so as to lose nearly \$100,000,000 if the House rate of 32 per cent is accepted, or about \$61,000,000 if we adopt the 50 per cent rate on incomes of over \$200,000 annually. Do you not think, gentlemen, when you go back to your constituents with that record you will be required to offer reasons for your vote on

this resolution if you now reject the Senate rate that will require something in addition to the President's letter, strong as it may seem to be to the casual reader and however great our respect for him and his high office?

The suggestion is frequently made in discussion that our tax laws are more burdensome than those of other countries. No careful student of the subject will make that statement, because the tax rate of Great Britain is double and in some instances three times our own, not surtaxes but in total receipts it reaches approximately that figure. She taxes corporations 30 per cent normal tax, while in this bill we passed the corporation normal rate on to the Senate at 12½ per cent. In like manner inheritance and other taxes are far heavier in European countries than in our own.

Mr. FORDNEY. I think the gentleman is in error when he says that we lost \$450,000,000 in the excess-profits tax, for the reason that we received a portion of it by increasing the corporation income taxes and did not lose the total amount.

Mr. FREAR. The gentleman from Michigan may have misunderstood my statement. The question before the House when the tax bill was reported by the Ways and Means Committee in August was whether or not we would repeal the excess-profits tax and income surtax above 32 per cent so as to date from January 1, 1921, as reported by the committee or from January 1, 1922. The Republican conference reversed the committee. In other words, we were urged by the committee to make the repeal retroactive to date from January 1, 1921, and this the conference refused to do.

#### REPEALING TAXES ON EXCESS PROFITS AND ON HIGH SURTAXES.

Treasury experts declared we would thereby have lost \$450,000,000 in excess-profits tax for 1921 and over \$90,000,000 in reduced surtaxes, or a total loss of \$540,000,000 for 1921. The committee's report to make the repeal retroactive was in face of the fact that every witness before us urging a repeal of the excess-profits tax insisted that the tax had been collected from the consumer by the one paying the tax through extra charges, and yet after having collected the tax for 1921 from the consumer the corporations that had passed it on to consumers through increased charges were to be permitted to retain in their own pockets \$450,000,000 of taxes which they had thus collected in advance. In that case the President was quoted by House leaders for repeal from January 1, 1921, but the House Republican conference decided otherwise, believing his position had been misstated. Thereafter the Senate adopted the date of January 1, 1922, and accepted our effort to prevent a loss to the Treasury from these two sources of \$540,000,000 for the calendar year 1921. The Senate is called conservative by the distinguished gentleman from Ohio [Mr. BURTON], who just preceded me. If so, our committee was ultraconservative then, as it is now, in efforts to cut the income surtaxes of the wealthy to the middle and then take off some more.

Mr. FORDNEY. But if the 15 per cent adopted by the Senate on the corporation income tax is agreed to and enacted into law it will recover nearly the entire loss under the excess-profits tax. About 15 per cent would make an additional \$450,000,000.

Mr. FREAR. Those are not the correct figures, according to my recollection, but I will insert actual Treasury estimates to test a fact that ought not to be in doubt. Here they are.

I quote from Secretary Mellon's estimate furnished the Ways and Means Committee on August 11, 1921, at the time the revenue bill was passed by the House:

Existing law 10 per cent corporation tax (1922).....	\$445,000,000
House proposed additional 2½ per cent corporation tax.....	111,250,000

That was the tax estimate from corporations for 1922 as the bill passed the House. The 10 per cent normal rate quoted is law now. Addition of a 2½ per cent normal tax proposed by the Senate would add \$111,250,000, according to Mr. Mellon's estimates, with which to meet a loss of \$540,000,000 if the House committee's retroactive repeal on January 1, 1921, had been adopted. But I do not care to enter into further discussion on that subject beyond showing that the bill as reported by the House committee would have lost to the Treasury \$540,000,000 in 1921, and the only substitute offered by the House was \$111,000,000 in a 2½ per cent normal tax. Those of us who were not so generous to big business and large wealth helped save to the Treasury \$540,000,000 for 1921, subject to that deduction, and the Senate may reduce the loss thereafter by adding 2½ per cent more to the corporation normal tax and bring in \$111,000,000 from that same source. From Chairman FORDNEY's statement now to the House we may confidently expect he will recede and accept the additional 2½ per cent normal corporation tax added by the Senate.



## THE PRESIDENT'S LETTER ON SURTAXES.

Mr. Speaker, a growing practice on the part of certain gentlemen of the House is to bring in at the last moment outside opinions or political influences to bolster up a weak cause. It has been done repeatedly, as in the dye-embargo case, when the President and members of his Cabinet were quoted to be in favor of the embargo. The case of the retroactive repeal proposal of the excess-profits tax has just been discussed. In both cases the judgment of the House was unaffected by outside influences whether correctly represented or not.

Again, at the last moment, a private letter is here read from the President to have the House disagree to the Senate amendment of 50 per cent maximum surtax, which Treasury experts say will lose to the Treasury \$37,000,000 if the House rate of 32 per cent is adopted by the conferees.

Let me say that I recognize the President as the leader of my party, and I do not yield to anyone in admiration for his abilities and for the splendid way in which he has measured up to the highest ideals we hold for American Presidents. I will go further and say that to him and to Secretary Hughes will be offered the gratitude of the world if we make certain any agreement among nations to disarm, and I firmly believe they will be successful; but if he is badly advised in legislative matters we can not shift our own responsibility by following such advice.

To those Republicans who criticize others that differ in judgment I will say a brief examination of the vote on the emergency tariff, soldiers' compensation bill, and one or two other notable measures will tell their own tale of Members who accept and embrace Republican conference votes or high official requests only when it suits their convenience to do so. A Republican Senate has here accepted a 50 per cent maximum surtax and a Republican Rules Committee of the House presents a square proposal to us for acceptance. There can be no partisanship urged, and it is merely a question of whether the letter to Mr. FORDNEY is based on better understanding than the Senate's deliberate acceptance of the 50 per cent rate after long and thorough discussion, as shown by the record.

On a purely economic issue the President's letter must be subject to the same analysis as that of any other advocate, not for the purpose of discrediting or criticizing but in order to learn what information is to be had from the letter. Who are his advisers on the subject and what Members of the House or Senate were consulted among those who believe the higher Senate surtax should be maintained? Without full information from both sides any man may be misled and those who mislead and who place the Executive in a wrong position are responsible for inviting any disagreement.

No Member of this House acting under his oath and constitutional responsibility, accountable to his own conscience and judgment, can change his vote or his judgment on this resolution unless something is contributed that affects the real issue. What has the letter contributed to that end?

First, it says it is an answer to Mr. FORDNEY's inquiry as to some settlement of differences between the two Houses. Why appeal to the President when the House only asks for a chance to vote on acceptance or rejection of the Senate proposal? The letter from Mr. FORDNEY should not have asked to decide any difference between the House and Senate, because if a record vote had been permitted on the surtax measure when the bill passed the House originally it would easily have carried at 50 per cent the maximum rate now recommended by the Senate, and no difference would have occurred. There is no difference between the Houses if a vote now can be had uninfluenced by pressure. Differences exist between those who ask for a right to vote on the surtax rate and those who refuse that right. Was the situation misrepresented to the President; and if so, who misled him? Why can not a coordinate branch of government be permitted to vote on a single amendment to the revenue bill? Who is the guardian of our consciences and of our legislative records that not one record vote on the revenue bill has been permitted in the House to date?

## REPUBLICANS AND REPUBLICANS.

We are not in difference with the Senate to-day, as suggested by the letter sent to the President, for we are with the Senate, and all we ask is a right to vote and prove our judgment is in absolute harmony with the Senate amendment.

Is it any act of party indiscretion to vote for a Senate amendment that has such famous Republicans among its supporters as LODGE of Massachusetts, Republican Senate leader, whose badge of Republicanism and leadership is as ancient and certain as that of any Member of the House? Or take WADSWORTH and CALDER of New York, and CURTIS and CAPPER of Kansas, joined with WATSON and NEW of Indiana and WILLIS of Ohio,

who succeeded President Harding in the Senate. Who among us can speak for Republicanism as she spoke better than these Senators who were for the Senate surtax rate? Among able Republican delegations the mind naturally runs to CUMMINS and KENYON and KELLOGG and PENROSE and NORRIS and McCUMBER and the able Senator from Wyoming, WARREN. All are Republicans of a 4-X brand recognized the country over. The Senators from my own State, LA FOLLETTE and LENROOT, and among men of large means who apparently place Government needs before all else for the amendment are McCORMICK and MCKINLEY of Illinois and DU PONT of Delaware with many others. BORAH, SMOOT, and JOHNSON from the far western States are likewise presumably for this 50 per cent maximum surtax that went through the Senate without opposition. Who among you gentlemen of the House will challenge the Republicanism, patriotism, or ability of these Senators? If we are in error here, what about 98 Senators who also agreed to the 50 per cent rate?

Democrats can find common ground on this 50 per cent surtax amendment, which is a nonpartisan proposition. Veteran leaders like WILLIAMS, OVERMAN, REED, SIMMONS, POMERENE, UNDERWOOD, FLETCHER, SWANSON, and ROBINSON have joined hands with youthful graduates from the House like MCKELLAR, HEFLIN, HARRISON, and CARAWAY, all in agreement on at least one feature of the revenue bill, this maximum surtax. Advocates and opponents of a sales tax in the Senate, temporarily suspended hostilities as did supporters and nonsupporters of a soldiers' bonus measure in order to join on the Senate surtax amendment.

Even the ancient Newberry charges that only involved a paltry \$176,000 and did not come within the \$200,000 figure that marked the 50 per cent surtax limit, were laid aside by unanimous consent in order to reach agreement on the 50 per cent surtax, while the financial bloc and the agricultural bloc and the naval and peace blocs in the Senate sat down, figuratively, at the same table with the hard-worked post office bloc without holding weapons in easy reach. The surtax table of rates was a peace table that had no difficult boundary lines to settle, no reparations to adjust, and no capital ships or submarines to scrap. In fact, no Republican, whether reactionary or progressive, and no Democrat, whether bourbon or liberal, but could find congenial spirits in the Senate surtax vote which was the first real harmonious and political disarmament conference held in the north end of the Capitol since the laying of the corner stone of the building.

Some day soon history will be written of another disarmament meeting now holding in this city, and if Caucasians and orientals reach a measurably happy agreement, unbounded honor and glory will be given to the President and others in authority who bring it about. We are all behind the President in that program, but the letter received by Mr. FORDNEY is at variance with that of a unanimous Senate and many Members of the House, and we beg leave to differ in our judgment on the surtax rate.

I have briefly recounted the names of some of those who have agreed to the Senate maximum surtax amendment, not from any fear that bellwether Republicans at the south end of the Capitol will question the ability and character of men who a little more than 12 months ago sat as colleagues of the present Executive of the Nation, but in order that the real legislative situation may be understood.

All that we ask to-day, we who favor the Senate surtax amendment, is a right to help fix a 50 per cent maximum surtax, a rate that will not take away all of the \$200,000 annual incomes, as claimed, but will leave over three-fourths to the owner with which to buy three full meals a day. We wish to show we believe the Senate did a good job with its surtax amendment, and we wish also to express our confidence that no one ever expected us to pull their chestnuts from the fire when fixing the surtax rate. We are satisfied to be found in such goodly company and again I say the President was misinformed as to any disagreement on our part with the Senate surtax amendment. We want it and do not want the low rate fixed in the House bill and never did.

The letter from Mr. FORDNEY presumably was asked for not to reconcile differences between the two Houses but to influence those who had finally secured a right to vote on the maximum surtax rate. If a correct understanding of the facts had been had, I can not believe the President's letter would have been written. It is by no means certain that a single Member of the 100 Republicans who favor the higher rate of surtax in the House or of the 98 Senators who voted for it was advised though effort to secure a record vote was refused until the last moment.

## THE EFFECT OF THE SENATE SURTAX ON BUSINESS.

The letter recommends a compromise rate of 40 per cent, which is the rate urged by the House conferees ever since the bill passed the Senate. An illustration of the supposed effect of acceptance of the Senate surtax is offered by a statement from the War Finance Corporation. Information of the same tenor was given by Eugene Meyer, of that board, to our committee. In the letter it is suggested railway securities can not be floated because of surtax differences between the Houses. Mr. Meyer, who represents large financial interests, stated to our committee in substance that a 32 per cent maximum surtax would permit the financing of railway securities, but when a 50 per cent rate was proposed the difficulties seemed insuperable. Is 40 per cent any solution of the situation?

The President is one of the busiest men in the world. He is confronted with problems that challenge the attention of the world. In comparatively insignificant matters he must rely absolutely on the judgment of advisers. If those advisers are mistaken on the subject they assume to understand, the fault is theirs, not the President's. By that test let us examine into the comparative effect of a 40 per cent and 50 per cent maximum surtax on investments.

If the maximum surtax is reduced from 50 per cent to 40 per cent, the Treasury experts, according to Mr. FORDNEY, say it will save these large taxpayers \$2,000,000. This is undoubtedly error in amount, for it is presumably nearer \$20,000,000. In other words, the Treasury Department, according to Mr. FORDNEY's statement to us, estimates that at 50 per cent maximum surtax, receipts for 1922 will amount to \$401,000,000, at 40 per cent maximum they will reach \$399,000,000, and at 32 per cent, House rate, they are \$364,000,000.

I submit that a difference of \$2,000,000 or \$20,000,000 is inconsiderable in its effects on business, and not a drop in the bucket compared with the billions of dollars of capital tied up in Liberty bonds and other Government indebtedness reaching \$24,000,000,000 in addition to many billions of dollars in railway securities and of other utilities and private business securities now on the market that must far exceed in the aggregate \$50,000,000,000, of which amount \$20,000,000, the difference in surtax rates, is not one two-thousandth part of 1 per cent. What effect would that have on the investment market?

It will readily be observed that \$2,000,000 or \$20,000,000 or more that may be saved by rejecting the Senate surtax proposal, if all used for railway-security investments, as urged by Mr. Meyer, would not in the aggregate create a ripple. In fact, a bare statement of the case shows that the relative importance of comparative maximum surtax rates has been given little consideration by advisers who have misled the Executive.

Mr. Meyer is naturally anxious to have surtaxes reduced; that is a general wish in financial circles; but the impropriety of using a public position to unduly press such arguments on the committee or on Congress must be patent to those who analyze his statements. After a careful reading of the letter, I submit that nothing new is offered affecting the difference between a 40 per cent or a 50 per cent surtax rate other than that a few million dollars may be saved to men with incomes of over \$84,000 by the lower rate. No principle is at stake that should cause the House to hesitate to accept the maximum surtax rate of 50 per cent adopted by a Republican Senate which is based on the well-recognized principle of placing tax burdens largely upon those best able to pay.

## ARE LARGE INCOMES PLACED IN TAX-EXEMPT SECURITIES?

It is commonly urged, as set forth in the President's letter, that incomes will be placed in tax-exempt securities unless surtaxes are largely reduced. The point to which the tax must be reduced to tempt investors from placing surplus funds in tax-exempt securities varies, according to witnesses.

Mr. Otto Kahn, representing a large financial house, stated to the Ways and Means Committee that the rate of surtax should not exceed 20 per cent, for beyond that point he believed it would be more profitable to place surplus funds where taxes would not apply. Others have placed the maximum around the same figure. Not one financial authority has suggested a 32 per cent surtax as any inducement to invest in taxable securities.

What, then, can be said of a 40 per cent rate, as suggested in the letter which proposes to loosen up moneys now kept in hiding?

If 20 per cent is the highest maximum that will induce investments in "business," how will the rate of 40 per cent help matters beyond reducing the taxes of a few hundred multimillionaires whose incomes reach \$200,000 or more annually? In his testimony before the Senate committee, Secretary Mellon is quoted as saying that 25 per cent is a proper maximum surtax to invite investments in business, but after stating that invest-

ments in tax-free securities were quite general under existing law, with a 65 per cent rate, he further said:

From my knowledge of incomes in business, etc., of individuals I do not know among them any who to any large extent invest in tax-free securities, for the reason that they have not the free cash with which to do it. They are generally people who are in an industrial line of business, and they have to carry on their business and they need their capital. They can not get it out to invest it in tax-free securities. I do not think that is the largest item.

No one will question that Mr. Mellon, with his vast banking and industrial interests, is as competent to testify as anyone who could be called.

Further confirmation is had that the surtax rate has little effect on business. Of parties testifying before the Ways and Means Committee on the tariff bill, upward of a thousand witnesses were heard, if I remember correctly. None, to my recollection, attributed present conditions of business or lack of business to taxes. None were complaining of excess-profits taxes or surtaxes. All were ready and willing to pay taxes, excess profits and surtaxes if they could set their mills in motion and if orders were to be had. They urged as a matter of supreme importance to start home production that a tariff bill be passed immediately to give them protection against cheap foreign production against which they can not compete. That was the cause of poor business, according to their testimony, together with loss of the exporting trade, accompanied by foreign exchange conditions and high transportation rates.

As if to add a last blow to arguments that money, liquid money, is not to be had from financiers for general investment because of tax-exempt securities, I call attention to this morning's issue of the Washington Post—November 21—page 12, where the statement is made that \$50,000,000 in 6 per cent bonds of the New York Telephone Co. were oversubscribed nine and a half times. What becomes of the claims so glibly made that only tax-exempt securities attract investors because of the 65 per cent surtax rate?

Money is to be had for good business propositions that return 6 per cent on investments. Nearly a half billion dollars was subscribed for that purpose in the telephone company bonds, compared to \$20,000,000 in surtaxes that we have been asked to exempt in order to save the business of the country. Is it not about time that legislative sanity prevail?

## DO TAX REPEALS SET THE WHEELS IN MOTION?

The argument in favor of reducing surtaxes comes from financiers like Otto Kahn, Eugene Meyer, Jules Bache, Meyer Rothschild, and others, who by a coincidence generally ask to have taxes shifted to the shoulders of the consumers of the country by a turnover sales tax in order to benefit the consumer. They first argued to Congress that a repeal of the excess-profits tax would start business, but the proposal did not start a wheel in motion. Next they declared that a reduction of maximum surtaxes would bring prosperity, and that suggestion is contained in the letter to Mr. FORDNEY, but not one wheel of industry, it is apparent from an analysis of the figures, will be affected by such reductions. Next and last it is proposed to adopt a turnover sales tax that will shift the remaining tax burdens from the shoulders of those best able to pay over to the backs of the consumers. A consumption tax, we are told, is now the cure-all to supplant eventually all income taxes.

These various acts of tax shifting to which Congress has lent aid will not be of any material value to anyone excepting the man whose tax is reduced, and he generally has power to fashion sentiment through the press and elsewhere.

Great financiers, whose millions have been increased by the war, now stand behind the excess-profits and surtax-repeal propaganda, and they have enlisted a number of enthusiasts in their cause. It is significant, however, that practically every tax expert I have met whose employment is of a disinterested character is in general agreement with the views here offered.

I do not deny that investors may place their funds in tax-exempt securities where they can thus escape income taxes. Neither will any intelligent man say that investments for municipal improvements are without value, frequently of equal importance to the country because of labor employed in municipal and other work.

These are comparatively side issues. The only proposal now before the House is whether or not we shall leave the conferees free to act on their own motion, which will mean a maximum surtax of 40 per cent or less than that, or shall we accept the 50 per cent maximum offered by a Republican Senate? It makes no difference, I concede, whether a Republican President or Republican Senate or anyone else offers the proposal if it is just and right, but there are those who like to have the seal of party approval stamped on some part of every measure, and they may find comfort in the Senate's deliberate and unanimous action increasing the surtax to 50 per cent.



THE MONEY ISSUE IS NOT THE MOST IMPORTANT QUESTION.

Let me briefly recapitulate the facts in issue. The House without privilege of a record vote passed a maximum surtax rate of 32 per cent in place of the 65 per cent in existing law. A 32 per cent maximum rate reaches to incomes of \$68,000 and over. The Senate continued existing surtaxes up to 50 per cent, affecting incomes of \$200,000 and over. The proposed compromise rate urged by the House conferees of 40 per cent reaches its maximum at \$84,000. Based on the 65 per cent rate of existing law a 50 per cent maximum surtax rate would cause an annual loss to the Treasury of \$61,500,000. A 40 per cent maximum surtax will lose approximately \$80,000,000, and the 32 per cent rate will lose \$98,000,000. The difference in loss between the 50 per cent surtax as adopted by the Senate and the 40 per cent compromise now proposed by House conferees is about \$20,000,000.

Apart from the principle involved of taxing according to ability to pay the \$20,000,000 is trivial in a tax bill estimated to raise over \$3,000,000,000. The \$20,000,000 tax difference can not possibly affect \$50,000,000,000 or more in miscellaneous securities, including railway securities mentioned by Mr. Meyer, whether placed in the Treasury or left in the pockets of the owners. It is not a drop in the bucket, so arguments to that effect are clearly of no value. This issue is greater than any mere question of difference in amount of tax collected, however.

After weeks of controversy in the House in an effort to get at least one record vote on some phase of the revenue bill and an announced purpose on the part of many Members to agree with the 50 per cent maximum surtax adopted by the Senate we are confronted with the suggestion that to insist on this right and on our individual judgment is a political test of Republicanism because we must follow leaders who have reinforced their position by a letter sent from the President under a clear misapprehension of facts.

Many of us would prefer to surrender our convictions and vote as the President suggests ordinarily, but he certainly could not have known that every chance to vote on amendments has been refused heretofore in the House, and that when the right was finally conceded after long and heated controversy it was with a purpose to agree to the Senate amendment and a certainty exists that ordinarily that agreement will be voted in the House if a vote is permitted.

An enormous cut in high surtaxes, as stated, is a political as well as economic liability. Efforts have been made to place Members in a different position from Senators who unanimously agreed to the 50 per cent surtax rate. Of far more importance those of us who believe our constituents ask that we support the Senate rates are now told by so-called House leaders we must surrender our individual judgment and make a cut of over \$80,000,000 in the taxes collected from large wealth instead of accepting the Senate rate. Why should we do so?

I realize now is the time that foolish advisers will ask that the Executive whip be cracked over Congress as certain inspired writers have been demanding for a long time, but we remember the President pro tempore of the Senate was one of the famous willful twelve, so declared by a former Executive, and holds his present high seat not because of that fact, but in spite of it, so no man should be called upon to stultify his judgment by voting contrary to his conscientious belief through fear. Every right and duty provided in the Constitution reads to the contrary.

I am not unmindful that tactless leaders may paint woeful pictures of lack of party discipline with resulting political harakiri if Members vote their convictions at the only opportunity ever given them to vote on any change in the committee bill as reported to and passed by the House. Speaking for myself alone, I do not know what well-founded excuse I could offer my constituents for voting to exempt wealth from taxes to the extent of \$80,000,000, the 40 per cent rate, instead of \$60,000,000, the 50 per cent rate. True, it affects a few hundred individuals of large wealth—from men with \$2,000,000 each to those worth \$500,000,000, but some of these multimillionaires possess more of the world's wealth to-day than all of the upward of 20,000 farmers of my district combined, and yet we term farmers "the backbone of the Nation."

Working from 12 to 15 hours daily to make ends meet, their wives and their children join in the daily toil round the farm. We are helping the multimillionaires in this bill, but we are not doing for the 20,000 farmers all that should be done, although the bill, I feel, is better than existing war-tax legislation.

Thousands of other workers in like manner are among the laborers who do not clip coupons or watch market quotations, but who try to save from their meager earnings enough to meet the annual tax collector. They do not get favored tax-payment extensions, but the homestead is sold for taxes if payment is not made promptly on the day when due. I know the majority

leader says such arguments sound demagogic, but to my mind Senator WARREN sounds the sentiment of Wyoming and of nine-tenths of the people of this country when his judgment is evidenced by the Senate 50 per cent surtax amendment passed unanimously by the Senate.

Let it be known that men are threatened with punishment because they refuse to take an additional \$20,000,000 tax off from wealth and those who threaten will be responsible for an issue that may react. The salvation for the party is to save it from money changers, and it will soon be time for plain speaking if we are to defeat the utterly selfish purposes of those who would willingly wreck the party for their own gain, as was done 10 years ago.

#### THE RIGHT TO LEGISLATE INDEPENDENTLY.

When the funding bill was before the House I offered some observations about the disposition in certain quarters, particularly among our own membership to have Congress act as a "rubber stamp."

I then called attention to the vigorous denunciation of President Wilson and of different Cabinet members of the last administration by gentlemen who to-day on our own side are foremost in demanding that Congress be subservient to the wishes of outside influences, nay more, they continually present letters and other messages from high officials to influence the American Congress in its deliberations.

I believe the party to which I belong is not a party of special privilege and any attempt to make it so is certain to bring the reward that befell our Democratic friends recently. The election in New York City a few days ago resulting in a Democratic mayor by over 400,000 majority was a reversal of nearly double that figure from the repudiation of the Democratic presidential candidate just one year ago. Overturning a political boss in Albany after 22 years of uninterrupted control is only an echo of many other results occurring at the recent elections that should cause reflection to those who are living among the election returns of a year ago.

A substantial reason affects this remarkable change in sentiment that is not governed entirely by local conditions or off-year reversals. I do not care to repeat predictions made by prominent Republicans whose judgment I consider far more valuable than my own as to what may be expected a year hence if we do not study the clouds and this judgment comes from men living in the heart of the world's financial district who do not see through the colored glasses of some of their neighbors that live for themselves alone.

Suffice to say that while the country has expressed no reason for confidence in the policies of our Democratic friends a disposition to blindly accept promises or legislation because it emanates from Republican and Democratic sources will not control the judgment of the people. They ask for results and while we can not bring good times or good business by legislation we must not shift the heavy tax burdens now borne by those best able to pay on the backs of those least able to pay without expecting to meet the issue and all the political sophistry that puts through such legislation will be of little value when facing an intelligent constituency that asks to be shown.

As a step toward well considered legislation let us pay more attention to the people than to party.

Those who believe that constitutional privileges include the right to consideration of ordinary legislation uninfluenced by party whips or party leaders will continue in their course without fear of losing their party label. In fact, the temptation to reply in kind is often subordinated because, if well founded, it can only work to the advantage of political opponents.

#### HAS THE HOUSE CEASED TO LEGISLATE ON GREAT BILLS?

I ask in perfect good faith by what right, political or otherwise, did not the tax bill under consideration reaching over \$3,000,000,000 annually receive a single amendment when it passed the House originally? Why was no amendment permitted?

In this body that is supposed to represent the people, that goes back to the people once in every two years and is generally responsive to the people as a representative body, not one record vote amendment was permitted to a bill that covered nearly 200 pages and included many hundreds of tax proposals.

Two of the three days of "general debate" were allowed, but no amendment was permitted to be made to a bill that came from the committee to the House with many obvious faults and defects. That bill we swallowed whole and sent on to the Senate. Why was the House refused this privilege of amendment or more than two or three days' discussion when the Senate gave over two months' consideration to the same bill with apparently over 100 record votes on amendments or proposed amendments compared to none in the House? Why did

the Senate make over 800 amendments to the House bill practically nine-tenths of which were accepted by the House conferees, while the House, the constitutional body in which all revenue bills must originate, was not permitted to add one amendment to its own committee bill? In other words, why should a committee be vested with all the rights of the House without any privilege of appeal? Why distrust our own membership?

No answer is offered by saying we can vote against a party rule when cries of "regularity" and "support the committee" guide the actions of all on both sides of the aisle. Do not make any mistake, because this is a partisan practice indulged in by both parties, but with a majority of 169 Members why did we not permit ourselves to indulge in the legislative practice of improving committee bills when this measure was before the House.

It is far more serious than matters of leadership or of regularity, because it resolves itself into a stifling of the rights of 400 Representatives, who under the Constitution are supposed to represent over 100,000,000 people. The injury, for it is a lasting and wrongful injury, affects over 100,000,000 people whom we do not represent, because their wishes are not made known and can not be made known under the practice adopted in the passage of the revenue bill. By what right and by what authority in or out of Congress can any such action be taken, and can we excuse our own failure to assert legislative prerogatives under the plea of party regularity? The matter of surtaxes would have been decided long ago by the House at a rate as high as the Senate amendment if we could have voted directly on the bill. Why were we not permitted to do so?

Most of the Members of the House do not care to oppose party leadership, and they are willing to surrender a reasonable amount of independent action to those who assume or are charged by their fellow Members with leadership, but it should be understood that the method of passing a revenue bill through the House which prevented a separate vote on any one of the hundreds of items, including surtax rates, was an act without precedent in times of peace. Apart from the stultification of individual membership, that is helpless to express itself on the merits of proposed legislation, it lowered the dignity of the House, and when compared with the freedom of action accorded in the Senate we stand confessedly bound and gagged by some mysterious force that works in secret its orders to prepare.

More important, we are answerable to the people for our acts, and that responsibility can not be shifted to the shoulders of any leader, whether within or without the House.

I have digressed from the subject under discussion, but I hope the House will accept the Senate amendment of 50 per cent maximum surtax, and I believe that amount would have been written into the bill when it passed the House if such action had been possible. The surtax here involved does not mean much in amount compared with many other measures that come before the House, apart from the principle involved of taxing those best able to pay, but it has brought a square issue from those who demand the constitutional right to record their vote on the subject. That right is infinitely more important to determine than can be any mere matter of dollars and cents, for responsibility rests with every Member, whose certificate of authority comes not from House leaders or party pronouncements but from those whom he represents.

Mr. FORDNEY. Mr. Speaker, I yield five minutes to the gentleman from Massachusetts [Mr. UNDERHILL].

Mr. UNDERHILL. Mr. Speaker, I am not going to appeal to the prejudices of the House or to the prejudices of my or anybody else's constituents, but I am going to offer an appeal for the millions of unemployed throughout the length and breadth of this country because of the system of taxation with which we have burdened the employer. Business is the biggest gamble in the world. You have got a better chance at Monte Carlo or at the race track than you have in business. Ninety-three per cent of all the people engaged in business in this country fail. I want to appeal to gentlemen on that side of the House, most of whom have a professional training and have a professional view of this question. The business man is not always concerned in the amount of money he is going to make in his business, but frequently has the good of the community at heart. He desires to see his business grow; he has a certain pride in achievement, and unless you can make this gamble at least a 50-50 proposition, he is not going to continue along those lines. He is investing to-day in tax-exempt securities and going out of business and out of employment, not because the securities are tax exempt, but because the securities are the only safe investment that he can make. May I bring to your attention one instance. One of the Members of this body when he was elected to the House sold everything he had in the

way of business activities and invested in industrials, which he supposed were good investments. There is not one of those stocks to-day that is paying a dividend, although when he made his investment every one of them was paying dividends, and he had reasonable assurance that they would continue to do so, but through the withdrawal of financial support they have been obliged to suspend both production and dividends. You seldom hear of a lawyer failing, he gets his fees, he knows what his income is going to be from year to year, but the business man does not know from year to year whether he is going to fail or be successful. This year he makes \$50,000 and next year he may lose \$75,000.

The business man is not so conservative that he is not willing to take a chance, but he is unwilling to take a chance if every time he makes a dollar the Government takes it away from him and does not recognize him when by hard work and industry he has built up his business and furnished employment. We have a concrete illustration in Russia. The very thing you are attempting here has been in force in Russia for the last three or four years. They started out to take the wealth of the country; they started out to soak the rich man. When they got all the rich men had they turned to the railroads and to industries, and they took those away. After exhausting them there was but one thing left, and that was the farmer, and what was the result in Russia? Every man in the country threw up his hands in despair and said, "What is the use." Now, you can appeal if you will to the prejudices of the people, but you are going to find when you go back home that the working man is going to say this, "I would rather be taxed and have a job than pay no taxes and be without a job." And that is what you are doing when you put this excessive taxation upon business men. Only one out of ten are successful and able to employ labor; the others fail, and if you are going to encourage employment you must encourage men to employ their wealth in industry. [Applause.]

The excess-profits tax and the surtax were taken from England at a time when the results could not be ascertained. But after a trial of more than four years in this country and a longer period in England they have proved absolutely inefficient and a great deterrent. A continuation means a confiscation of all wealth and a condition in industry closely akin to that of Russia.

A remedy for this situation has been urged frequently, but it has always been opposed by the demagogue and certain blocs, so called, who still appeal to prejudice of the people through the cry of "Soak the rich."

This is particularly true of the "farmer" bloc and the "labor" bloc who seem to be absolutely indifferent to the real results of this endeavor to "Soak the rich," ignoring the fact that it has withdrawn from industry and agriculture the necessary capital, and in consequence everyone has suffered. The remedy they suggest is a constitutional amendment allowing the Federal Government to tax all tax-exempt securities of the States, counties, and municipalities, something impossible of accomplishment because the States will not agree to having an additional burden placed upon them through the increased rate of interest at which these bonds will have to be marketed, and in addition, State rights would absolutely go into the discard; a very dangerous and impossible situation.

Investigation will show, however, that money is not being invested in tax-exempt securities for the purpose of escaping taxation so much as it is to secure a perfectly sound and safe investment, and that a man to-day, although he may see possibilities of a much larger return in industry or public service activities, realizes the risk and prefers to take the smaller return rather than lose his principal.

How many have invested in stocks and bonds supposed to be perfectly safe and sound, and have during the past two or three years had their dividends cut materially or discontinued entirely? How many, in view of past experiences, are willing to take the chance of losing the accumulation of thrift and industry over a long period of years and invest those savings due in many instances to sacrifices of all luxuries, and in many instances necessities—how many are willing to put those savings into such an uncertainty as business, which, under the present law, is subject to a tax far beyond anything that you or experts employed for that purpose can read into the law, and far beyond the safety of the business?

Here is a warning: Ten years ago the legislative branch of the Nation undertook, and successfully, to bankrupt the railroads, and they did some job. They would not allow them to make enough money to pay back the money they borrowed, or to keep up the railroads, and the result is that to-day 90 per cent of the railroads are in a bankrupt condition.



To-day the average business concern is in this position. Of all they make this year practically one-half of it will have to be paid to the Government in taxes; of all the income they make this year one-half of it is owed to the Government for taxes, so that the average business man in the country when he settles up his business at the end of the year will have nothing out of the year's business.

To-day not the executive but the legislative branch of the Government is doing to business and to the people who employ labor, and to the business men throughout the country, exactly what it did to the railroads, and if this policy is pursued and continued it will put business in the same shape as the railroads, which means nothing in the world but fewer people employed.

It is almost confiscation to-day, and there seems no chance to impress this on the farmer or politician, that there must be sufficient capital in the hands of the employer in order that it may be distributed through the medium of employment to the general public.

It is management more than money and it is leadership more than labor that make for progress and prosperity.

When 25 per cent of the time of the employers of this country is wasted in an effort to make up tax returns, 25 per cent of efficiency and management and leadership is lost, and there is 25 per cent of neglect of the employee and employment. Twenty-five per cent or more of time given to expert accountants and lawyers in making out tax returns properly, not to escape taxation but to escape jail or bankruptcy, or both, is a terrible tax in addition to the money tax.

The best way to increase production is to increase the number of employers and increase the number of employed.

It is a fact known to all of you that 90 per cent of those who start out in the business of employing others fail.

Therefore one of the hardest, most difficult propositions is to find a man or set of men or great group of men who can successfully employ labor.

This great by-product, which to-day seems to be something like 25 per cent of the Nation's wealth, is not utilized, because the people who have the ability to employ labor have not the money wherewith to employ labor.

They have not the incentive to make money which would induce them to take the risk in employing labor. The employment of labor means that if an employer undertakes a business adventure of about \$100,000 he must have money enough to pay the people whom he employs to the extent of \$80,000 out of the \$100,000.

He must have money. He must have courage to produce results from raw material. He must have the courage which makes him undertake to pay interest of possibly \$5,000 on the capital that he need employ, and possibly for making a return of \$5,000 on his investment.

The men who can do this are ten out of a hundred. Ninety of them fail who undertake it.

Now that the by-product of \$80,000 out of \$100,000, this consumption of \$10,000 worth of raw material and the interest paid on capital has all got to be jeopardized.

All this must be jeopardized, because the Government and the farmer and the planter of the South say that the man who has paid \$80,000 for labor, who has paid for \$10,000 worth of raw material, and paid \$5,000 on the capital invested is in the rôle of a rich man, because he has made \$5,000 for himself. He is a man of great wealth, so the Government takes 60 per cent away from him.

In this country of ours it has, within the last few years, become a great indoor sport of the politician and the demagogue to accuse and abuse the business man.

The man who has smoke coming from his chimneys and keeps the wheels of industry turning in any other country on the face of the globe, except in Russia, is a benefactor.

But in the United States of America a man who has smoke coming from his chimney and the wheels of industry humming is a malefactor. Soak him!

He is working anywhere from 14 to 24 hours a day. He adds to the wealth of the Nation and incidentally to his own wealth.

He would like to put the money he makes back into business. But the Government says, "No. You must pay it to us as a tax."

Hard times come. He may lose money, but the Government does not advance him his losses or reimburse him for his labor. If this man prefers to take the fruits of his thrift and industry and put them into the only positively safe investment he knows of under the present conditions—tax-exempt bonds—and spends his time playing golf or tennis or poker or in travel or in some other recreation without the worries and cares and risks of

business, is he to be censured or is he to be commended as a man of good business judgment?

Can a man be censured when he sees the writing on the wall that in his days of prosperity he can not put aside a fund for the future calamities that may happen?

In the legislative halls he is considered as a man to be soaked. In the revenue office of the Treasury Department he is considered a subject for inquisition, and that the truth is not in him. In the face of all this, is he to be censured for retiring from business?

But what is the result? He does retire, and the only safe thing for him to do is to retire and invest in bonds.

Now, then, what becomes of his 2,000 or 3,000 employees, who have been happily located for so many years?

The Government has closed the factory in its foolish effort to exact more money from the man who owns the mill. It has driven him from business, and the employees have joined the rank of the unemployed.

The public interest is paramount, and when public opinion coincides with the public interest the politician and the statesman must give heed. [Applause.]

Mr. FORDNEY. I would ask the gentleman from Texas to use some time.

Mr. GARNER. Let me say the gentleman from Texas has so far but one more speech on this side.

Mr. FORDNEY. If that is going to take all the balance of the time, he had better make it now.

Mr. GARNER. Mr. Speaker, I do not think the gentleman understands that the custom of the House which is that if you have several speeches you proceed until you have but one, and then if I have but one, I make mine and you make yours.

Mr. FORDNEY. Mr. Speaker, how much time is remaining on each side?

The SPEAKER pro tempore. The gentleman from Michigan has 58 minutes remaining, the gentleman from Texas has 40 minutes remaining, and the gentleman from Wisconsin has 29 minutes remaining.

Mr. GARNER. I suggest that one side or the other on that side yield. So far as I know, there will be but one speech on this side.

Mr. FREAR. Mr. Speaker, I yield 10 minutes to the gentleman from Nebraska [Mr. REAVIS].

Mr. REAVIS. Mr. Speaker, I regret sincerely to find myself in opposition to the view of the leadership in the House and the head of the administration. It would be much easier for me if I were privileged to advocate those things for which the administration and the majority of my party seem to stand at this particular time. But I must follow the dictates of my own judgment and my own conscience.

I think it might be well for the membership of the House to reflect a moment on the proposition with which they are dealing. Never before within my experience in this body, never before within my experience at any time, so far as I now recall, has the House of Representatives been the conservative body and the Senate of the United States the radical. For the first time within my experience the House has been conservative, I think beyond the point of justice, while the Senate has been the reverse. The gentleman from Ohio [Mr. BURTON] made the statement that this was probably not a deliberative body. In large measure that statement is true. This tax bill, with much of which I am out of sympathy, was passed through this House rapidly, but the Senate of the United States, which considered it for weeks and with ample opportunity for debate, feeling constantly the pulse of the Nation, put a 50 per cent surtax upon great incomes. They did not act without advice, but there are certain things in connection with their action that I think might merit our attention. On practically every other thing of importance during the consideration of this bill in the Senate there was a roll call, but there was no roll call upon this one thing of supreme importance.

The record does not disclose how any Member of that body voted upon the 50 per cent proposition. When it came time to send this bill to conference, the motion made was unprecedented on a revenue bill, and I challenge any proponent of this bill to deny this statement. The motion made was not to disagree with the House; the motion was made to call for a conference. Every other time, within my knowledge at least, where a revenue bill had been sent to conference from that body, the first statement in the motion has been that the Senate disagreed to what the House has enacted. So we find the record disclosing that the Senate raised the House provision to 50 per cent. No roll call was had on the provision, which was called upon a motion that did not disclose a disagreement. And, in my judgment, the reason for all this was

that the Senate expected the House conferees to cut down this surtax and the blame would be upon us. [Applause.] It would permit the Senate to say we tried to increase the surtax on great incomes, but the House prevented us from doing so.

I want to say to you, gentlemen, so far as I am concerned, that this great representative body, fresh from the people, that gets its commission every two years, is not going to pull the chestnuts out of the fire for the men who represent wealth at the other end of this Capitol. [Applause.]

The Member from Ohio [Mr. BURTON], for whose ability I have the very highest regard, made a very interesting speech with reference to the proposition, and the same sentiment was expressed by my friend from Michigan [Mr. FORDNEY], of whom I am exceedingly fond, that we could get more by a 40 per cent surtax than we could by a 50 per cent surtax. There is not a Member of this House who has not received, times without number, protests against the 50 per cent tax by the great wealth of this country. It is the first time in my experience that the wealthy men of America petitioned Congress to take more money from them than Congress has any intention of taking. [Applause.]

Gentlemen, I regret to disagree with the great man at the other end of the Avenue, who by what he is doing now in the world's affairs is writing his name among the immortals. [Applause.] I love him. I have the highest respect for him; the greatest admiration for him. I regret to disagree with the leadership on my side of the House, but may I be permitted to say this, not offensively, that there is no man in Washington to whom any responsibility attaches for my being a Member of this body. The people who are responsible, who sent me here, are the people who are in tremendous distress because of present conditions, a people whose work begins when the first flush of dawn stains the east, and who stop their work only when the stars swing out at night. And as long as I remain here, be it short or long, I shall speak their voice. [Applause.]

This whole tax measure, and especially this provision, is founded on the wrong theory of economics. The ideal tax, of course, is the tax that stays where it is put and can not be passed on to some one else. That tax is very rare, if it exists at all; but the real fundamental theory of taxation is that the burden shall be placed on the shoulders of him best able to bear it. I am fully as much concerned with what I leave a man after we tax him as I am with what we take from him when we do tax him. So far as I am concerned, I refuse to allow the gentleman from Ohio [Mr. BURTON] and the gentleman from Michigan [Mr. FORDNEY] in shedding tears for the man who has \$560,000 net annual income after this tax is levied.

I appeal to the Republican side of the House in particular. If we go back to the country, distressed as it is, with all the uneasy feeling directed toward organized government, inspired and prompted by the deplorable industrial and commercial condition of America, and tell them that we forced the Senate to leave the \$40,000,000 annually with the great wealth of this country that they tried to make them contribute to the general welfare, the casualty list on the Republican side will look like a sanguinary battle. [Applause.]

Mr. GARNER. Mr. Speaker, I yield five minutes to the gentleman from New York [Mr. GRIFFIN].

Mr. GRIFFIN. Mr. Speaker and gentlemen, I opposed the repeal of the excess-profits tax, but, in my opinion, there was less excuse for repealing that tax than there is for the reduction of the maximum surtax to 32 per cent, as proposed by this House. Now, it seems, all that the people are going to get in the way of reform in the revenue act is the modest concession embodied in the amendment of the Senate, providing for a 50 per cent surtax on incomes in excess of \$200,000 per annum.

It is true it will only yield very little in revenue—a trifle like \$90,000,000, as the genial chairman of the committee puts it—but it will come out of the pockets of those best able to bear the impost, and it is much too large a sum to throw away at a time when the country is suffering from the burdens of the war.

It is very amusing to hear gentlemen plaintively complain about the atrocity of imposing taxes upon the poor fellows that have nothing to do except to cut coupons from their bonds and who, notwithstanding their industry, can only earn \$66,000 a year. It is really pathetic. They are certainly entitled to the sympathy of the American people, and I have no doubt they will get it in due course.

The gentleman says we have been indulging in the gentle art of soaking the rich. Ah, gentlemen, they soaked us first; they struck the first blow; and so long as they continue the pleasant pastime of exacting war profits from the American consumer

simple justice demands that they should turn back to the Government a substantial share of their surplus earnings in the way of taxation.

In the preliminary report of personal income-tax returns of the Treasury Department there is a table showing the number of personal income-tax returns made in the various income classes from 1914 to 1919. When we examine this and find that the number of returns for 1919 of those having incomes in excess of \$200,000 per annum only amounted to 1,451 persons we are amazed at the fuss these few individuals have been able to raise, and we are tempted to wonder how they could possibly have enlisted so much sympathy and have drawn so many tears.

The President in his letter says, as nearly as I can quote, that war-time levies in peace-time conditions are penalties on capital. But if war-time profits continue, what defense have the people except to exact war-time taxes? That, I believe, is the answer to the imputation that we are imposing war-time taxes. Let these gentlemen who are reaping immense incomes cease making war-time profits; then they need not worry about the payment of excess-profit taxes or of surtaxes.

I ask you, gentlemen, to look at this schedule impartially. What is the tax proposed? Fifty per cent upon incomes in excess of \$200,000. Should not men who are drawing \$200,000 a year income—three times that of the President of the United States—be willing to yield up 50 per cent of their surplus earnings to the Government that fosters them? [Applause.]

#### APPENDIX.

The following is an abstract from the table referred to (see p. 19 of the preliminary report, Personal Income Tax Returns, published by the Treasury Department in 1921). It shows the number of persons who filed income-tax returns in excess of \$200,000 per annum in the years 1916, 1917, 1918, and 1919. And these are the persons who would be benefited by the House proposal to put the maximum surtax down to 32 per cent:

Income classes.	1916	1917	1918	1919
\$200,000 to \$250,000.....	726	703	401	522
\$250,000 to \$300,000.....	427	342	247	250
\$300,000 to \$400,000.....	469	380	280	285
\$400,000 to \$500,000.....	245	179	122	140
\$500,000 to \$1,500,000.....	376	315	178	189
\$1,000,000 and over.....	206	141	67	65
Total.....	2,449	2,060	1,275	1,451

The SPEAKER pro tempore. The time of the gentleman from New York has expired.

Mr. FORDNEY. Mr. Speaker, I yield five minutes to the gentleman from Iowa [Mr. COLE].

The SPEAKER pro tempore. The gentleman from Iowa is recognized for five minutes.

Mr. COLE of Iowa. Mr. Speaker and gentlemen, the question before the House to-day, I must confess, has perplexed me somewhat. Unfortunately, I find myself in disagreement with my colleagues from my own State, men whom I esteem highly and whose judgment by reason of their longer service in this House may be politically better than my own. But in thus differing with them I assume nothing for myself and I impute nothing to them. I am even more perplexed because my own sense of duty impels me to cast my vote on this measure against the expressed wishes of some of my constituents. But I have faith enough in the independent manhood and womanhood of my district to believe that they will respect me for casting my vote according to my own conscience, even if that can not be in consonance with their views.

I do not believe in excessive taxes levied against any one class of citizens. A man who owns 320 acres of land should not be taxed \$2 an acre, while a "poorer" man who owns 160 acres is taxed only \$1 an acre. I voted for 32 per cent surtaxes in the House bill, and I am now willing to accept the President's suggestion of 40 per cent as a compromise between the two Houses. I can not vote for 50 per cent, for I think it is too high. When to this we add the 8 per cent normal tax on such incomes, we have a total of 58 per cent. That is, the Government will take three-fifths of certain incomes.

If I believed in this principle of taxation, I would not stop at 58 per cent, but I would exercise the courage of my convictions and follow Lenin and Trotsky, who, proceeding along the same lines, have taken 100 per cent and have confiscated the principal to boot. In Russia they have eliminated capital and probably exterminated most of the capitalists, and only God in heaven, who sees all things, knows what they have done to



the rest of the people. All that we know is that "capitalistic" America is now feeding soviet Russia.

I think overtaxation of capital is an unwise policy, for it may increase interest rates and hamper industry, thus affecting farmers' mortgages and the wages of laboring men. But I do not base my own opposition to this proposition on mere policy. With me it is a matter of principle and conviction.

About the only reason I have for speaking to-day is the fact that I am playing a lone hand here, all my Iowa colleagues being in favor of the resolution. It is therefore not an intrusion for me to state my reasons for being in this position in this controversy. In my brief midsummer campaign I announced repeatedly that if elected I would vote for the repeal of all the transportation taxes, the repeal of the nuisance taxes, and the repeal of all excessive war taxes, which included both the excess-profits taxes and the higher surtaxes. In voting, as I shall to-day, I am therefore not only true to my own convictions but to the promises which I consider I made as a candidate.

In discussing this question I realize that all matters of taxation are still somewhat chaotic. We have emerged from a great war. We find industries depressed, finances dislocated, and, worst of all, agricultural prices reduced to the lowest point in a generation. We find also millions of men out of work and without wages. In the face of these conditions we are called upon to levy over \$4,000,000,000 in taxes. We have no choice. This House and this Congress are helpless. The taxes must be levied and they must be collected if this Government would go on, repudiating none of its obligations and tarnishing none of its honor. It is not for us to choose; it is for us to do the things that are required.

And we must transact this business somewhat in haste and in the realization that we can not find, as there never has been found, a wholly scientific basis for levying taxes. We can not postpone this work to find that desirable basis. Nor do I hope that we shall ever find it. On the contrary, we shall always be more or less constrained to violate economic laws as long as we who levy these taxes will be more or less swayed by public sentiment. Political considerations, all of us here realize, enter largely, and economic ones often very meagerly. May I express it more plainly by saying that we here feel a somewhat general desire to exempt those classes which cast the most votes. This evil, and it is an evil, is inherent in our political system, and none of us can pretend that it does not exist or that it does not influence us. But, swayed as we must be by these influences, at least let us not seek to array one class against another at a time when we need nothing so much as the cooperation of all the people in the restoration of our country and of the world in the work of restoring normal conditions.

I want to congratulate the Congress and the people on the fact that we have come into agreement to repeal all the taxes on freight rates and passenger fares, and also to repeal the bulk of the petty taxes on purchases made by the people, taxes that were so annoying that they have generally been designated as "nuisances." I am still more glad that we have had the courage to repeal the excess-profits taxes. These taxes should have been repealed as soon as the war was over. They could be excused only by the necessity of war. It would have been better if the Government had prohibited all excess profits instead of thus sharing in them. I need not restate now or here that those taxes were made the excuse and the screen for profiteering all along the lines from the manufacturers to the ultimate consumers.

So far as the higher surtaxes, which we now have under consideration, are concerned, there seems to me to be no more justification for their retention than for keeping the excess-profits taxes on the statute books. There are various reasons, or at least excuses, given for retaining them, the principal one of which seems to be the theory that these taxes are paid wholly by the rich. In vulgar political parlance, we are invited "to soak the rich." And one man in absent-minded seriousness told me the other day that he felt free to vote to increase these taxes to 50 per cent or even to 65 per cent, as they now stand, because it would affect so few people in his district. What I thought of his state of political morals I did not at that time express, lest he might mistake my mildest words for forms of violent profanity. But he was in error. Such taxes do affect the people of his State. I know that they affect the people of my district, because they must eventually increase interest rates and hamper the industrial activities without which we can have no restored prosperity and no higher prices for the products of our farms. This thought has been well expressed by one of the newspapers in my district, the Marshalltown Times-Republican, a paper edited by a man who is known

in Iowa as a superprogressive. Protesting the Senate's increases, he said:

The rich man with the fat income will either call in his money and force every farmer to pay or he will have to boost a 6 per cent rate to 8 per cent, in order to pay his income tax. The rich will refuse to be soaked, but men will remain idle because money costs 10 per cent for industrial enterprises and farmers will be refused renewals on their mortgage loans, because it would require 9 per cent interest. \* \* \* To yield \* \* \* as much net income as tax-free bonds. \* \* \* The foolish \* \* \* may think that they are making solid with the farmer vote, but in fact they are soaking the farmer for higher interest rates. \* \* \* The Senators are foreclosing on all farm borrowers. \* \* \* Instead of soaking the rich the farmer friends in the Senate have written the tax bill that will continue to soak the farmer.

In my State least of all should there be a desire to "soak" anyone through this tax bill. On behalf of my constituents I want to thank this Congress, and especially this House, for the kind consideration they have given to the people of the agricultural sections of the country, where the present depression has wrought its greatest havoc. I think we have tempered the wind to the shorn lamb.

The charge so frequently made that we have shifted the tax burdens from the rich to the poor is wholly false. The truth is, we have largely exempted the average man. He will pay no tax at all on the first \$3,700 of income, and by the average man I mean one who is married and who has three dependent on him.

In my State very few under present income conditions will be called upon to pay any part of these Federal taxes which we are levying. Even in the high tide of 1919 the people of Iowa were called upon to pay less than sixteen millions in income taxes and surtaxes. This year it is estimated they will not pay more than five or six millions in such taxes. When we compare this with the four billions total we realize how lightly the burden rests on us. And of that five or six millions we are going to get two millions back for the improvement of our roads.

Having fared so well under this bill, I think that we who represent the State of Iowa in this Congress are well prepared to justify our acts. And having fared so well ourselves, why should we now seek to continue these excessive surtaxes against the constituents of other Members of this House? Surely, it is not true that when as a party we promised to eliminate all excessive taxes that we did it with mental reservations and did not intend to include in these acts of justice those among us who have more than others.

I am not unmindful of the fact that we in Iowa, and in the Middle West generally, hold some grievances against capital, and that rightly. During the boom years of 1919 and part of 1920 the Federal Reserve banks loaned millions to our banks in a process of inflation, a process that spread financial debauchery. Under its spell we all turned speculators. We invested hundreds of millions in promoters' stocks. We financed packing houses and tire and even airplane factories that never existed outside of the minds of the promoters. We boosted land values to five and even six hundred dollars an acre. We sowed the wind in those years, and in the years that are still upon us we are reaping the whirlwind. And then the financial powers that be determined on a policy of deflation. They curtailed loans and they called in those that were outstanding. They raised the interest rates. They treated us after the manner of the robbers who overtook a good man on his way to Jericho. We believe that these processes of deflation were too drastic and that they largely contributed to our present distress. We think we know that the banking powers loaned more to gamblers in Wall Street than they did to men who were raising the corn and feeding the cattle on a thousand hills. They called loans to gamblers "liquid," because they renewed them from day to day, and they called the loans to farmers and cattlemen "frozen," because in these transactions time is the essence of the contract. That kind of Federal financing, together with excessive railroad rates, brought on my State more than the half of the people's distress.

But we shall not now help our State by retaliating on capital in kind. We might make matters worse and not better. We must not emulate that medieval people who, on account of a mistake made by a doctor, proceeded to kill all the doctors among them—and then the plague came and killed all the people. We still need capital to carry on our business and we should not make it dearer but cheaper. In levying such taxes we must bear in mind that the lender is better able to take care of himself than the borrower. To punish the lender may mean two punishments for the borrower.

I almost fear that this wave of "insurgency," this hostility to capital, is on the part of many an unconscious acceptance of the tenets of the soviet. In times of distress we are apt to lay

the blame where it does not belong and to apply the remedy where it effects no cure. This is not the first period of distress nor is it the first time that men have followed some unscientific or at least economically unsound short cut back to prosperity. The delusions that have grown out of distress have been many. It was in Iowa that greenbackism found its greatest exponent in the person of the late Gen. James B. Weaver. But great as was his leadership, I am glad to say my State did not succumb to the pernicious theory that debts can be paid by printing promises on pieces of paper. In the wake of this fiat money delusion came Populism, and in 1896 there was a new outbreak and a more virulent one of the same disease in the form of free silver. In the beginning of that hysteria many politicians in their subservience sat astride a horse which they called Bimetallism. Let it be hoped that the lessons of history will not be forgotten. And however great our distress, let us seek no false ways out of it. Let us lay the new foundation in the eternal truth of morals and economic law. The basic fact is that it is by labor and by thrift that we must bring back what we have lost in the World War. The easiest and the surest way out is the right way.

In speaking after this manner, and casting my vote as I shall do in a few moments, I do not believe that I am misrepresenting either my district or my State. I think that I know Iowa and her people, that I can interpret them correctly, and sense and express those aspirations which are higher than mere political expediency. I have lived all my life among her people, and they are a people whom I love and whom I would serve honestly and well. I have never spoken nor written a word against my State nor against her people, and I think that I am speaking for that State and that people on this floor to-day. I say this in no spirit of self-praise, but only in justification of the position which my conscience compels me to take in this debate.

It was President Garfield who said, in the memorable convention of 1880, that all heights and depths must be measured not from the crests of the waves tossed in storm, but from the calm of the great ocean. The storms of the war are still beating upon the seven seas of the world. All nations and peoples are still engulfed in the trough of a perturbed sea.

Let us hold steady the boat on which we are embarked. Let us pray. Let us hope. The golden age is not behind us. It is still before us. Let us believe that we shall not have much farther to go to enter its dawn. To-morrow we may wonder why we were so depressed yesterday. Let us see to it that the memories of that to-morrow shall not be marred by any false moves we make to-day.

Let us see to it that the foundations of the new prosperity and the new era are laid not on the sands, but on the rocks. Let us be right, and go right, even if the way may seem a little longer and a little harder now. In this era no class hatreds should be enacted into laws. Let us bear and forbear. Let us give and forgive, doing justice, loving mercy, and walking humbly with our God, according to the immortal prescription for well-doing and well-being laid down by the old prophet Micah.

And here in Washington we have a man fit to lead us through these troubled times. He is not a perturbed helmsman, but a calm one. He beats no passions into tatters, and he repeats no mere vain words. He makes no promises that he does not believe can have fulfillment. He is sympathizing with us on the farms, and he would help those who are in distress in the great cities. As the responsible head of this Government, over his own signature, he has asked us to support the proposed compromise of 40 per cent, although he himself would prefer to have these taxes left at 32 per cent. Let us uphold his hands, and by our votes sustain him in his leadership. He is now seeking to compose the differences among the great nations of the world. Surely we owe it to him that we shall compose our petty domestic differences here in the Congress.

Gentlemen, I beg of you, do not by your votes continue any of the old class hatreds in the legislation of this new era, this era which is to be dedicated to peace and to good will among all men.

The SPEAKER pro tempore. The time of the gentleman from Iowa has expired.

Mr. FORDNEY. Mr. Speaker, I yield five minutes to the gentleman from New Jersey [Mr. PARKER].

The SPEAKER pro tempore. The gentleman from New Jersey is recognized for five minutes.

Mr. PARKER of New Jersey. Mr. Speaker, excessive surtaxes, I might almost say surtaxes as a whole, are a device to prevent capital from being used at low rates of interest for the assistance of the people and the assistance of the Government, and to force capital either to be put in dead investments, which

show no income, or to be used in investments which grant excessive incomes.

Take the extreme case of a fortune of \$20,000,000, and suppose, as such fortunes are now being conservatively invested or were conservatively invested, that they would bring in only 5 per cent, or \$1,000,000 a year. Ask the man possessed of such a fortune to lend to the farmer to promote farming at 6 per cent and tell him that he must give up half of the 6 per cent he will receive, and he will say, "I can get more upon Government bonds at 3½ per cent. I can get 5 per cent from the municipalities. I can get over 5 per cent from farm loans under the Government. I can get more by putting it in a coal mine that is not developed and pay taxes until it is developed and brings in money." Ask him to invest in railroads to carry on transportation and employ men. Ask him to help a mill owner who employs workmen. Ask him to take shares of stock in a bank which will make only a fair profit and which will lend to the community when it wants to move its crops. Ask him to take Government bonds which have been sold at 4½ and which he can buy at a discount but which are subject to a surtax. Ask him to help the Government in a new funding of bonds, and he says, "In order to get a fair return I must take municipal bonds, which will pay me 5 per cent net, and thus encourage the cities and towns in all sorts of extravagances while the mills and the transportation and exchange and the holding of crops and the loans to the farmer must stop because capital is not allowed to do business at a low rate of return."

Now, this is not a small question. Large estates all over the country held by executors and trustees must invest in trust securities at a reasonably low rate of interest, and they must invest as best they can for the persons they serve. They will never invest in such securities as only give them an income subject to high taxation—

Mr. STEVENSON. Will the gentleman yield?

Mr. PARKER of New Jersey. I have only five minutes.

Mr. STEVENSON. I simply wanted to ask the gentleman if it is not a fact that since the Senate fixed the rate at 50 per cent the 4½ per cent Government bonds have appreciated from 87 to 94?

Mr. PARKER of New Jersey. I do not know; but I know that the Government will want to sell some foreign bonds if they settle with foreign countries, and that the interest rate on bonds of every country has gone up to 7 or 8 per cent. America can not do business in that way for the people or for the Government. [Applause.]

Mr. FORDNEY. Mr. Speaker, I yield five minutes to the gentleman from Indiana [Mr. WOOD].

Mr. WOOD of Indiana. Mr. Speaker and gentlemen of the House, I can not agree with gentlemen who think that the best interests of this country can be subserved by placing the tax under consideration at 50 per cent. I know the very serious condition that is prevailing throughout the land. I am only speaking the truth when I say that the people of this country employed in every vocation and in every character of business are giving this Congress hell. They are doing it because we have done nothing to stimulate business. They are doing it because we have done nothing to give employment to the unemployed. They are doing it because we have done nothing to benefit the farmer and stimulate the price of the farmer's products.

What are we going to do if we keep pyramiding taxes on wealth in the way of furnishing relief for all these different classes of distress? If we could give employment to-day to the unemployed in this country, we would furnish a very fair market for the overproduction of the farmers of this country. For the life of me I can not understand why it is that gentlemen coming from the Middle West, who are crying out because of the fact that they are receiving such small prices for the products of the soil, should try to destroy the very business which would alleviate and relieve that condition. We all know that the best market in the world is the home market; we all know that our country is in the happiest condition when the factories are going all the time. Build the fires in the furnaces of the land; it will give employment to idle hands, and through this means you are making the best market for the products of the farmers in this country. It passes my understanding, unless it be because, forsooth, for a number of years it seems to have been popular to jump on the men who by reason of their ingenuity and by reason of their thrift and desire to save—that they should be crucified on the cross of public opinion. If it were not for wealth, we would not have the glorious country we have to-day. If it were not for wealth, some of these gentlemen crying against this tax would be coming to Washington afoot or else in the old stage coach. Railroads never would have been built across the plains or over the mountains had it not been



for wealth; we would have none of the great industrial corporations giving employment to millions of men and women that we now have if it were not for wealth.

I hold no brief for these possessors of wealth, but I do know that it is by investment of capital that nations are built; that by reason of the investment of capital men and women are given the opportunity to better their condition and secure to them the enjoyments of life. I do know by my observation, which everybody knows, that by reason of the destruction of capital in the distressed countries over the seas the greatest suffering and the greatest misery is now extant ever known in the history of the world. Has it become popular for us to imitate their example? Can we better the condition of our people by destroying our industrial institutions? The bolshevik believes that the factories should be razed to the ground. Are we to destroy them by taxing them to death? I say that if we are to progress and if the best interests of our people are to be conserved, the time has come when we should stand here as defenders of honestly acquired and invested wealth instead of trying to kill it. [Applause.]

Mr. FORDNEY. Mr. Speaker, I yield five minutes to the gentleman from Illinois [Mr. MADDEN].

Mr. MADDEN. Mr. Speaker, Congress can levy a high rate of taxes on the individual, but there is no power of the Government to compel the man to work and earn it. We must remember this, that if you can not compel a man to earn the tax he will not have the money to pay it. So the mere fact that we fix a high rate of taxation does not add to the income of the Government. Everybody now realizes that the Government is a partner in every business in the country. It is in partnership with every man who has an income of over \$2,000 a year, and the purpose of the Government should be to tax as little of the earnings of its working partners as is necessary.

My contention is where the tax is high the man who may be called upon to pay it will not work to earn it, and there is no law that can compel him to do so. I further contend that with a 25 per cent rate, in the long run, the Government will receive more income than it will from a 50 per cent rate, because it will not induce the people who earn the money to pay the tax to slack up when they reach a certain stage of income. As it is to-day, after men who are in the industries of the country reach a certain stage of earning they stop. Why do they stop? Because they find it is no use for them to continue, for they will receive no part of the increased earnings. You may say that that is not patriotic. What is patriotism? Why did we make a high rate of surtax in the first instance? We made it because we were in the war and because they who were doing the work were charging excessive prices for the work that they did.

We knew there was no means by which we could compel them to do the work at a reasonable rate, and the only way we could level up was to take away from them in taxation the money they earned in excess of what they ought to receive. But that time is passed. We are here now to stabilize the Nation, to encourage everybody in the life of the Nation to do what is necessary to be done to create employment, to develop industry, to extend new enterprises. When you fix a 50 per cent tax rate you create stagnation, you create high prices, you keep the living costs higher than they ought to be, and our purpose now should be to bring levels down instead of keeping them up. I hope this House will have wisdom enough when the vote is taken to decide to adopt the House rate of 32 per cent in surtaxes instead of 50 per cent, as provided in the Senate bill.

One more thing we must remember, and that is this: The President of the United States and the Republican Party are committed to a reduction of taxation. The President has said that he favors a 32 per cent rate. He is the head of the Government, the head of our party, and do not let the Democrats divert you from the main purpose. [Applause on the Republican side.]

The SPEAKER pro tempore. The time of the gentleman from Illinois has expired.

Mr. FORDNEY. Mr. Speaker, I yield five minutes to the gentleman from Indiana [Mr. SANDERS].

Mr. SANDERS of Indiana. Mr. Speaker, the gentleman from Nebraska [Mr. REAVIS], if I were permitted to use superlatives, might be said to be the most eloquent man and the most convincing speaker in this body. The 10-minute speech which he delivered a few moments ago in favor of this resolution was very eloquent and very convincing, but he was inaccurate in his statement in respect to the action of the Senate. The gentleman from Nebraska stated that the Senate, when the bill was passed, did not disagree, but merely asked for a conference, and that such course was an unusual one. I have referred to

the 1917 and the 1918 tax bill debates, and I find that the following was the language used in 1918:

Mr. SIMMONS. I move that the Senate request a conference with the House on the bill and amendments, and that the Chair appoint the conferees upon the part of the Senate.

The 1917 action of the Senate was precisely the same. The action of the Senate with reference to the pending measure was as follows:

Mr. PENROSE. Mr. President, I move that the Senate insist upon its amendments and request a conference with the House.

Of course, there was nothing in the Senate for the Senate to disagree to, because it was a House bill and the Senate has put on these amendments and asked for a conference.

I hope that this House will not strike the blow at the industries of this country which will be struck if we vote for a 58 per cent surtax. There is no use disguising the fact that under the present system in this country the new industries that are opened up, the additions that are made to the present industries, depend upon the flow of capital into those industries, and there is no use disguising the fact that when we put a surtax of 58 per cent upon a great bulk of the income of this country it means that capital will not flow into those industries, but to a large extent will flow into tax-exempt securities. This will be the greatest blow to opening up industries and providing employment which can be imagined.

Mr. ROSENBLOOM. Mr. Speaker, will the gentleman yield?

Mr. SANDERS of Indiana. No; I can not yield. It is said on this floor that the tax-exempt securities are exhausted, and hence no more money will flow into those securities. Such a fallacy of argument! When we open this great flood of money into the tax-exempt securities, we issue a continuing invitation to the municipalities of the country to keep issuing more securities, piling up greater burdens of taxes on the different localities, and, finding a ready market in the situation we are perpetuating, new securities will be issued from time to time. This will mean that new industries—and I am speaking now of private industries—under private management will be crippled in exactly the extent to which these municipalities issue new bonds.

Mr. LITTLE. Mr. Speaker, will the gentleman yield?

Mr. SANDERS of Indiana. No. It is stated by some one that we ought to control this question of tax-free securities by legislation taxing them. That can not be done. The Constitution of the United States does not permit us to tax municipal securities. It is contended by my friend from Kansas [Mr. LITTLE], who wanted me to yield—I suppose to make that point—that municipal securities sold in other States are sometimes taxable. To be sure that is true, but the men of wealth in Pennsylvania who have money to invest can invest in Philadelphia securities, the men in Illinois who have wealth to invest can invest in Chicago securities, and the men in New York can invest in New York securities, and so on in all our municipalities. In our vote to-day let us lend our aid to the reconstruction and rehabilitation of our country.

Mr. LITTLE. That was not the question that I was going to ask.

Mr. SANDERS of Indiana. Mr. Speaker, if the gentleman has something else on his mind, I shall be glad to yield.

Mr. LITTLE. I want to ask the gentleman if the interest rate has not fallen in the last few weeks. Is money cheaper or dearer?

Mr. SANDERS of Indiana. Money is cheaper.

Mr. LITTLE. Then, what are you kicking about?

Mr. SANDERS of Indiana. Mr. Speaker, that has about as much to do with this question as the question in respect to municipal securities which the gentleman raised.

Mr. BURTON. Mr. Speaker, I ask unanimous consent to extend my remarks in the Record.

The SPEAKER pro tempore. Is there objection?

There was no objection.

Mr. FREAR. Mr. Speaker, I yield five minutes to the gentleman from California [Mr. LINEBERGER].

Mr. LINEBERGER. Mr. Speaker and gentlemen of the House, I regret exceedingly that I can not follow the distinguished chairman of the Committee on Ways and Means [Mr. FORDNEY] in the matter now before the House. I regret even more that I can not follow that distinguished leader, not only of the Republican Party, but the Chief Executive of this great Nation, whose Capital to-day, because of him and because of the great events that are transpiring here, is the capital of the world. However much my desire personally might be to accede to the request of the President, and I would like to do so, did my conscientious convictions permit, I, like the distinguished gentleman from Nebraska [Mr. REAVIS], believe that my first duty is to my constituents. As he has very aptly put it, there is no man in Washington, unless he be some

constituent temporarily here, who is to any great extent responsible for the election of any Member in this House; those whom we serve and to whom we owe our highest allegiance are the folks back home in the far-flung constituencies throughout the Nation. After all, is it not possible that our President, in this instance at least, may have been misadvised? I for one feel that he has, and our Republican Senate evidently thinks so.

In the last analysis we must go back to those same constituents less than a year and a half hence and receive a new commission. Perhaps in my district, which happens to be one of the most salubrious in climate, as well as one of the most important financially and industrially speaking in the United States, there is as much concentrated wealth as in any other district in the United States. There are approximately 1,100 men in the country, so I am reliably informed, affected by this increase of from 32 per cent to 50 per cent. That would mean an average of less than three men in each congressional district in the United States. Upon information received from California recently I am informed that there are at least a dozen people living in my district who have incomes in excess of \$200,000 per year. I have taken it upon myself to get the pulse of my district, and I want to assure you that the people of wealth of southern California, the men and women who live in my district, are not adverse in any sense whatever to bearing their just burden of taxation, and I am intensely proud of their attitude in this matter. [Applause.] Great stress has been laid upon the increase from 32 to 50 per cent. No Member has taken the opportunity, however, to observe that the 50 per cent adopted by a Republican Senate is a ratio decrease of 25 per cent from the 65 per cent now prevailing. The difference in revenue, in round numbers, between the 40 per cent proposed by Mr. FORDNEY and the 50 per cent adopted by the Senate, I am further informed would amount to about \$40,000,000 per year, which is 1 per cent of the \$4,000,000,000 which this country must raise in order to meet its current expenditures. There is no question in my mind of the equity of the principle that men should pay in proportion to their ability. All income from whatever source derived is derived in the last analysis from the body politic, and if this money does not come from one source, it must come from another within that body. Due to unusual conditions which prevailed as an incident of our participation in the Great War, it was in the very nature of things that certain gentlemen participating as they did in patriotic efforts along industrial lines in that war should have incidentally created great fortunes. Those men, I believe if it were possible to take a poll of their true sentiments, are willing to pay their just burden of taxation. Perhaps the President might have been urged by our good and genial friend Mr. FORDNEY, and I know whereof I speak, to a point where a refusal to accede to his request would have been embarrassing.

I have no doubt that the President's interest was aroused by Mr. FORDNEY, but had he been as deeply interested in this matter as his belated letter, written, mind you, only yesterday afternoon at the urgent request of our beloved friend FORDNEY, might seem to indicate, he would also have brought pressure to bear at the other end of the Capitol, to wit, on the Senate, which is at least half of Congress. No, friends, our President does not do things by halves when he is deeply and vitally interested, and Mr. FORDNEY knows it.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. LINEBERGER. Will the gentleman yield me one minute more?

Mr. FREAR. I yield the gentleman one additional minute.

Mr. LINEBERGER. Mr. Speaker, we are placed in the peculiar position of forcing the Senate to recede on an amendment, thereby placing ourselves in a more reactionary or conservative position than the Senate itself. Shades of the past rise to counsel caution. This is not the first time that such a situation has arisen in this House. Many of you will recall when the upper body put in \$50 a month in the Sweet bill for the totally helpless disabled men and that the House conferees forced the Senate to recede and put in \$20 per month, a lesser amount; and I for one shall not impede progress any more now than I did then and place myself in the position of refusing to sustain the upper body whenever it shows a disposition toward liberalism and fair-mindedness. It is a rare opportunity to vote with the majority of my party in the Senate and at the same time to vote for the 50 per cent clause, which I feel the country desires, and I shall take great pleasure in doing so. [Applause.]

The SPEAKER pro tempore. The time of the gentleman has again expired.

Mr. FORDNEY. Mr. Chairman, I yield five minutes to the gentleman from New Hampshire [Mr. BURROUGHS].

Mr. BURROUGHS. Mr. Speaker, I realize that it is a most difficult thing at any time to impose taxes sufficient to raise revenue amounting to the enormous sum of \$4,000,000,000 necessary to run this Government for the next year, and probably for several years to come, and give general satisfaction to the people. It is a difficult proposition, I say, at the best; but it is our duty to do it as best we can. Now, I am one of those, Mr. Speaker, who believe that in the performance of this duty and in the performance of all duties incumbent upon us at this time, we should not lose sight of the fact for one minute that the public welfare requires, yes, demands of us, that we keep in view all the time the great and urgent necessity of a revival of the industries of the country now unhappily languishing and dormant everywhere. I am one of those, Mr. Speaker, who believe that whatever we do here there are some things that we should not do here. We certainly should not do anything that will tend to kill initiative and cripple industry, that will tend to discourage enterprise and thrift, so necessary to the revival of industry, that will tend inevitably to put a damper upon every form of industrial activity in the country. Now, Mr. Speaker, the imposition of a 58 per cent tax, for that is what this is, upon the larger incomes of this country in a time of peace will do exactly that thing. You are flying in the face of the law of diminishing returns. It can not be otherwise. Talk about the selfishness of capital in seeking tax-exempt securities, why, it is nothing but human nature; it is nothing more than any sane man would do. You have \$15,000,000,000 of these tax-exempt securities, and there is no way under heaven that you can get rid of them or tax them without a constitutional amendment. Do you not suppose that people with large incomes are going to invest their money where they are going to get the best return for it? Is not that what everybody does? That is all this means. It is the only course that capital will ever take in the investment of its funds. And we must remember, too, as the gentleman from Ohio so well said, that we should face facts here. It is facts that we are interested in and not theory.

Now, the fact is that we have these \$15,000,000,000 of tax-exempt securities and more of them being issued every day. To urge these high rates—higher than those imposed by any other Government in the world—with the idea of obtaining a larger revenue from them, while this avenue of escape is left open, is to my mind little less than nonsense. It sounds to me like pure "bunk."

The fact is that the men with larger incomes are to-day investing in these securities instead of in productive enterprises, and the revenue of the Government is materially decreasing on that account. It is as certain as that two and two make four that these people will continue to do this very thing rather than take the risk of business losses when they know that in the event of success they must pay 58 per cent of their profits to the Federal Government for taxes. We face the fact that industry is languishing all over the country to-day. New enterprises are not being undertaken. Many industries long since established are shutting down or substantially curtailing production. From all sides we hear of the millions of unemployed.

Why, then, in the face of these facts do we continue in peace times a policy that can be justified only to meet the gravest exigencies of war? Do you not know that if there is to be a revival of industrial activity, if there is to be a stimulation of business and encouragement for people of means to embark in new enterprises, you must have the confidence and support of the very people you are striking at by continuing these huge war surtaxes?

Chief Justice Marshall once said:

The power to tax is the power to destroy.

Let us see to it that by the important action we take to-day we do not hamstring and cripple and destroy the industrial activity upon which the prosperity of the country so largely depends. [Applause.]

Mr. UNDERHILL. Mr. Speaker, I ask unanimous consent to revise and extend my remarks.

The SPEAKER pro tempore. Is there objection? [After a pause.] The Chair hears none.

Mr. FORDNEY. Mr. Speaker, I yield five minutes to the gentleman from New York [Mr. DEMPSEY].

Mr. HARDY of Texas. Mr. Speaker, I ask unanimous consent to extend my remarks in the Record.

The SPEAKER pro tempore. The gentleman from Texas asks unanimous consent to extend his remarks in the Record. Is there objection?

There was no objection.



Mr. MADDEN. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD.

Mr. FORDNEY. Mr. Speaker, I ask unanimous consent that all Members may extend their remarks on this resolution for five legislative days.

The SPEAKER pro tempore. The gentleman from Michigan asks unanimous consent that all Members may have leave to extend their remarks on the pending resolution for five legislative days. Is there objection?

Mr. WINGO. I regret to object, Mr. Speaker.

The SPEAKER pro tempore. The gentleman from Illinois [Mr. MADDEN] asks unanimous consent to extend his remarks in the RECORD. Is there objection? [After a pause.] The Chair hears none.

Mr. FREAR. Mr. Speaker, I make the same request.

The SPEAKER pro tempore. The gentleman from Wisconsin makes the same request. Is there objection? [After a pause.] The Chair hears none.

(By unanimous consent Mr. J. M. NELSON, Mr. OSBORNE, Mr. SANDERS of Indiana, Mr. KELLER, Mr. STEENSON, and Mr. SCHALL were granted leave to extend their remarks in the RECORD.)

The SPEAKER pro tempore. The gentleman from Michigan [Mr. FORDNEY] yields five minutes to the gentleman from New York [Mr. DEMPSEY].

Mr. DEMPSEY. Mr. Speaker and gentlemen, the gentleman from Nebraska [Mr. REAVIS] said that for the first time in his observation the House in contrast with the Senate had become the conservative instead of the radical body. Much as I admire the gentleman from Nebraska, I beg leave to differ with him. For years past the tendency in the House has been to be conservative about all matters of expenditures, to be economical, to be careful, as contrasted with the position of the Senate. For years the House has been equally conservative in matters of taxation.

The gentleman from Nebraska says next that he believes we will not obtain as much revenue from 40 per cent as we will from 50 per cent. And in that the gentleman says that he differs with the chairman of the Ways and Means Committee and with the President.

In war the safety of this Republic was the courage, the valor of those who represented us on the field of battle. In business the success of this great Republic depends not upon its accumulated wealth, not upon the amount of money which we have on hand to-day, not upon those who are rich as of this date, but its success and its glory and its progress depend upon the energy and the enterprise and the brains and the progressiveness of its business men, of its farmers, of its laborers, and of its mechanics. In the business world you can only have prosperity by inspiring confidence. You can only have confidence when you invite a man to expend his energies, by saying to him that he will have a reasonable part of that which he earns for himself. Otherwise there is wanting the incentive to endeavor.

Are you satisfied with present conditions? Are you satisfied with labor out of employment? Are you satisfied with the factory wheels stilled? Are you satisfied to go on as you are to-day?

The arguments of those who advocate 50 per cent are directed at extracting taxes from wealth which has accumulated. They are not directed toward increasing production, toward stimulating endeavor, toward resuming normal activity, and we say to the world that the Republican members of the Ways and Means Committee, we say to the world that the Republican leadership of the House, we say to the world that the great Executive, a Republican, at the other end of the Avenue, believe that by stimulating endeavor, believe that by holding out to the individual the belief that he can have a reasonable opportunity to save from that which he earns, we will stimulate business in the United States, we will resume normal conditions, we will enter upon a course of prosperity such as this Nation, the greatest in wealth of any nation in the world, has never before in its history witnessed.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. FORDNEY. Mr. Speaker, I yield three minutes to the gentleman from Maryland [Mr. HILL].

Mr. HILL. Mr. Speaker and gentlemen of the House, I come from a district which is mostly made up of men who have incomes that will not be affected by the surtax. I come from a district which has not for many years sent to this House a Republican Member, and upon my vote here, and perhaps upon this particular vote, may depend the retention or loss of my seat in this House. [Applause on the Democratic side.]

I hear the applause on the Democratic side, and I understand it, because I recall that quite recently a Democratic gen-

tleman put in a resolution to fire from the House all those of us who hold commissions as reserve officers in the Army. So I am not surprised. [Applause on the Republican side.]

Mr. STEVENSON. Did not the returns of the last election indicate that the gentleman would not get back here?

Mr. HILL. No; Baltimore last week beat mostly prohibitionists.

I think the time has come for all gentlemen on this side of the House to follow the Republican President and stand by the Republican Party organization on such expert matters as revenue. [Applause.] I say—and I rise only for this purpose—that coming from a district that is not producing many rich men, and coming from a district from which I have been flooded by propaganda on behalf of those who favor tying up the hands of the conference committee, I rise against this resolution. The President of the United States, to whom the people of this Nation in no unmistakable terms gave the responsibility of guiding the Nation's financial policy, writes to the chairman of this committee and says:

Where there is so wide a difference in the judgment of the two Houses, I have thought it might be possible and wholly desirable to reach an equitable compromise, say a maximum surtax levy of 40 per cent. This would put the higher Federal tax on incomes at a total of 48 per cent, which would measurably meet the expectation of those who are, above all else, concerned with the return of hopeful investments of capital—

And so forth.

Baltimore and my district want a prompt resumption of business. We want to get rid of war-time taxes. The President should be supported in that position. And so, in spite of the fact that I have been deluged by ill-considered propaganda in favor of this resolution, I say to the Members of this House, and especially to the members of my own party, that the time has come for us to say whether we stand by the Republican President or whether we stand by the gentlemen on the other side of the House. [Applause.]

Mr. FREAR. Mr. Speaker, I yield 10 minutes to the gentleman from Ohio [Mr. BEGG].

Mr. BEGG. Mr. Speaker and gentlemen of the House, this situation that confronts us to-day is not to our liking, I assure you, but I disclaim all responsibility for it. That can only rest upon those responsible for bringing the President into legislative contests. I find myself in the position of abrogating my better judgment or parting company with some of the men on my side. I may be wrong in my conclusions, but I am honestly wrong if I am, and so long as I see any proposition in such a way as to believe I am right, I say to you men that that is the side I am going to stand upon. [Applause.]

Now, just what is the situation? We have an income tax, a surtax, of 65 per cent on the statute books. If there were no income tax on the statute books, you could not muster 10 per cent of this House to write one of 25 per cent. But there is one of 65 per cent. And the leadership in my party have seen wise to reduce that 65 per cent by 50 per cent, or cut it more than half in two.

The reduction, as estimated by the gentleman from Michigan [Mr. FORDNEY], will take off of the men with the income of over \$200,000 the sum of \$40,000,000 in taxes. Now, I want to ask you men who are trying to vote your convictions, I want to ask my colleague from Ohio [Mr. LONGWORTH], who, I understand, is going to close for the other side, where will you get your \$40,000,000 which you are trying to remove from the big incomes? You are not cutting it out of the expenses of the Government. The actual cost of running this Government will be between \$4,000,000,000 and \$5,000,000,000 for the next decade, and your saving in the operations of the Government will not permit taking it off of a man with an income of over \$200,000 without adding it on somewhere else. Where are you going to put it? You must have the money. You will either have to issue bonds to make up the deficit or you will collect the taxes. I am saying that you will collect the taxes, and you will collect them from the men with incomes under \$200,000. If you want to go before the country with that kind of a proposition, you are welcome to do it. I say to you that there are not 10 men with an income of \$200,000 in the thirteenth congressional district of Ohio, but there are 200,000 with incomes under that amount? Shall I represent the few or the masses? We have some of the biggest industries in the United States, and the argument which they are parading, that business will not run and is staggering to-day because eleven hundred men might have to pay 50 per cent of their income, is the biggest fallacy that was ever uttered on this floor. [Applause.] I say to you that will not open up business. Ninety-nine per cent of the business in Ohio—I can not speak for business in other States—but 99 per cent of the business in Ohio is corporate business, and corporate business is owned and controlled by men with incomes of less

than \$200,000. They will continue to operate, whether the few men with \$200,000 incomes are taxed or not. However, if the man with the small income is compelled to bear the greater burden of taxation, then and then alone you will hamper prosperity and the return of the much desired condition of normalcy. Your plan leaves the tax of the average man as it is now and does not reduce them one cent, but does cut in half that of the man with an income of over \$200,000. When the Republican Party pledged to reduce taxes I thought it meant to reduce the taxes of everyone and had no idea that it meant only those with incomes over \$200,000. I want to keep my pledge to the people of my district and reduce the taxes of all the people in the same ratio.

Mr. MILLS. Mr. Speaker, will the gentleman yield?

Mr. BEGG. I yield to the gentleman.

Mr. MILLS. I would like to ask the gentleman if his argument would lead one to the conclusion that business men under this bill will have to incorporate in order to protect themselves from exorbitant individual rates?

Mr. BEGG. I will answer the gentleman's question and say no. Here is the proposition of the gentleman: This is an individual income tax. This is not a corporate tax; and as to the cry about the man who is taxed 50 per cent of his income—God bless you, what if he is—he is only taxed as others are. Who contracted the debt? The debt was contracted in this country by the whole people, and the debt was a mortgage on the entire wealth of the Nation, and if a man gets a private income of \$200,000 he has the bigger claim to the wealth, and he ought to pay a bigger tax until the debt is cut down. [Applause.] The other side of this proposition says to the wealthy man, "Because you do not want to pay the tax, we will cut it out so that you will not have to pay it."

Then the argument is made that the money will go into tax-free securities in case this high rate of surtax is imposed. Is there a man in the United States to-day who will not still invest his money to-morrow if you tax him 40 per cent in tax-free securities. It is against every economic principle that ever was laid down; it is an idea that would not be entertained by any man who ever studied economics at all.

Mr. STEVENSON. Mr. Speaker, will the gentleman yield?

Mr. BEGG. Yes.

Mr. STEVENSON. I would like to call your attention to the fact that every time \$100,000 of bonds is bought by some one it is sold by some one else. The money has to go somewhere. It can not go into the air.

Mr. BEGG. Who issues tax-free securities? The cities, the counties, the States. Where does the money go? How can you make improvements in your municipalities if somebody does not buy them? If anybody is going to buy them, it is going to be either the man with \$200,000 or else 20 men with \$10,000 each. What is the difference, so far as industry is concerned? The issue of a tax-exempt security is here, and will be here until we pass some kind of a law subjecting those securities to taxation. So far as I am concerned, there is no argument in that at all. Wealth will go where the best return can be obtained, and if we pass this law and put a 50 per cent tax on incomes of over \$200,000, you gentlemen who say it will go to tax-exempt securities are wrong. I say to you that when you come to Ohio for the purpose of buying tax-free securities you will find we will offer a lower rate of interest to you, and then our whole people will profit, because they do not have to raise so much tax to pay on your bonds that you bought as tax exempt. [Applause.]

The SPEAKER pro tempore. The time of the gentleman from Ohio has expired.

Mr. FREAR. Mr. Speaker, I yield two minutes more to the gentleman.

The SPEAKER pro tempore. The gentleman from Ohio is recognized for two minutes more.

Mr. BEGG. Mr. Speaker, I want to answer the statement of the gentleman from Michigan [Mr. FORDNEY]. I want to say that I respect his judgment in most things. The gentleman from Michigan made the flat statement on the floor of the House that if we did not cut the tax rate from 50 to 40 the effect would be to raise the cost of living. I ask you again what will be the effect on the prosperity of the Nation—

Mr. FORDNEY. I made no such statement.

Mr. BEGG. Then I beg the gentleman's pardon. I understood that somebody said that on the floor. I will retract my reference to the gentleman. I do not want to do anybody an injustice, but I think I am correct in saying that the Record to-morrow will show the statement of somebody who spoke on this bill to the effect that if we do not take the course prescribed it will increase the cost of living.

I want to ask you what will be the best for the interests of this country—leave a few men getting \$200,000 income and over to go scot-free of the surtax and putting the tax burdens on the little fellows, or levy the tax necessary to pay the debt and cost of government on the wealth as it is found. By the Senate bill those men who are getting \$200,000 or over are given a reduction bigger than any other class of taxpayers, but all get some consideration, while our leaders would have us believe we should grant all the relief to the real big and real small incomes, with no relief to the great army of middle class. Our bill cuts it off of the big fellow and takes a little less off from the small fellow. [Applause.] God knows the great army of people in this country to-day who are responsible for the prosperity of the Nation belong in the great middle class. [Applause.] They are not the little taxpayers nor the big taxpayers, but the middle class of people. You men who advocate this proposition are honest and as sincere as we are, but you are blind to the fact because you know not how to sympathize with a medium income man, for you do not know what it means to scratch like the devil for \$10,000 a year. [Laughter and applause.]

Mr. FREAR. Mr. Speaker, I yield five minutes to the gentleman from Oregon [Mr. SINNOTT].

Mr. SINNOTT. Mr. Speaker and gentlemen, I have great regard for the President of the United States. I think he is going down in history as one of the great men, as one of the great Presidents of the United States. [Applause.] But I can not follow him in this matter. I believe that the President's advisers have given him bad advice in this matter when he asked us to discard the Senate rates. [Applause.] I say he is a great man but we have the authority of the Book of Job that "Great men are not always wise." The Republican Party has promised the people of the United States a reduction in taxation. How are we giving them that reduction? What do these surtax rates mean? How can anyone in the next primaries or the next election justify this gross discrimination that is being made between men in different stations in life by the rate of taxation that we are imposing?

I only have the figures for 32 per cent, the House bill rate, and the 50 per cent, the Senate bill. You can make your own figures as to the 40 per cent. What does this surtax rate in the House bill mean? It means that the man with an income of \$10,000 a year is saved the sum of \$50 a year in taxation. The man with an income of \$20,000 a year on his surtaxes saves \$50. The man with an income of \$50,000 saves \$10. Now, an effort will be made to persuade the man with an income of \$10,000, \$20,000, or \$50,000, or even \$75,000, that the modification you propose making is going to bring him some substantial relief, some surcease, but that is all the relief he gets. Ten thousand dollars income—\$50; \$50,000 income the relief is \$10. An income of \$75,000 pays \$170 less surtax. But when you get to the man with an income of \$100,000 his saving is \$2,730. When you get to the man with the income of \$1,000,000 a year he is saving under this proposition of 32 per cent \$274,730. How can you justify such discrimination? There is no material reduction in taxes by the House surtax rates till you reach an income of \$100,000 per annum, when the reduction is \$2,730; for \$150,000 income the reduction is \$12,730; for \$200,000 income the reduction is \$22,730; from this point on the reduction is startling, being \$274,730 for \$1,000,000 and \$1,594,730 for a \$5,000,000 income. You can not defend it on the hustings, you can not do it in the next primaries, nor can you do it in the coming November. It is not justifiable. Your constituents will not uphold you in this discrimination. There are 12,000 men in the United States who have an income or return over \$66,000 per annum. When the \$10,000 man or \$20,000 man and the man with an income of \$50,000 and even \$75,000 compares the gross discrimination with which you have treated him and the favoritism with which you have treated the men with incomes of \$1,000,000 a year they will rise up in their indignation and crush you. [Applause.]

The SPEAKER pro tempore. The time of the gentleman from Oregon has expired.

Mr. FREAR. I yield to the gentleman two minutes more.

Mr. SINNOTT. Oh, they tell us that this surplus money, these earnings of the man with a big income like \$1,000,000 a year, is being poured into nontaxable securities. Did you ever try to find out from the Treasury Department in the last six months what has been the increase over prior years in the purchase of nontaxable securities by men having an income of \$66,000 and over? If you have, you have received no information. They have had six months to produce these statistics—six months to go over 12,000 returns. There is a presumption of law—I do not wish to invoke it here—that he who suppresses evidence suppresses it because it is against him. Senators and



Representatives have written to the Treasury Department for this information, and it has not been forthcoming.

Mr. CLARKE of New York rose.

Mr. SINNOTT. I do not yield. Senators and Representatives several months ago and several weeks ago have written for this data. I myself last Saturday asked for this information, and have had no reply from the Treasury Department. I feel that there is very little to that argument.

Mr. GARNER. Will the gentleman yield?

Mr. SINNOTT. I can not yield; I have not the time.

Mr. GARNER. I will yield the gentleman one minute more.

The SPEAKER pro tempore. The time of the gentleman from Oregon has expired.

Mr. GARNER. I yield the gentleman one minute to answer my question.

Mr. SINNOTT. I will yield.

Mr. GARNER. There is a provision in this bill inserted by the Senate requiring the taxpayer to give the information that the gentleman desires to the Treasury Department, but it will not be in the law when it comes to the President. These gentlemen will cut it out. They do not propose to give you this information now or henceforth.

Mr. SINNOTT. It should be written into the law so that we may have the necessary information hereafter, so that Members of Congress, Members of the House and the Senate may obtain the necessary information to discuss intelligently that feature of an important measure of this kind. [Applause.]

Mr. FREAR. Mr. Speaker, how much more time have I remaining?

The SPEAKER pro tempore. Four minutes.

Mr. FREAR. The gentleman from Iowa [Mr. TOWNER] not being present, I yield the remainder of my time to the gentleman from Texas [Mr. GARNER].

Mr. GARNER. Mr. Speaker, I yield five minutes to the gentleman from Tennessee [Mr. GARRETT].

Mr. GARRETT of Tennessee. Mr. Speaker, of course I do not expect to be able to contribute any new thought in this debate. I have listened to practically all of the debate to-day, and I have to say in frankness, and with all possible respect to gentlemen who have spoken, that the only Member who has added to the sum total of human knowledge on this proposition, so far as I have observed, is the gentleman from Maryland [Mr. HILL], provided, of course, he was accurate in his assertion. He gravely informed the House that it was the duty of the House to follow the lead of the President of the United States in this matter, because by a very decided majority he had been elected President. Up until the gentleman from Maryland made that statement, I had all of my life labored under the delusion that in view of the utterances of the Constitution of the United States all revenue measures should originate in the House of Representatives; the primary responsibility rested here. Of course, I shall not undertake to dispute the eminent authority which has led us into a new line of thought relative to proper governmental activity. [Laughter.]

But while I am not able to say anything new, Mr. Speaker, it seems to me that it is not amiss to repeat some of the thoughts that have been expressed before, here and elsewhere. For instance, when really boiled down to its last analysis in the arguments made against this resolution and against the imposition of the 50 per cent tax, what has any gentleman said, except the gentleman from Maryland, beside the fact that it should not be imposed because those upon whom it is to be imposed do not want to pay it and will not pay it if they can avoid it. If there has been any other thought in principle suggested as a reason why this should not be imposed, I confess it has escaped my attention.

Oh, but it is said that money will be invested where the best profit is offered. Of course. And so they say that instead of engaging in business those who have money will invest in tax-exempt securities, and the gentleman from New York [Mr. DEMPSEY], among others, urged that as a matter of assuring employment—of course that was not an argument of principle, but an argument of expediency—we ought not to impose this tax. Let us analyze that for a moment. As the gentleman from Ohio [Mr. BEGG] pointed out, succinctly and clearly, where do these tax-exempt securities come from? They come from the States, from the municipalities, from the counties. My own county has issued bonds, tax exempt, for the purpose of constructing highways. Not very long since, when the convention on unemployment was meeting here in the city, it was urged that we promptly pass a highway bill appropriating \$75,000,000, and it was stated that the passage of the bill would assure employment to 300,000 people in the opening up of the highway work.

The SPEAKER pro tempore. The time of the gentleman from Tennessee has expired.

Mr. GARNER. Mr. Speaker, I yield five minutes more to the gentleman from Tennessee.

Mr. GARRETT of Tennessee. I do not believe that the gentlemen who own the factories, from which they are making these large sums, those engaged in industry, are going to close down industries, sell their factories, and invest their money in these county and municipal and State bonds. Those are the people who give employment—those engaged in industry, in manufacturing, in the mercantile business, in all the activities of our business life. The money which is invested in tax-exempt securities is turned over and instantly goes to other sources, to other places, and with the proceeds of the sales of these tax-exempt securities men are given employment all over the United States. It is just as well to trace that matter out to its logical conclusion before we are swept off our feet by these statements that the passage of a 50 per cent tax as against a 65 per cent tax, which now exists, will result in industrial depression or a continuation of industrial depression.

It is said that there is not the same reason now for levying it as there was during the war. What is the nature of the obligations for which it is now being levied? To keep up the running expenses of the Government? Oh, no. If we could go back to prewar conditions, if we could have a budget amounting only to the budget before we entered the war, of course we could reduce these taxes. Probably in that event we could reduce some of the taxes that some of us who are in my class of brackets are paying. Are you going to excuse these other men from paying taxes simply because they do not want to? Then I would like to come in on that myself, because, to be perfectly frank with you, I shall tell you a thing that may surprise you, and that is that I do not myself enjoy paying the debts that I pay. This money is being collected to pay the debts which were engendered by the war. It is as much a war debt and it is as much the patriotic duty of men everywhere to meet it as it was at any hour while the battle flags were unfurled and while the swords were flashing.

I yield back the remainder of my time.

Mr. FORDNEY. Mr. Speaker, I yield 10 minutes to the gentleman from Wyoming [Mr. MONDELL].

Mr. MONDELL. Mr. Speaker, the gentleman from Tennessee [Mr. GARRETT] is much disturbed because the President of the United States was considerate enough to give this Congress his views touching the very important matter now under consideration. The day was, under Democratic administration, when it was not a suggestion but a command that came from the White House, and you all obeyed it, every man of you, without regard to your individual opinions. [Applause on the Republican side.]

The gentleman from Ohio [Mr. BEGG], if he proved anything, proved too much, because, if his argument proved anything at all, it proved that there should not be any reduction of the present surtax. He knows enough about economics to know and to say that if we did not have a high surtax now there would not be 10 votes here for a maximum surtax of 25 per cent, and yet he now favors a maximum of 50. At the outbreak of the war the highest surtax was 13 per cent, and that applied only to incomes above a million. At that time the surtax on a \$200,000 income, where the 50 per cent surtax of the Senate amendment attaches, was only 7 per cent. In 1917 gentlemen voted for only a 7 per cent tax on great wealth. They were not then, it seems, in fear of the soap-box orators on the street corners. [Applause on the Republican side.]

Let us talk plainly. Gentlemen were in favor of a reduction of the surtaxes to 32 per cent maximum when the bill was before the House and until here and there and elsewhere they began to hear the cry, "Tax the rich, tax the rich, tax the rich." I want to tax the rich, but I want to know that what I am doing will tax the rich, and I refuse to be led by any cheap demagoguery into doing a thing which will not in the long run accomplish the purpose of securing large returns from large incomes, but will drive wealth out of productive into non-productive investment and reduce employment. There is not a man within the sound of my voice or anywhere else who has studied the economics of taxation but knows that in the running of the years you will get more money out of the rich with a surtax of 20 or 25 per cent than at a higher rate, but knows that when you get beyond about that rate you drive money out of productive industry into nonproductive investments and compel a division of estates in trusts during men's lives, while they still hold full control over them. With a lower surtax men will pay it rather than change their business arrangements; but when the surtax reaches a point where it can not

be passed on to the public and still yield a profit it becomes a question of tax-free securities, some sort of paper division of fortunes, or the suspension of business. In any event, under a high surtax no earnings of large fortunes will be invested in new enterprises; the risk is too great. If the investor loses, the loss is his. If he make ever so small a return, the Government takes the most of it.

In the long run you do not tax the rich with a 50 per cent surtax; you throw the burden of the tax that you claim to place on the rich on the poor. A certain great fortune is invested in the making of automobiles. That great fortune will continue in business and pay the surtax, provided it can sell those machines for enough money to pay the surtax and at the same time make as much as could be made on tax-free securities. In that case who pays the surtax? The man who buys the jitney, of course. But when the high surtax can not be passed on, that fortune will be divided and miss all the surtaxes, or a large part of it will be invested in tax-free securities. All of you know it. You would do it yourself. It is exactly what anyone would do. You certainly would not, no sane man would go on continually contributing 58 per cent of his earnings to the Government, unless he has a scheme whereby he can pass the tax on to the people. If he can not do that, he will so change or transform his business arrangements as to avoid it, and when he does so, the Treasury will lose all surtaxes on such an income that otherwise would pay a reasonable surtax. If Mr. Automobile Maker can make about 15 per cent on his automobiles, he can afford to pay the surtax which he has passed on to the purchaser, but if he can not, then his business will be so arranged that it does not pay the high surtax. No man will do business for fun or under conditions requiring him to take all losses and pay into the Treasury 58 per cent of his gains.

Mr. COCKRAN. Will the gentleman allow a question?

Mr. MONDELL. Not now, my time is short. The question now before us is one of sound taxation economics. The question is how shall we get large fortunes to pay the most toward the war debt and aid most in starting the wheels of industry? We will get them to pay the most by holding the surtax at a point where a man can pay it and have some profit remaining. When the surtax reaches a point where men can not continue in business and make some profit they will go out of productive business, men will not invest their money in new industries greatly needed, take all the chances of loss and pay in taxes half or more of all the gains, but will invest in tax-free securities not only of the States, counties, and municipalities but of the Government. Five billion dollars of Victory notes are tax free. Are men to be criticized because they put their money in them at a time when the Treasury was begging for investment in Victory notes to meet the awful cost of war? We have just sold \$100,000,000 worth of Federal farm loan bonds based on farms in the great Central West. Are men to be criticized because they invested in those farm loan tax-free bonds or shall invest in like bonds in the future? They will invest in them just as long as they are available.

It may be that the easy way, before some constituencies, will be to say, "Oh, yes; I voted for the highest tax on the rich proposed by anybody." I realize that there may be demagogues on the street corners assailing you if you do not. I remember a time here when the Democratic side tried to stampede our side because we only put a 10 per cent tax on diamonds, and they said we laid a higher tax on woolen socks and shrouds; everybody knew, including the men who were engaged in that demagoguery, that it had been demonstrated that the largest tax return on diamonds could be secured by a tax of not over 10 per cent. Mr. Speaker, if we want to keep our platform and campaign pledges—not only the Republicans but the Democrats—if we want to do the sound, sane, sensible thing that will in the end give us the greatest tax income from large fortunes, that will restore industries and provide employment, that will meet the approval eventually of all right-thinking people, if we want to stand before the country and the people as those of sound views of the public interest and possessed of the courage of our convictions, we will vote against the Senate amendment. [Applause.]

Mr. FORDNEY. I understand that we have 10 minutes.

The SPEAKER pro tempore. The gentleman from Michigan has 10 minutes remaining and the gentleman from Texas has 28 minutes remaining.

Mr. GARNER. I understand the gentleman has only one more speech.

Mr. FORDNEY. Unless he yields one or two minutes of the 10 minutes.

Mr. GARNER. Very well, if he is going to use it in the closing argument.

The SPEAKER pro tempore. The gentleman from Texas is recognized for 28 minutes.

Mr. GARNER. Mr. Speaker, before I begin speaking on the pending resolution I want to ask unanimous consent to revise and extend my remarks in the Record.

The SPEAKER pro tempore. The gentleman from Texas asks unanimous consent to revise and extend his remarks in the Record. Is there objection? [After a pause.] The Chair hears none.

Mr. GARNER. Mr. Speaker and gentlemen of the House, slightly more than a week ago this revenue bill was sent over from the Senate, after having passed that honorable body, and a conference was asked for. The gentleman from Michigan [Mr. FORDNEY] requested that unanimous consent be given for the bill to go to conference and that conferees be appointed. This was agreed to; whereupon the gentleman from Tennessee [Mr. GARRETT] moved to instruct the conferees to agree to Senate amendment No. 122. This motion was resisted by certain of the Republican leaders, because they hoped by postponing an agreement they might be able to bring influence to bear which would defeat the Senate amendment and substitute a compromise. We Democrats knew their strategy, and did not hesitate to say at the time that the sole object in refusing to agree to the Garrett motion to instruct the conferees was to give those interested in defeating the Senate amendment and substituting a lower rate an opportunity to get in their work. You gentlemen who were here when we debated the Garrett motion will bear me out in the assertion that I made the statement at that time that every interested party in the United States that thought he had influence would get busy and exercise it in the direction of having a compromise agreement effected which would fix a lower rate than 50 per cent.

I do not know what influences were brought to bear upon you, but sufficient to say, these influences are bearing fruit in the effort to fix a compromise at the figure of 40 per cent. To cap the climax of all these influences to-day we have a letter read from the President, and may I say in passing I do not now and never have indorsed efforts of the Chief Executive to influence the Congress except by sending a message in the regular way to be read in open session. [Applause.] I know President Wilson on some occasions used the method of letter writing, and I condemned it then and I condemn it now. The way for the President of the United States to communicate his views to Congress, under the Constitution, is either from the Speaker's platform in person or by a message read in the regular way in open session. He should not attempt to do it in any other way. But no one will deny that a letter from the President is a persuasive argument, persuasive to you Republicans, of course, for two reasons; first, you belong to the Republican organization and you are interested in its success and the leaders of the Republican Party must be held responsible for its action, whether good or bad. You can shun here and there your responsibility. But as a whole the head of a party must be held responsible for its action. In the second place, some of you Republicans are interested in the distribution of patronage, and that is a factor which will not altogether be overlooked in considering the President's letter. We are not interested in that on this side, but you are. Gentlemen, no such influences ought to operate in this legislative body. This House of Representatives is more directly responsible to the American people than even the President. The Executive is elected every four years; the Senate every six years. This House must go back every two years and get a new commission from the people. Therefore it is their most direct, responsive pulse. I protest, and I believe in your conscience most of you protest, even though you indorse the compromise suggested in the President's letter, that he should in this manner undertake to influence the House of Representatives in considering an amendment put on a revenue bill in the Senate.

Why, gentlemen, while I am speaking about the prerogatives of the House of Representatives, let me call your attention to the parliamentary status of this particular amendment, and let me also remind you—and I have called attention to it more than once—that by the adoption of some of these strait-jacket special rules we by our own acts deprive ourselves of the freedom of legislation which is our rightful heritage under the Constitution. We did it on this revenue bill. When the bill was originally considered in the House it was under a special rule which was so rigid in its specifications as to virtually prevent consideration of any amendments except those offered by the Ways and Means Committee. But when the bill reached the Senate, where there was no such restrictive rule, a majority of the Senators refused to accept 32 per cent as the maximum surtax rate and made it 50 per cent. You would have adopted these higher surtaxes here, if you had been given a chance. But you



were not, and after this long wait you now have your opportunity. Gentlemen, the Senate also adopted an amendment increasing the inheritance taxes on estates over and above \$10,000,000. You would have done that also if you had had a chance. You never had a chance to vote for that. You were cut off by the rigid special rule. The Republican conferees even now do not intend to give you a chance to vote for that. They are afraid to do it. No. We can not even make a conference report, as is provided by the general rules of the House of Representatives, but have to have a special rule in order to consider a revenue bill in conference. There were 832 amendments put on in the Senate, some of them meritorious, some of them appealing to your heart and conscience, and which I have no doubt the House would be glad to accept, but no opportunity is afforded for you to consider them or vote on them, and you will never have an opportunity to vote on them. When the general conference report is brought back the gentleman from Ohio will know how to take care of the parliamentary situation. He will fix it so you will vote it up or down. You will have no chance to change it. You will go back to your constituents and say this was the best we could get. But it will not be the best you can get. You can vote down the conference report and can get, if you will, an opportunity to vote on each one of these amendments in this bill.

Mark the prediction, when we come back from conference on this bill, if the House adopts the conference report we will have the House receding on a revenue bill rewritten by the Senate almost in its entirety, imposing over 800 amendments, and on 700 the House will recede and agree to the Senate amendments. Is that an example of the House of Representatives originating legislation on revenue matters as contemplated by the Constitution? Do you Republicans believe that procedure is a case of living up to the high duty which the fathers placed upon us when they wrote the Constitution? Under procedure of that kind we do not originate. There is very little in this bill now that we originated. The Senate originated most of it. You will continue to do this just so long, gentlemen, as you permit the leaders of your side to tell you that they will not permit you to exercise the right which your people thought they were giving you when they sent you to this Congress to act as their legislative representative.

Mr. LONGWORTH. Will the gentleman yield?

Mr. GARNER. I will.

Mr. LONGWORTH. Did the gentleman vote to recede on all those 700 technical amendments?

Mr. GARNER. Why, Mr. Speaker, I wish the gentleman from Ohio would relate, if he will—and I will yield to him for such purpose—what occurred in conference with reference to this amendment relating to an increase of the inheritance tax and the gift amendment. I am willing to yield to him from my time so that he may tell us. [Applause on the Democratic side.]

Mr. LONGWORTH, you are going to close this debate, and I ask you now, sir, to tell your colleagues on this side if the compromise rate of 40 per cent is accepted, do you intend making it apply, beginning at \$66,000 or beginning at \$84,000? Which? Do you intend to agree to the Senate reductions in surtaxes which were made in the lower brackets?

Mr. LONGWORTH. Do you ask that question as to my individual attitude?

Mr. GARNER. Yes, sir.

Mr. LONGWORTH. I shall favor it.

Mr. GARNER. Well, but will you vote, if necessary, with your Democratic colleagues in order to get it?

Mr. LONGWORTH. I know that such a situation will never occur. [Applause.]

Mr. GARNER. Oh, they always avoid it, gentlemen. I have never been with a conferee yet, when there were three, when, if you took one off privately and asked him to do a thing but what he always answered he could not do it because the other two wanted the other thing. Gentlemen, if you vote to concur in this amendment, and God knows I hope you will—if you put it in you will do, in my humble judgment—and I speak as truthfully as I ever spoke in my life—something which will make it harder for the Democratic Party to succeed in the next elections. I honestly believe, if I ever believed anything in my life, that if you adopt the 40 per cent and reject the Senate amendment of 50 per cent, it means a difference of 25 Democrats in our favor in the next congressional election. So, if I looked at this question from a partisan standpoint solely, I would be glad to see you commit the error. I would not be urging you now to agree to the Senate amendment. I call your attention to three gentlemen on the Republican side who have spoken and who scent the danger to their party in this vote. A gentleman who sits before me now said in the course of his

remarks—and it was easy to say, for he was right—that you should vote for the higher Senate surtax. What did he say? He said it appealed to the conscience and good judgment of every American citizen.

Mr. MONDELL. Will the gentleman yield?

Mr. GARNER. In just a moment.

Not only that, but the gentleman from Maryland [Mr. HILL] said on the floor of the House, "If I follow my President in this matter, I may commit hara-kiri." God knows the gentleman from Maryland would not anxiously commit hara-kiri, for he loves his position; but in order to follow his illustrious leader he is willing to sacrifice his political fortunes.

Mr. MONDELL. What I understand the gentleman from Texas is trying to do is to get us to take action that will defeat the Democratic Party. [Laughter.]

Mr. GARNER. Oh, of course, the gentleman from Wyoming can not understand. The gentleman from Wyoming is a strong partisan and he can speak only from the partisan standpoint, whereas I would rather see my country prosper under a Republican administration than see the Democrats win under conditions which would be disastrous to the country. I want prosperity to prevail. I want to see American citizenship protected. But when you undertake to tell the people in the next campaign that when you came to revise the revenue law your purpose was to relieve them of the burden of taxation, the average taxpayer will rise in the audience and inquire, "In what way did you relieve me, Mr. MONDELL?" He will reply, "I relieved you indirectly by taking off the burdens from the rich. I did not reduce your taxes directly one dollar, it is true, but we reduced the taxation of the big fellows, of those living in the large centers of population. We reduced their taxes very materially, and as the result of their gain their money will go into the channels of trade and you will be prosperous and happy and everything will be doing well. Go ahead and pay your war taxes and stop grumbling about it. Do not you know these big fellows are the only people we promised to relieve?" [Laughter.]

Gentlemen, I was struck with certain statements in the President's letter, and I was also struck with the statement of the gentleman from Wyoming [Mr. MONDELL] with reference to their party having made certain promises to the people. Who ever heard of the Republicans paying any considerable amount of attention to their campaign pledges? You Republicans promised to reduce taxes. How many have you reduced in this bill?

Mr. MONDELL. Let me read a paragraph of what is in your party platform.

Mr. GARNER. Not now. I know when the truth stings it hurts, and the gentleman from Wyoming is "hurting."

Mr. MONDELL. I wanted to read an extract from the platform of the gentleman's party.

The SPEAKER pro tempore. The gentleman from Texas declines to yield.

Mr. GARNER. If I wanted to run against a Republican for the nomination and he had voted against this amendment, I would just take this law in my hand and I would go before the people and say, "What did you do to relieve the people of taxation? What did you do?" Then I would show your conception of who are the people? I would admit that you did relieve some people. But I would ask, "How many did you relieve?" Every man of any intelligence who heard me speak would know that he is paying many of the same taxes as he paid during the war.

I told you when I spoke in the opening of the discussion on this bill at the time it was originally before the House what the Democratic position was. We were in favor of repealing these taxes which are primarily war taxes. I am in favor of such repeal yet. Each one of these war taxes is in conference yet, but you could no more get the gentleman from Michigan [Mr. FORDNEY] and the gentleman from Ohio [Mr. LONGWORTH] to agree to their repeal than you could take wings and fly. Possibly you could get the gentleman from Iowa [Mr. GREEN] to agree to it—and, by the way, I am very thankful to our friend from Iowa for telling us that every man in the Iowa delegation will vote to concur in this amendment.

Mr. COLE of Iowa rose.

Mr. GARNER. Oh, I see my friend from Iowa, the great and only regenerated. I was amused when he told us what his platform was in his recent campaign. His platform was exactly what I said ours would be—that we would repeal these war taxes. We are going before the country next year on that issue and we will win the Congress on that platform. We are not only going to promise the people to repeal these war taxes, but we will do it when they commission us to the task.

Mr. COLE of Iowa. Mr. Speaker, will the gentleman yield?  
Mr. GARNER. Yes.

Mr. COLE of Iowa. I only wanted to make the point clear that there is one man from Iowa who is going to vote with the President of the United States. [Applause.]

Mr. GARNER. Oh, yes; there are all kinds of Republicans in Iowa, standpatters and progressives, radicals and conservatives. But the heart of the people out there is sound. I know it, and have great admiration for the people of the West. But when the gentleman from Iowa [Mr. COLE] votes against concurring in this Senate amendment he will not be voicing the conviction of his people. The people of the West are in favor of levying taxes upon those who are most able to pay. So are we of the South in favor of the same thing. And upon that issue the South and West stand firmly together.

I think the House ought to know what the conferees expect to do with reference to fixing the bracket where the higher surtax begins, in case this Senate amendment is not agreed to. I believe they ought to tell us. You will recall that I asked the gentleman from Michigan [Mr. FORDNEY] about that, and he declined to tell us. In the absence of such information you are voting blindly upon this proposition. Will the gentleman from Ohio [Mr. LONGWORTH] and the gentleman from Michigan adopt \$84,000 as the place where the 40 per cent surtax begins or will they adopt the \$66,000? Get your bill and look at it. You have got \$66,000 in the House bill as the place where the maximum surtax of 32 per cent begins, have you not? Eighty-four thousand dollars in the Senate bill is the place where the 40 per cent surtax begins.

Which one are you going to adopt? If I were a Republican and the conferees refused to tell me what they were going to do I would say, "If you can not put confidence enough in me to tell me what you are going to do, then I will not put confidence enough in you to turn over the bill to you." [Applause.] I think the House has a right to demand such information. It is important and they should have it.

Now, are you going to give us the benefit of the Senate amendments reducing the surtaxes in the lower brackets? If so tell us. If you Republicans give these gentlemen a vote of confidence and send them back to conference without agreeing to this Senate amendment they will stand for the House provision making the higher surtaxes start at \$66,000, and will make the rate 40 per cent instead of 32 per cent, as now written in the House bill.

Mr. Speaker, there are many other things in this bill to which we should direct attention in connection with this vote, but time will not admit. How many of you gentlemen when you cast your vote against the adoption of the Senate amendment realize what an awkward predicament you are getting into? Here is a situation where the House of Representatives deliberately gagged itself through the influence of the Republican leaders and refused to consider the bill with a view to perfecting it by amendment, but sent it to another body, the Senate, where they did have that right and privilege and exercised it very freely, and then it was sent to conference where there was not a single Senate Republican conferee willing to make any fight for these important amendments. In other words, you have a Senate amendment of admitted great importance, agreed to by the Senate in open session, sent to conference, and all three of the Senate conferees on the Republican side declaring, "My God, I wouldn't agree to this Senate amendment for anything on the face of the earth." [Laughter.] Who ever heard of a parliamentary situation like that before? It shows the Senate rank and file put one over on the old-time leaders, which is proving a bitter and unwelcome dose. The only way under our procedure, now that the bill is in conference, that we can express our opinion and make it heard is the one that we have before us to-day. Do you want the Senate amendment or something in between? Do you want a compromise, as the President has suggested? Do you want eighty-four thousand or sixty-six thousand as the bracket where the higher surtax begins? I tell you how to answer these questions. Vote to concur in the Senate amendment and if that motion is adopted then the matter is at an end so far as this provision is concerned.

I will give the gentleman from Ohio [Mr. LONGWORTH] leave to answer in my time and to tell his Republican colleagues if he intends to agree to the increases in the inheritance taxes which were provided for by Senate amendments. I will leave it to the gentleman from Iowa [Mr. GREEN]. I can not get an answer. They are eloquent by their silence. The gentleman from Michigan [Mr. FORDNEY] leaves the Hall because he doubtless also does not care to answer. Are you going to agree to the gift amendment put in by the Senate on a record vote? Is the gentleman from Iowa going to agree to it? I still get no answer.

Gentlemen will see how dangerous it is to turn over an important bill like this in which the conferees are not in sympathy with amendments which represent the views of a majority in both the House and the Senate. I tell you that I would have an expression from these conferees or they would get an expression of direct instruction from me.

There is no politics in this. The gentleman from Wyoming tries to make it a political matter to-day. He can not make it a political matter, and you will not be able to make it so in your district, except it may be bad politics to some of you personally if you follow the blind leadership of the gentleman from Wyoming [Mr. MONDELL]. I hope, gentlemen, that you will instruct us to agree to this inheritance-tax amendment and this gift amendment, because if you do not do you know what is going to happen? Three Republican Senators are going to throw up their hands and say, "To hades with it; write the bill yourself; you have already ruined it." [Laughter and applause.]

The SPEAKER pro tempore. The gentleman from Ohio [Mr. LONGWORTH] is recognized for 10 minutes.

Mr. LONGWORTH. Mr. Speaker, in the very few moments that I have at my command I can attempt nothing more than to merely lay before you the exact question that confronts us. I am not going to rant or roar or exhibit my bleeding heart for the plain people as has the gentleman from Texas who just preceded me. The gentleman has but one object in view. He is an adept at muddying the waters in order to attempt, as he always does, to drive a wedge which shall separate the cohesive majority on this side of the House. [Applause.] We have had no more, we will have no more vital problem to pass upon than the one that faces us now, and I sincerely hope that we are going to meet it with regard less to what we may regard as political expediency than for the broad general interest of the great American Nation. [Applause.]

Of this fact, gentlemen, you may be well assured, if you vote to sustain a tax as high as 58 per cent, the rehabilitation of industry in this country, the prosperity for which we all hope, will not come. It is all very well to say that wealth ought to pay its full share of the upkeep of the Government, and with that proposition I fully agree, but we are not dealing with wealth as an abstract proposition now. We are dealing with human nature, and it is not human nature for a man to pay to the Government more than half of his income in time of peace when he can avoid it, and avoid it legitimately. There is no law, there can be no law, which will deprive an American citizen of the right to invest his money in any direction that he sees fit. He may do with his own as he pleases.

Mr. COCKRAN. Mr. Speaker, will the gentleman yield?

Mr. LONGWORTH. I yield to the gentleman from New York.

Mr. COCKRAN. Would there not be the same reluctance to pay a quarter of his income as there would be to pay one-half?

Mr. LONGWORTH. I think the gentleman could answer that better than I could, his income being much larger than mine.

Mr. COCKRAN. Oh, I must challenge that statement. I am sorry that the soundness of the gentleman's whole argument is impeached by the grave misapprehension of facts which his answer betrays.

Mr. LONGWORTH. The gentleman from Tennessee [Mr. GARRETT] a few moments ago said that the enormous amount of money we have to raise every year was for the payment of a sacred debt. In time of war we were all willing to give all of our income, if necessary, to pay that debt; but to-day, in time of peace, it is one thing to pay the legitimate debt that we owe and it is quite another thing to cheerfully pay the amount that was piled up in reckless waste and graft during the last administration. [Applause on the Republican side.]

It is said that wealth should be taxed in proportion to its ability to pay. Of course, it should; but if you take more than 73 per cent, as in the present law, or 58 per cent, as provided in this resolution, you are offering a premium to wealth to seek investment in tax-exempt securities and hence escape taxation altogether.

After all, wealth is largely a matter of relativity. A man who has at the end of every year a substantial portion of his income to invest is in the true sense a richer man than he who spends his entire income, even though that income be greater, and it is a matter of concern to the public how surplus income is invested, whether it be great or small.

The average American who has every year a substantial amount of money to invest, if he is a man of any energy or enterprise, would far rather put his money into something which, while it might involve some risk, will produce some substantial gain if successful, than put it somewhere where the



risk is slight but the return correspondingly small. But if you compel him to turn over more than half of his income, if successful, to the Government, in nine cases out of ten he will adopt the latter alternative and be content with a small per cent and no taxes to pay. The great need in this country to-day is to have large amounts of capital invested in productive enterprise, which will give employment to labor and hence stimulate the demand for farm products. As a matter of fact, it is not wealth that you are punishing with the present high taxes or would be punishing under taxes so high as those contemplated by this resolution, you are punishing millions of laboring men out of employment and farmers who lack a profitable market for their produce. [Applause on the Republican side.]

A reduction of the higher surtaxes from 73 to 58 per cent is not sufficient, I am absolutely certain, to cause a diversion of capital from nontaxable securities to active enterprise, and unless capital shall seek investment in active enterprise we can not hope for a business revival, we can not hope for a decrease in the number of unemployed, we can not hope for a profitable market for farm products. You are killing the goose that lays the golden eggs, or perhaps it would be more correct to say that you are dosing him with a prescription which prevents the golden eggs from materializing.

I voted for the taxes in the present law. I would vote for them again in time of national crisis. But peace is one thing and war is another, and human nature is not the same in peace as it is in war. No nation on earth has ever taxed incomes as high as we are taxing them. No nation can tax incomes more than 50 per cent and expect those taxes to be collected. I wish that we could constitutionally tax the income received from State, county, and municipal bonds, but we can not, and even then wealth would find some other means to avoid these enormous taxes.

It is a plain condition and not a theory that confronts us. It is idle to speculate on what wealth ought to do. We have got to face the fact of what it does do and does legitimately, and what this resolution proposes is not the way to meet the situation. I fully realize that gentlemen on this side of the aisle who have voted to sustain the House provision of 40 per cent are embarrassed by the fact that the Senate has made provision for 58 per cent, and for the very reason that I am certain that a majority of the Senate believe in the House provision I think that the yielding to the demand of a few determined men was the less excusable. I sincerely hope that the House will stand by itself and not reverse its former action, or at least will permit your conferees to make the best bargain they can.

Mr. MCPHERSON. Mr. Speaker, will the gentleman now yield?

Mr. LONGWORTH. Yes.

Mr. MCPHERSON. If we take into consideration the deflation in the value of the dollar which existed during the war, is it not a fact that the rates carried in the present Senate amendment will be higher than were the war rates?

Mr. LONGWORTH. Unquestionably they would be.

I am authorized to say that the Senate conferees will accept a modification of their original provision to the extent of a maximum surtax of 40 per cent and that the bill can be adopted unquestionably in that form. Hence, I urge you to defeat this resolution and thereby permit the passage of a bill which will be a real reduction of taxation. Which will thereby permit the speedy resumption of active business enterprise and restore that prosperity which the country is praying for and which will surely come if you will only give it a fighting chance.

The SPEAKER pro tempore. The time of the gentleman from Ohio has expired. All time has expired. The question is on agreeing to the resolution.

Mr. GARRETT of Tennessee. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 201, nays 173, answered "present" 1, and not voting 57, as follows:

## YEAS—201.

Almon	Boies	Carew	Cullen
Anderson	Bowling	Chalmers	Curry
Andrews, Nebr.	Box	Christopherson	Davis, Minn.
Anthony	Brennan	Clague	Davis, Tenn.
Aswell	Briggs	Clark, Fla.	Denison
Bankhead	Brinson	Classon	Dickinson
Barbour	Brooks, Ill.	Cockran	Dominick
Barkley	Browne, Wis.	Cole, Ohio	Doughton
Beck	Buchanan	Collier	Dowell
Begg	Bulwinkle	Collins	Drewry
Bennham	Burness	Colton	Driver
Bird	Byrnes, S. C.	Connally, Tex.	Dupré
Black	Byrnes, Tenn.	Cooper, Wis.	Evans
Bland, Va.	Campbell, Kans.	Cramton	Faust
Blanton	Cantrill	Crisp	Favrot

Fields	Kincheloe	O'Brien	Strong, Kans.
Fisher	Kindred	O'Connor	Summers, Wash.
Foster	King	Ogden	Summers, Tex.
Frear	Kinkaid	Oldfield	Swank
Fuller	Klecaska	Overstreet	Sweet
Fulmer	Kopp	Padgett	Swing
Funk	Kunz	Park, Ga.	Tague
Gallivan	Lampert	Parks, Ark.	Taylor, Ark.
Garner	Lanham	Parrish	Thomas
Garrett, Tenn.	Lankford	Patterson, Mo.	Thompson
Gensman	Larsen, Ga.	Quin	Tillman
Gilbert	Lawrence	Raker	Tincher
Goldsborough	Lazaro	Ramseyer	Towner
Graham, Ill.	Lea, Calif.	Rankin	Upshaw
Green, Iowa	Lee, Ga.	Rayburn	Vinson
Griffin	Lineberger	Reavis	Voigt
Hammer	Linthicum	Rhodes	Volstead
Hardy, Tex.	Little	Ricketts	Walters
Harrison	Logan	Riordan	Ward, N. C.
Haugen	London	Robison	Weaver
Hayden	Lowrey	Rouse	Wheeler
Hoch	McClintic	Sanders, Tex.	White, Kans.
Huddleston	McCormick	Sandlin	Williams
Hudspeth	McDuffie	Schall	Williamson
Hull	McLaughlin, Nebr.	Scott, Tenn.	Wilson
Humphreys	McSwain	Shaw	Wingo
Jacoway	Maloney	Sinclair	Wise
James	Martin	Sinnot	Woodruff
Jeffers, Ala.	Mead	Sisson	Woods, Va.
Johnson, Miss.	Montague	Smithwick	Wright
Johnson, S. Dak.	Moore, Ohio	Speaks	Yates
Jones, Tex.	Moore, Va.	Stafford	Young
Kearns	Morgan	Stagall	Zihlman
Keller	Murphy	Stedman	
Kelly, Pa.	Nelson, A. P.	Steenerson	
Ketcham	Nelson, J. M.	Stevenson	

## NAYS—173.

Andrew, Mass.	Ellis	Layton	Reece
Ansonge	Fairchild	Leatherwood	Reed, N. Y.
Appleby	Fairfield	Lee, N. Y.	Reed, W. Va.
Arentz	Fenn	Lehlbach	Riddick
Atkeson	Fish	Longworth	Robertson
Bacharach	Focht	Luce	Rodenberg
Beedy	Fordney	Luhning	Rogers
Bixler	Free	McArthur	Rose
Blakeney	French	McFadden	Rossdale
Bond	Frothingham	McKenzie	Ryan
Bowers	Gerner	McLaughlin, Mich.	Sanders, Ind.
Britten	Glynn	McLaughlin, Pa.	Sanders, N. Y.
Brooks, Pa.	Goodykoontz	McPherson	Scott, Mich.
Brown, Tenn.	Graham, Pa.	MacGregor	Shreve
Burdick	Greene, Mass.	Madden	Siegel
Burroughs	Greene, Vt.	Magee	Slemp
Burton	Griest	Mapes	Smith, Idaho
Butler	Hadley	Merritt	Smith, Mich.
Cable	Hardy, Colo.	Michener	Sproul
Campbell, Pa.	Hawes	Miller	Stephens
Cannon	Hawley	Mills	Strong, Pa.
Chandler, N. Y.	Hersey	Millsbaugh	Taylor, N. J.
Chandler, Okla.	Hickey	Mondell	Taylor, Tenn.
Chindblom	Hicks	Montoya	Temple
Clarke, N. Y.	Hill	Moore, Ill.	Timberlake
Clouse	Himes	Moore, Ind.	Tinkham
Codd	Hogan	Mudd	Treadway
Cole, Iowa	Houghton	Newton, Minn.	Underhill
Connell	Ireland	Newton, Mo.	Vaile
Connolly, Pa.	Johnson, Wash.	Norton	Vestal
Coughlin	Jones, Pa.	Olpp	Volk
Crago	Kahn	Osborne	Walsh
Crowther	Kelley, Mich.	Paige	Ward, N. Y.
Dale	Kendall	Parker, N. J.	Watson
Dallinger	Kennedy	Parker, N. Y.	Webster
Darrow	Kirkpatrick	Patterson, N. J.	White, Me.
Deal	Kissel	Perkins	Winslow
Dempsey	Kline, N. Y.	Petersen	Wood, Ind.
Dunbar	Kline, Pa.	Porter	Woodyard
Dunn	Knutson	Pringle	Wurzbach
Dyer	Kraus	Purnell	Wyant
Echois	Kreider	Radcliffe	
Edmonds	Langley	Ransley	
Elliott	Larson, Minn.	Reber	

## ANSWERED "PRESENT"—1.

## Rosenbloom

## NOT VOTING—57.

Ackerman	Garrett, Tex.	Mansfield	Shelton
Bell	Gorman	Michaelson	Snell
Bland, Ind.	Gould	Morin	Snyder
Brand	Hays	Mott	Stiness
Burke	Herrieck	Nolan	Stoll
Carter	Hukriede	Oliver	Sullivan
Cooper, Ohio	Husted	Perlman	Taylor, Colo.
Copley	Hutchinson	Peters	Ten Eyck
Drane	Jeffers, Nebr.	Pou	Tilson
Elston	Johnson, Ky.	Rainey, Ala.	Tyson
Fess	Kiess	Rainey, Ill.	Vare
Fitzgerald	Kitchin	Roach	Wason
Flood	Knight	Rucker	
Freeman	Lyon	Sabath	
Gahn	Mann	Sears	

So the resolution was agreed to.

The Clerk announced the following pairs:

On the vote:

Mr. ROSENBLUM (for) with Mr. VARE (against).

Mr. BLAND of Indiana (for) with Mr. MORIN (against).

Mr. LYON (for) with Mr. HUTCHINSON (against).

Mr. SULLIVAN (for) with Mr. PETERS (against).

Mr. COOPER of Ohio (for) with Mr. ACKERMAN (against).

Mr. FLOOD (for) with Mr. FESS (against).

Mr. BELL (for) with Mr. SNYDER (against).  
 Mr. KITCHIN (for) with Mr. MOTT (against).  
 Mr. POU (for) with Mr. WASON (against).  
 Mr. OLIVER (for) with Mr. FREEMAN (against).  
 Mr. BRAND (for) with Mr. SNELL (against).

General pairs:

Mr. BURKE with Mr. BRAND.  
 Mr. KIESS with Mr. CARTER.  
 Mr. GORMAN with Mr. STOLL.  
 Mr. HUKRIEDE with Mr. JOHNSON of Kentucky.  
 Mr. NOLAN with Mr. DRANE.  
 Mr. SHELTON with Mr. TYSON.  
 Mr. FITZGERALD with Mr. SEARS.  
 Mr. HAYS with Mr. RAINEY of Alabama.  
 Mr. ROACH with Mr. RUCKER.  
 Mr. TILSON with Mr. GARRETT of Texas.  
 Mr. BURKE with Mr. RAINEY of Illinois.  
 Mr. GAHN with Mr. MANSFIELD.  
 Mr. PERLMAN with Mr. TAYLOR of Colorado.  
 Mr. STINESS with Mr. TEN EYCK.  
 Mr. KNIGHT with Mr. SABATH.

Mr. ROSENBLOOM. Mr. Speaker, I am paired with the gentleman from Pennsylvania [Mr. VARE], I voting "aye" and he voting "no," and I desire to withdraw my vote.

The name of Mr. ROSENBLOOM was called, and he answered "present."

Mr. GARNER. Mr. Speaker—

The SPEAKER pro tempore. For what purpose does the gentleman from Texas rise?

Mr. GARNER. Mr. Speaker, I am advised that on the recording of the vote the Clerk erroneously recorded the gentleman from Florida [Mr. DRANE] as having voted. If I am in error about that, I desire to be informed.

The SPEAKER pro tempore. The gentleman from Florida is not recorded as voting.

The result of the vote was announced as above recorded.

Hour of Meeting to-morrow.

Mr. MONDELL. Mr. Speaker, I ask unanimous consent—

The SPEAKER pro tempore. The gentleman from Wyoming rises to prefer a unanimous-consent request.

Mr. MONDELL. Mr. Speaker, I ask unanimous consent that when the House adjourns to-day it adjourn to meet at 11 o'clock to-morrow.

The SPEAKER pro tempore. The gentleman from Wyoming asks unanimous consent that when the House adjourns to-day it adjourn to meet at 11 o'clock to-morrow morning. Is there objection?

Mr. MONDELL. Mr. Speaker, I make that request inasmuch as the chairman of the Committee on Rules intends to present in the morning a rule for the consideration of the so-called maternity bill.

The SPEAKER pro tempore. Is there objection?

Mr. LAYTON. I object, Mr. Speaker.

The SPEAKER pro tempore. Is there objection?

Mr. GARRETT of Tennessee. I object, Mr. Speaker.

ADJOURNMENT.

Mr. MONDELL. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 4 o'clock and 18 minutes p. m.) the House adjourned until Friday, November 18, 1921, at 12 o'clock noon.

#### EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of Rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

265. A letter from the Clerk of the House of Representatives transmitting testimony, papers, and documents in the contested-election case of Gartenstein v. Sabath, fifth congressional district of the State of Illinois; to the Committee on Elections No. 3, and ordered to be printed. (H. Doc. No. 122.)

266. A message from the President of the United States transmitting a supplemental estimate of appropriations for the Department of State in the amount of \$1,002,000 for the expenses of taking part in an international exposition to be held at Rio de Janeiro, Brazil, and for the maintenance of the international latitude observatory at Ukiah, Calif.; to the Committee on Appropriations, and ordered to be printed. (H. Doc. No. 123.)

267. A letter from the Secretary of the Navy transmitting a tentative draft of a bill to authorize the Secretary of the Navy to accept certain land at Rockaway Beach, Long Island, N. Y., for aviation and other naval purposes; to the Committee on Naval Affairs.

#### REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII,

Mr. WALSH, from the Committee on the Judiciary, to which was referred the bill (H. R. 9103) for the appointment of additional district judges for certain courts of the United States, to provide for annual conferences of certain judges of United States courts, to authorize the designation, assignment, and appointment of judges outside their districts, and for other purposes, reported the same with amendments, accompanied by a report (No. 482), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

#### PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. HICKS: A bill (H. R. 9184) to create a bureau of civil aeronautics in the Department of Commerce, to encourage and regulate the operation of civil aircraft in interstate and foreign commerce, and for other purposes; to the Committee on Interstate and Foreign Commerce.

#### PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BURROUGHS: A bill (H. R. 9185) for the relief of the widow of John L. Vennard; to the Committee on Claims.

By Mr. CONNELL: A bill (H. R. 9186) for the relief of William H. Thomas; to the Committee on Military Affairs.

By Mr. FULLER: A bill (H. R. 9187) granting a pension to Louisa Firkins; to the Committee on Invalid Pensions.

By Mr. KELLEY of Michigan: A bill (H. R. 9188) granting an increase of pension to Phoebe Laing; to the Committee on Invalid Pensions.

By Mr. KINDRED: A bill (H. R. 9189) granting relief to James N. Cochran; to the Committee on Claims.

By Mr. LEHLBACH: A bill (H. R. 9190) donating a captured German cannon or field gun and carriage to the Leslie J. Rummell Post of the Veterans of Foreign Wars of the United States, Newark, N. J., for decorative purposes; to the Committee on Military Affairs.

By Mr. MORGAN: A bill (H. R. 9191) granting an increase of pension to Florence Marquis; to the Committee on Pensions.

Also, a bill (H. R. 9192) granting a pension to Anna R. Wright; to the Committee on Pensions.

By Mr. OGDEN: A bill (H. R. 9193) granting a pension to Eliza Davis; to the Committee on Invalid Pensions.

By Mr. TINCHER: A bill (H. R. 9194) granting a pension to Eliza A. McClellan; to the Committee on Invalid Pensions.

By Mr. WEAVER: A bill (H. R. 9195) granting an increase of pension to John P. Stewart; to the Committee on Pensions.

By Mr. WHITE of Maine: A bill (H. R. 9196) granting a pension to Luke Woodard; to the Committee on Invalid Pensions.

By Mr. WURZBACH: A bill (H. R. 9197) for the relief of Margaret C. Lacks; to the Committee on Claims.

By Mr. NEWTON of Missouri: Joint resolution (H. J. Res. 224) to reimburse Susan Sanders for expenses and services rendered in behalf of the Eastern, Emigrant, and Western Cherokees by blood; to the Committee on Claims.

#### PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

3074. By the SPEAKER (by request): Petition of members of the African Methodist Episcopal Church of Georgetown, S. C., urging the passage of the Dyer antilynching bill; to the Committee on the Judiciary.

3075. Also (by request), resolution adopted by the American Legion in third annual convention assembled at Kansas City, this year, urging immediate action on S. 2448, creating bureau of civilian aeronautics in the Department of Commerce to encourage and regulate the operation of civilian aircraft in interstate and foreign commerce; to the Committee on Interstate and Foreign Commerce.

3076. By Mr. APPLEBY: Papers in support of House bill 9139, granting a pension to Joseph S. Hetherington; to the Committee on Invalid Pensions.

3077. Also, resolutions adopted by Twin Light Council, No. 51, Sons and Daughters of Liberty, of Highland, N. J., urging Congress to reduce appropriations for military work and to



pledge its active support to the disarmament movement; to the Committee on Foreign Affairs.

3078. By Mr. BARBOUR: Petitions of citizens of Bakersfield, Calif., and members of the Bakersfield Branch of the National Association for the Advancement of Colored People, urging support of the Dyer antilynching bill, House bill 13; to the Committee on the Judiciary.

3079. By Mr. BEEDY: Resolutions by Conklin Class, Portland, Me., favoring an equitable, just, and wise plan for the limitation of armament which will promote peace; to the Committee on Foreign Affairs.

3080. By Mr. BYRNS of Tennessee: Papers to accompany House bill 9161, granting a pension to Etta King, widow of Thomas King; to the Committee on Pensions.

3081. By Mr. FENN: Petition of men of the parish of the First Church of Christ, of Glastonbury, Conn., expressing approval of the Conference on the Limitation of Armaments; to the Committee on Foreign Affairs.

3082. By Mr. FULLER: Petition of the Civic Federation of Chicago, Ill., opposing the Sheppard-Towner maternity bill; to the Committee on Interstate and Foreign Commerce.

3083. By Mr. GLYNN: Resolution of the Calvary Baptist Church, of Torrington, Conn., in favor of House joint resolution 159; to the Committee on the Judiciary.

3084. By Mr. KINDRED: Resolutions condemning Polish atrocities at Vilna, Lithuania, adopted at a mass meeting of American-Lithuanian organizations of Greater New York, held at Cooper Union Hall, November 13, 1921; to the Committee on Foreign Affairs.

3085. By Mr. KISSEL: Petition of Textiles, Boston, Mass.; to the Committee on Coinage, Weights, and Measures.

3086. Also, petition of the Franklin Society, New York City; to the Committee on Ways and Means.

3087. Also, petition of New York State League, New York City; to the Committee on Ways and Means.

3088. Also, petition of James McCreery & Co., New York City; to the Committee on Ways and Means.

3089. By Mr. LINTHICUM: Petition of N. Greenwald & Co. and Steinmetz Electric Motor Car Corporation, Baltimore, Md., favoring legislation for reduction of traveling fare as per Senate bill 848 and House bill 2894; to the Committee on Interstate and Foreign Commerce.

3090. Also, petition of Walter Green Post of American Legion, Baltimore, Md., favoring passage of antilynching bill; to the Committee on the Judiciary.

3091. Also, telegram from president National Federation of Federal Employees, Baltimore, Md., favoring passage of Lehlbach bill; to the Committee on Reform in the Civil Service.

3092. Also, petition of Private Soldiers' and Sailors' Legion, Washington, D. C., favoring House bill 6309; to the Committee on the District of Columbia.

3093. By Mr. MORIN: Telegram from the officials of the Irene-Kaufmann settlement and the people of that district in Pittsburgh, Pa., heartily indorsing the disarmament program and urging support of proposals to reduce expenditures for naval and military purposes; to the Committee on Foreign Affairs.

3094. By Mr. RAKER: Resolution by Winchester Post, No. 197, Department of New York, Grand Army of the Republic, relative to the examination of prospective immigrants to this country before taking passage to this country; to the Committee on Immigration and Naturalization.

3095. By Mr. ROSE: Petition of electors of Johnstown, Cambria County, Pa., asking the International Conference for the Limitation of Armament to do its utmost to preserve peace, curtail wars, and destroy armament; to the Committee on Foreign Affairs.

3096. By Mr. SANDERS of Texas: Petition from Kiwanis Club of Tyler, Tex., calling attention to the vital importance and beneficial results to humanity and industry which will ensue if the Disarmament Conference will give consideration to the most stringent limitation of armaments of all the great powers, and seek to insure and assure the peoples of the world against the probability of future wars; to the Committee on Foreign Affairs.

3097. By Mr. WHITE of Maine: Petition of Raymond W. Farley and other citizens of Bath, Me., protesting against legislation to regulate observance of Sunday in the District of Columbia; to the Committee on the District of Columbia.

3098. By Mr. WILLIAMSON: Resolutions on limitation of armaments of the faculty and students of the University of South Dakota, pledging support to the conference now in session for that purpose; to the Committee on Foreign Affairs.

3099. Also, petition of citizens of Ipswich, S. Dak., relative to international disputes and the methods for their settlement; to the Committee on Foreign Affairs.

## SENATE.

FRIDAY, November 18, 1921.

(Legislative day of Wednesday, November 16, 1921.)

The Senate reassembled at 11 o'clock a. m., on the expiration of the recess.

Mr. CURTIS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. JONES of Washington in the chair). The Senator from Kansas suggests the absence of a quorum. The Secretary will call the roll.

The reading clerk called the roll, and the following Senators answered to their names:

Ashurst	Glass	McLean	Simmons
Ball	Gooding	McNary	Smith
Borah	Hale	Myers	Spencer
Brandeggee	Harris	Nelson	Stanley
Broussard	Harrison	New	Sterling
Bursum	Heflin	Nicholson	Swanson
Capper	Johnson	Norbeck	Townsend
Caraway	Jones, N. Mex.	Norris	Trammell
Culbertson	Jones, Wash.	Oddie	Underwood
Curtis	Kendrick	Overman	Wadsworth
Dial	Kenyon	Owen	Walsh, Mass.
du Pont	Keyes	Page	Walsh, Mont.
Edge	King	Phipps	Watson, Ind.
Ernst	Ladd	Pomerene	Watson, Ga.
Fernald	La Follette	Ransdell	Willis
France	Lodge	Robinson	
Frelinghuysen	McKellar	Sheppard	
Gerry	McKinley	Shields	

Mr. CURTIS. I wish to announce the absence of the Senator from Pennsylvania [Mr. PENROSE], the Senator from North Dakota [Mr. McCUMBER], and the Senator from Utah [Mr. SMOOT] on official business.

Mr. TRAMMELL. I wish to announce that my colleague [Mr. FLETCHER] is absent on official business.

Mr. FERNALD. The senior Senator from Iowa [Mr. CUMMINS] and the junior Senator from Washington [Mr. POINDEXTER] are absent on business of the Senate.

The PRESIDING OFFICER. Sixty-nine Senators having answered to their names, a quorum is present.

## AMENDMENT OF NATIONAL PROHIBITION LAW.

Mr. WADSWORTH. Mr. President—

Mr. CURTIS. Will the Senator from New York yield?

Mr. WADSWORTH. I yield for a statement or request.

Mr. CURTIS. As the unanimous-consent agreement does not provide for laying before the Senate the conference report, I ask unanimous consent that the unfinished business be temporarily laid aside and that the conference report be laid before the Senate.

The PRESIDING OFFICER. The Senator from Kansas asks unanimous consent that the unfinished business be temporarily laid aside and that the conference report be laid before the Senate. Is there objection? The Chair hears none.

The Senate resumed the consideration of the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 7294) supplemental to the national prohibition act.

Mr. WADSWORTH. Mr. President, thus far I have taken no part in the discussion upon that phase of the measure relating to searches without warrant, searches of dwellings, books, papers, persons, or property. I have felt that that was a matter which might better be discussed by those who are learned in the law. I have listened, however, with great interest to the arguments made upon both sides.

Since that discussion commenced with the introduction originally of the so-called Stanley amendment, my interest in it has been so great that I have taken some pains to ascertain some of the practical effects of the present practice, under which apparently there is no restraint imposed upon officers of the Government, or, if there is restraint, it is of such a mild or futile character that it amounts practically to nothing.

As an example of what may be done under the present system at any time and at any place, I wish to lay before the Senate the details of an incident which happened in the State of New York in the month of September last. It comes to me in a newspaper account published in the Albany Evening Journal some time in the neighborhood of September 6 or 7. The account is headed:

Shooting to be investigated by United States district attorney.

Portions of the account I desire to read:

Investigation of the shooting of William Weisheit, a Glenmont farmer, last night on the Kenwood Road by Frank Galloway, one of three prohibition enforcement agents sent out from the Albany office to run down bootleggers, will be made by Hiram C. Todd, United States district attorney for northern New York.

Weisheit and his son, farmers living outside of the city of Albany, were returning from the city to their farm with their truck. They had been marketing vegetables and other produce at the city market. It was in the evening, and as they were going along peacefully with their truck three men stepped out into the road and ordered them to halt. The younger Weisheit was driving the car. He and his father immediately feared and were convinced that the men who ordered them to halt were highwaymen, and at the father's instant direction the son speeded up the car to get out of danger.

They proceeded along the road but a very short distance until they reached a house, when both father and son leaped from the car to run into the house to get help. As they did so one of the prohibition officers, for so they turned out to be, fired and shot the older man, inflicting a severe wound in the thigh. The truck turned out to be loaded with empty market baskets.

There was nothing in the incident that would lead anyone to suppose that these men were bootleggers. The officers who perpetrated this atrocity, and I use that term advisedly, had no information to the effect that Weisheit or his son were bootleggers or were engaged in illicit practices. Apparently their explanation or defense, if one may deem it so, was to the effect that it was suspected that bootleggers were using that road, and that it was the duty of officers to hold up citizens and search their vehicles. The officers were not in uniform nor did they show any badge. Weisheit and his son, believing that they were highwaymen and having heard, as thousands and thousands of citizens have heard, that one of the favorite devices of highwaymen is to impersonate prohibition enforcement agents, failed to halt their car. The elder man was shot. The matter very naturally excited a great deal of attention in the community, and I beg leave of the Senate to read an editorial from one of the newspapers there which I think expresses the sentiment of every man and woman who has some regard for law and order and the responsibility of public officials as well as the rights of citizens. The editorial is headed, "So it has come to this," and reads:

Last night William E. Weisheit, a farmer who lives at Glenmont, having disposed of the produce which he had brought to the market in this city, headed his motor truck, holding only empty baskets and other containers, for home. Near the bridge across the Normanskill, on the Kenwood Road, his son, who was driving, was ordered to halt by three men who were lined along the road. One leveled a revolver at the younger Weisheit.

Believing that the men were robbers, the driver put on more speed. When he came to a house near the road, he stopped, and he and his father got off and ran toward the house, shouting for help. One of the pursuers shot at them. The bullet struck the elder man in the leg and he fell.

Then the pursuers came up and informed the wounded man and his son that they were prohibition-enforcement agents, and that they had suspected that the truck contained "booze." They asserted that they had declared themselves to be officers when they gave the order to halt. The Weisheits said that the men didn't so declare themselves. If they did, the men on the truck did not hear the information.

However that may be, the fact remains that highwaymen might have represented themselves as officers in order to accomplish their purpose.

So it has come to this, that peaceful, law-abiding wayfarers must obey the command of armed men to halt when they are going about their business on a highway, under penalty of injury or even death, if they refuse.

These officers of the prohibition-enforcement bureau are reported to have said that they had been trailing a truck resembling that driven by the Weisheits, in which they believed liquor was carried. If they were, they must have lost it. They ought to have been able to see that a truck carrying empty baskets and boxes and barrels, such as are used to convey vegetables and fruits, was not the one for which they were looking. When the Weisheits stopped and fled, fearing highwaymen, the officers could have quickly assured themselves that the truck did not carry liquor. Instead, one of them discharged the weapon that he held, evidently not giving a thought to the consequences of his shots, which might have been the taking of a life.

In plain words, these officers committed an unwarranted assault upon law-abiding citizens. They are of a type that haven't sufficient intelligence to use authority with proper discretion, that deems possession of a badge and a revolver to be license to resort to violence, even to kill, whenever an arbitrary command is not obeyed.

These officers did not have a warrant against the Weisheits. They did not have even reasonable cause to suspect that the Weisheits were violating a law. They took it into their heads to exercise their authority recklessly. That they did not commit murder was a providential accident.

Manifestly it is in order for the men higher up in the prohibition-enforcement bureau to select their subordinates with due regard for fitness for their duty.

Mr. FRANCE. Mr. President—

The PRESIDING OFFICER. Does the Senator from New York yield to the Senator from Maryland?

Mr. WADSWORTH. I yield for a question.

Mr. FRANCE. I desire to say that I have presented to the Government the claim of the mother of a Maryland boy who was shot under very similar circumstances on his way from Philadelphia to Baltimore.

Mr. WADSWORTH. Let me say to the Senator that if that claim arises from an incident such as the one to which the editorial which I have read refers, there is nothing which can satisfy it save a special act of Congress, for, of course, the department has no money made available by appropriations to meet such claims. The only relief of a financial nature in a case such as that to which I have referred and in the case cited by the Senator from Maryland, would be an act of Congress, and we all know what delay ensues when legislation of that character is attempted.

Mr. President, one might believe that an incident of this sort would teach a lesson at least to those in charge of enforcement in that district, but the official in charge of prohibition enforcement in Albany, commented upon this incident and issued an interview in the newspapers which I think is somewhat interesting and significant and certainly has a bearing upon the question originally presented by the Senator from Kentucky [Mr. STANLEY]. I quote from the newspaper article:

#### STATEMENT BY GANTER.

Ruddle E. Ganter, chief of the Albany prohibition enforcement office, in a statement made to a reporter of the Evening Journal, declared, in effect, that while the "accident" was unfortunate, his men were justified in what they did, and he saw no way to avoid similar "accidents" in the future unless every citizen ordered to halt by a prohibition enforcement agent obeyed promptly.

Then follows the interview:

"Prohibition enforcement agents carry badges and a pocket commission," said Mr. Ganter, "but they do not display them when after persons suspected of bootlegging, because that would put the offenders on their guard. In this case Weisheit was informed by the agents what they were when the farmer's automobile was under the electric light near the approach to the bridge, and the information was repeated several times after one of the agents had jumped onto Weisheit's machine.

The young boy denies that.

#### SHOULD STOP WHEN ORDERED.

When a citizen is ordered to stop by a prohibition enforcement agent he should do so, for the Government instructions are that when such an order is disregarded the prohibition agent should use his revolver if he believes a bootlegger is attempting to escape. The fact that we had information that many bootleggers were using the Kenwood Road, and that our men in pursuit of them stood a good chance of being shot may have been a factor in inducing our agents to use their guns.

It is true that there have been so many automobile hold-ups of late that reputable citizens would naturally hesitate to obey anyone's order to stop, especially at night. There really is no way in which a prohibition enforcement agent can be identified at night. They can't wear a uniform, for that would give them away. It is unfortunate that such accidents as that on the Kenwood Road occur, but apparently there is no way of preventing them when a person ordered to halt by one of our agents refuses to do so. I admit that there is nothing to prevent highwaymen from declaring themselves prohibition enforcement agents when plying their trade, but our agents nevertheless have to protect themselves and are going to use their guns when they think they are justified, either for their own protection or in order to capture a bootlegger.

What becomes of the peaceful citizen between the upper and nether millstones in that situation I can not imagine. He is helpless; he is either held up by highwaymen and filched of his property, if the intruder is a highwayman, or if he attempts to escape in the darkness and it turns out to be a prohibition enforcement agent he is shot.

Mr. STANLEY. Mr. President—

The PRESIDING OFFICER. Does the Senator from New York yield to the Senator from Kentucky?

Mr. WADSWORTH. I yield.

Mr. STANLEY. Is the Senator from New York aware of the fact that a bulletin has been issued advocating the shooting on sight of persons suspected of illicit traffic in liquor. The bulletin does not state whether they are to be shot when suspected or whether they are to be stopped and captured and then shot, but that is the propaganda.

Mr. WADSWORTH. I had not known of that bulletin, Mr. President, although—

Mr. STANLEY. It purports to come from certain organizations.

Mr. WADSWORTH. I thought the Senator referred to some official Government bulletin. I have noticed the bulletin to which the Senator calls attention, and I regret that any such exhortation was issued to the American public as the one which I saw. I can not believe that the people who compose the organization whose officials issued that bulletin are in sympathy with their advice and insistence that violence should be used indiscriminately in the enforcement of the law as referred to.

Mr. President, I am not competent to discuss the legal or the constitutional side of this question. As I understand, the conference report carries a portion of the Stanley amendment which would make punishable by fine or imprisonment or both the searching without warrant of a citizen's dwelling, but it fails to include that part of the original Stanley amendment which would make it punishable by fine or imprisonment or



both to do the thing that was done in the case which I have described. For myself, I think something should be done by the legislative branch of the Government at least to decrease the danger of accidents of this kind happening from time to time over the country, for, otherwise, we shall find ourselves living under a reign of terror, and the humble and peaceful and helpless citizen traveling in his own automobile about his own business, interfering with no one, violating no law, if he happens to travel upon a road which prohibition enforcement officers believe has been used by persons violating the law, is in danger of his life or of having his property taken away from him by highwaymen impersonating prohibition enforcement agents.

Mr. BORAH. Mr. President—

The PRESIDING OFFICER. Does the Senator from New York yield to the Senator from Idaho?

Mr. WADSWORTH. I do.

Mr. BORAH. Mr. President, I sympathize with the views the Senator expresses, and I think that the amendment which has been substituted for the Stanley amendment does not go far enough.

Mr. WADSWORTH. It does not.

Mr. BORAH. I also think, however, that the Stanley amendment itself goes too far. But here is the proposition which I wish to submit to the Senator: The substitute does protect the dwelling; the present law does not. Assuming that one is in favor of the law, aside from the question of the fourth amendment, I have found it difficult to justify myself in voting against it, because to defeat it would leave the law without any protection of the home or anything else. In other words, if we were to succeed in defeating the conference report, the law as it now stands would be much worse than the law as we would enact it in this instance. Does not the Senator think that is true? If I were permitted, I would like to vote for a bill which would embody exactly the principle of the fourth amendment; but if I can not do that, then I want as much of it as I can get. This bill, when it becomes a law, will be much better than the present prohibition law relative to search and seizure.

Mr. WADSWORTH. Mr. President, undoubtedly the Senator from Idaho is right, if he confines his comment solely to this portion of the bill presented in the conference report. If there were nothing in the conference report except what is left of the Stanley amendment, I would vote to adopt the conference report, regretting that it did not go further; but I can not vote to adopt the conference report on account of the provisions in the bill itself as originally passed by the Senate. The restrictions imposed upon the medical profession of a severity equal, in my judgment, to savagery, make it impossible for me to support it.

Mr. President, if I may say a few words in conclusion, for two years now the country has endeavored to adjust itself to the new conditions prescribed under the eighteenth amendment. I need not indulge in lengthy comment or discussion upon the effect of that amendment throughout the country and the manner in which it has been received in many great communities. Every Senator on this floor knows that while it has been enforceable and has been enforced in many communities, in many other communities it has given rise thus far to an orgy of corruption, smuggling, forgery, bribery, violence, and evasion of the law. I do not have to cite the instances. The public officials in charge of it in many places have referred to them. It is a difficult problem which we have undertaken, Mr. President, and my complaint against the pending bill is that it goes even further in its attempt to impose with savage rigidity—if I may use that expression—the ideas of those who are in favor of prohibition. We are all in favor of enforcement; but it goes so far as, in my judgment, to make it inevitable that further resistance will be built up against this amendment to the Constitution and the existing statute.

I think myself that this bill as contained in the conference report does an injury to prohibition enforcement. It says to a reputable physician, "You shall not prescribe more than this little amount to the sick man whom you are attending." It has nothing to do with the use of these liquors as beverages. The bill relates only to their use as medicines, and then proceeds to put upon the physicians of the country such savage restrictions that there is not a sensible man but knows that times will come when physicians will have to violate the law or evade it or encourage some one else to violate or evade it. There is too much of that going on now. The truth of the matter is that we are filling the country with a spirit of hypocrisy. Thousands and thousands of people give lip service to the law and violate it on the sly; and I do not want that spirit increased. There is far too much of it to-day.

Therefore let me say to the Senator from Idaho I can not vote for this bill, for the reasons that I have stated. In my judgment, it is injurious to respect for law and the Constitution of the United States, and if legislation of this kind is enacted year after year, instead of fortifying the prohibition act and the Constitution of the United States it will eventually break them down and destroy them, and in that breakdown and in that destruction much of the sense of responsibility which the citizen owes to his Government will disappear.

Mr. BRANDEGEE. Mr. President, just a word, and I shall be very brief, because I know that other Senators desire to express their views before final action upon this conference report. I simply want to make a statement, to go into the record as to why I could support neither the bill nor the conference report upon the bill.

The Senate is now considering the conference report on the bill (H. R. 7294) entitled "An act supplemental to the national prohibition act." The eighteenth amendment to the Constitution prohibited the manufacture, sale, transportation, and so forth, of intoxicating liquors for beverage purposes. The bill which was passed by both branches, and which is the subject of the present conference report, seeks to prevent the use of beer for medicinal purposes under the authority of the eighteenth amendment, prohibiting intoxicating liquors for beverage purposes. I think that bill is unconstitutional. I think it will be so declared as soon as it is brought before the Supreme Court. I voted against it on that ground when it was in the Senate.

Mr. President, before the Senate passed that bill they attached to it an amendment known as the Stanley amendment. That amendment undertook to prohibit the prohibition officers and other officers of the United States from searching the houses and property of citizens without a warrant. I agree with the Senator from Idaho [Mr. BORAH] that it went too far, in my opinion.

I do not think we should have attempted to prevent other officers of the United States, and I do not think the courts would have held that it did if it had become a law. At any rate, it was adopted by the Senate, was sent to the conference committee, and the conferees declared that they would stand by the action of the Senate. The conferees met, and instead of reporting the Senate amendment they reported a substitute for it, which appears as section 6 of the conference report, which I will send to the desk and ask the Secretary to read into the record.

The PRESIDING OFFICER. The Secretary will read as requested.

The reading clerk read as follows:

SEC. 6. That any officer, agent, or employee of the United States engaged in the enforcement of this act, or the national prohibition act, or any other law of the United States, who shall search any private dwelling as defined in the national prohibition act, and occupied as such dwelling, without a warrant directing such search, or who while so engaged shall without a search warrant maliciously and without reasonable cause search any other building or property, shall be guilty of a misdemeanor, and upon conviction thereof shall be fined for a first offense not more than \$1,000, and for a subsequent offense not more than \$1,000 or imprisoned not more than one year, or both such fine and imprisonment.

Whoever not being an officer, agent, or employee of the United States shall falsely represent himself to be such officer, agent, or employee and in such assumed character shall arrest or detain any person, or shall in any manner search the person, buildings, or other property of any person, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not more than \$1,000 or imprisoned for not more than one year, or by both such fine and imprisonment.

Mr. BRANDEGEE. It will be noted that the substitute reported by the conference committee penalizes these prohibition-enforcing officers only if they search a private dwelling without a warrant. I read the fourth amendment to the Constitution, which is as follows:

The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures shall not be violated, and no warrants shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the persons or things to be seized.

It will appear, therefore, that there are four things guaranteed to the people in the fourth amendment, which is a part of the Bill of Rights, to wit:

The right of the people to be secure in their persons, houses, papers, and effects.

That includes about all that a man has—his person and his property.

Mr. President, I want to say in answer to the Senator from Idaho [Mr. BORAH], who states that he may vote in favor of this conference report, because at least it prevents the unlawful search without a warrant of a man's dwelling house, that if we adopt this conference report it will be notice to all these prohibition officers all over the country who are holding up, shooting, and searching the persons and property of citizens

without warrants that the Senate has refused to pass any law by which they can be held responsible for violating the constitutional provision protecting the people from unreasonable search and seizure of their persons, papers, and effects. If the constitutional guaranty contained in the fourth amendment ought to be maintained by congressional legislation with reference to a man's house, it should be maintained as to the man's person and his property. The amendment proposed by the conference committee protects simply a dwelling house. Under the fourth amendment all a man's houses of every kind are protected from unreasonable search and seizure.

Mr. President, I will not longer weary the Senate, except to say that I base my opinion that the person, papers, and effects of a person can not lawfully be searched or seized without a warrant any more than his house can, upon the leading case of *Boyd v. United States* (116 U. S., 616), and upon the case of *Gouled* against the United States, decided February 28, 1921, and the case of *Amos* against United States contained in the advance sheets of the United States Supreme Court reports, No. 10, published April 1, 1921. I believe the court will not reverse those decisions.

During the delivery of Mr. BRANDEGEE'S speech—

Mr. BROUSSARD. Mr. President—

The PRESIDING OFFICER. Does the Senator from Connecticut yield to the Senator from Louisiana?

Mr. BRANDEGEE. I do.

Mr. BROUSSARD. Will the Senator be kind enough to permit me to read a letter at this time?

Mr. BRANDEGEE. If it will not take more than two or three minutes.

Mr. BROUSSARD. It will take only two or three minutes.

This letter is from Dr. W. E. Parker, of Hot Springs, Ark. Dr. Parker is a brother of Gov. Parker, of Louisiana. He is an eminent physician, and a man fully to be trusted. He wrote me this letter on July 28, 1921:

DEAR SENATOR: \* \* \* Something over two months ago I heard Roy Steagal, head enforcement officer here, say in the Elks' Club that the night before a car would not stop, and that he "shot hell out of the tires, and then did not find a damned thing in the car." A few days later, an old friend who lives about 18 miles out into the mountains sent in word that he had been ill for three weeks, and asked if I would go out if he sent a Ford car for me. As we were coming back, about 10.30, and were about 1½ miles from town, at a dark place in the road, we were held up by three revenue men. It looked like a hold up, and the driver of a car just behind us tried to make a run. The revenue men opened fire, and the driver stopped about 75 yards away. They searched his car, and nothing was found, and then searched ours, with similar results. A few days before they fired at a car driven by a lady who had her family with her.

Surely we are coming to a fine state of things when reputable citizens can not go out after dark without being annoyed by these people who look and act like highwaymen; and then it is always along the most-traveled roads, and there is no telling where a stray bullet may go, or what innocent person it may hit.

Mr. STERLING. Mr. President, I will ask the Senator from Connecticut if he is disposed to yield for the reading of a communication such as is being read now by the Senator from Louisiana?

Mr. BROUSSARD. Mr. President, I had intended to speak this morning; but, seeing that there will be no opportunity, I want to thank the Senator from Connecticut for yielding to me.

After the conclusion of Mr. BRANDEGEE'S speech—

Mr. STERLING. Mr. President, I confess a little surprise at the turn the discussion has taken this morning. I find that in that discussion objection is made, not so much to the conference report but to the bill itself, which long ago passed both Houses by decisive majorities.

Just a word or two with reference to the bill. It was said by a great Chief Justice in a great case:

Let the end be legitimate, let it be within the scope of the Constitution, and all means which are appropriate, which are plainly adapted to that end, which are not prohibited, but consist with the letter and spirit of the Constitution, are constitutional.

That was said by Chief Justice Marshall in the great case of *McCulloch* against the State of Maryland.

When is the end? It is embodied in the eighteenth amendment to the Constitution itself, and the end is the prohibition of the manufacture, the sale, and the importation of intoxicating liquors for beverage purposes.

Mr. SHIELDS. Mr. President—

Mr. STERLING. Mr. President, I think that in the very brief time I have I will not yield for an interruption.

The PRESIDING OFFICER. The Senator declines to yield.

Mr. STERLING. I beg the Senator to excuse me.

Mr. SHIELDS. So far as I understood the objection made this morning—

The PRESIDING OFFICER. The Senator declines to yield.

Mr. SHIELDS. It is to the effect that the law contributes to the end, but that it does not consist with but is at variance with the provisions of the Constitution.

Mr. STERLING. I shall be able, I think, in the brief time I have to show that it does not violate any provision of the Constitution, notwithstanding the Senator from Tennessee [Mr. SHIELDS] insists on making his statement in the face of my declining to yield.

Is the end legitimate? Let the eighteenth amendment of the Constitution itself answer. Is it within the scope of the Constitution? The eighteenth amendment is a part of the Constitution.

What as to the means? Are the means sought to be provided by the bill, the conference report on which we are considering, appropriate to the end? I will let the Supreme Court of the United States answer that. Take the case of *Jacob Ruppert* against *Caffey* (251 U. S., 264). In referring to a case previously before the Supreme Court, the court said:

*Purity Extract Co. v. Lynch* (226 U. S., 192) determined that State legislation of this character is valid and sets forth with clearness the constitutional ground upon which it rests.

This is a quotation from the language of Justice Hughes in the *Purity Extract Co.* case:

When a State exerting its recognized authority undertakes to express what it is free to regard as a public evil, it may adopt such measures having reasonable relation to that end as it may deem necessary in order to make its action effective.

I think Senators will remember the *Purity Extract* case, which arose out of the sale of a malt beverage having no alcoholic content whatever, but the law of the State of Mississippi forbade the manufacture and sale of such malt beverages. Justice Hughes said further in that case:

It does not follow that because a transaction separately considered is innocuous it may not be included in a prohibition the scope of which is regarded as essential in the legislative judgment to accomplish a purpose within the admitted power of the Government.

Further, and what is more applicable to the present case:

That the Federal Government would, in attempting to enforce a prohibitory law, be confronted with difficulties similar to those encountered by the States is obvious; and both this experience of the States and the need of the Federal Government of legislation defining intoxicating liquors, as was done in the Volstead Act, were clearly set forth in the reports of the House Committee on the Judiciary in reporting the bill to the Sixty-fifth Congress, third session (Rept. 1143, Feb. 26, 1919), and to the Sixty-sixth Congress, first session (Rept. 91, June 30, 1919).

The court further says, quoting from another case, the case of *Hamilton* against *Kentucky Distilleries & Warehouse Co.*, in this same report, at page 156:

When the United States exerts any of the powers conferred upon it by the Constitution no valid objection can be based upon the fact that such exercise may be attended by the same incidents which attend the exercise by a State of its police power.

There is found the complete answer to every objection to the original Volstead Act and its provisions, and a complete answer to the objections to the pending bill, the conference report on which we are now considering.

So, Mr. President, it was proper and lawful and constitutional for the Volstead Act to declare that liquors or beverages containing more than one-half of 1 per cent of alcohol were intoxicating, though in fact they might not be so, in order to reach the evil and prevent a resort to those subterfuges and evasions which would nullify the constitutional amendment itself.

Now, let me quote just a little further in this connection from the opinion of Chief Justice Marshall in the same great case from which I first read:

Where the law is not prohibited and is really calculated to effect any of the objects intrusted to government, to undertake here—

That is, by the court—

to inquire into the degree of its necessity, would be to pass the line which circumscribes the judicial department and to tread on legislative ground.

And thus, Mr. President, we reach the logical, the inevitable conclusion that this bill prohibiting the manufacture and sale of beer for medicinal purposes is constitutional, and firmly believe that the Supreme Court will, in accordance with the principles it has laid down in other cases, so hold.

Mr. PHIPPS. Mr. President—

Mr. STERLING. I have already declined to yield to another Senator, and I can not yield now.

Mr. PHIPPS. I shall seek an opportunity to say what I have to say when the Senator has concluded.

Mr. STERLING. Now, one word as to the conference report itself. Objection is made to it on the alleged ground that it does not go far enough in protecting the rights of the citizen under the fourth and fifth amendments to the Constitution. Neither the conference report nor the bill deprives the citizen of a single right he may have under the fourth and fifth amendments to the Constitution. Is it the compulsory production of



papers to be used in evidence against him? Read the Boyd case, and you will find the answer and the citizen's remedy.

Is it the entering of the house of the defendant without a warrant, as the marshal did in the Weeks case, and searching that house for papers? He has his remedy.

Is it a case of the unlawful detention or commitment of a party without jurisdiction or without due process of law? He has his remedy by habeas corpus proceedings and can invoke the protection guaranteed him under the Constitution.

What is the effect of this conference report? Instead of nullifying or detracting from the fourth amendment to the Constitution, or depriving a citizen of a single right thereunder, it adds at least two additional guaranties to the rights of the citizen.

It never before has been a penal offense for an officer to invade the dwelling of another without a warrant, but this conference report makes it a penal offense, and punishes the officer so doing by a fine of not more than a thousand dollars or by imprisonment in the penitentiary for a period of not more than a year, or both. If a man without a warrant seeks to stop an automobile, or seeks to search a building, doing it maliciously and without probable cause, under this proposed law he will be liable to a fine of a thousand dollars or imprisonment for not exceeding one year in the penitentiary, or both. And thus the conference report provides these additional safeguards to the rights of the citizen as guaranteed by the fourth and fifth amendments.

So, Mr. President, we have all this storm and all this furor about a report and about a bill which, instead of depriving a citizen of a single right under the Constitution, affords him additional guaranties. So much good at least has come from the Stanley amendment.

I ask that an editorial from the Journal of the National Association of Retail Druggists against the manufacture and sale of beer for medicinal purposes be inserted as a part of my remarks.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

[Editorial from the Journal of the National Association of Retail Druggists, Nov. 10, 1921.]

After reading the various articles which have appeared in the daily papers regarding the regulations recently issued by the Treasury Department permitting and governing the prescribing and dispensing of beer and similar malt products for medicinal purposes, the situation is about as clear as mud to the ordinary intelligent individual. There is, however, one phase of this matter upon which there is absolutely no doubt, and yet this particular phase appears to have been entirely overlooked. We refer to the attitude of the drug trade toward this question, and in this connection it should be borne in mind that the drug trade did not seek the privilege of dispensing beer, and that these regulations were not issued as a result of any effort put forth to that end by any branch of the drug trade, but rather in spite of the numerous protests filed against the granting of any such privilege, and it may in all truthfulness and candor be said that the drug trade generally regrets the issuance of the beer regulations.

In the consideration of this question it should be borne in mind that in only 9 of the 48 States of the Union can the privilege granted by these regulations be exercised, owing to the existence of State laws, the remaining 39 States prohibiting such transactions. \* \* \* Now, as to the remaining States, the druggists in those States should, before engaging in this business, bear very clearly in mind that a bill prohibiting the prescribing and dispensing of beer has passed both Houses of Congress and is now in the hands of the conferees appointed by both Houses for the purpose of ironing out other differences in the measure, both the Senate and the House being in agreement in favor of prohibiting beer. It can, therefore, readily be assumed that when this bill finally becomes a law, as it undoubtedly will, the prescribing and dispensing of beer will be prohibited in all of the States.

In view of these facts, we ask in all seriousness, is it worth while for anyone to become excited over this question, or is it advisable for anyone to take the trouble to qualify under these regulations to engage in this business, when every indication points to an early and complete ending of the whole question?

Mr. McKELLAR obtained the floor.

Mr. SHIELDS. Mr. President—

The PRESIDENT pro tempore. Does the Senator from Tennessee yield to his colleague?

Mr. McKELLAR. I yield to my colleague.

Mr. SHIELDS. Immediately after the recess of Congress, although not having time for proper preparation, I addressed the Senate upon this bill and the report of the conferees, urging various constitutional and legal propositions, upon which I predicated opposition to the report of the conferees. I had not examined the authorities at length then, but since then I have, and I desire to include them in my remarks, which have not yet been printed.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. POINDEXTER. Mr. President—

Mr. McKELLAR. I shall have to go on. I want to make just a few remarks, and I hope I shall be able to conclude before the time for a vote.

Mr. POINDEXTER. Without taking the Senator's time, I wanted to inquire as to the request made by the Senator from Tennessee, which I did not hear. Was it a request to extend his remarks in the Record?

Mr. McKELLAR. No; my colleague desired to have inserted in a speech which he has already made some authorities bearing on the subject.

Mr. President, in a rather long experience I have known but one person that intoxicating liquors did any good, and I believe that any other stimulant would have had the same effect on him. On the other hand, I have known literally thousands of people that intoxicating liquors have injured and many were ruined by them. It is my belief that no man can habitually use them without being greatly injured or destroyed. Some of the brightest intellects I have ever known have been at first dimmed by the use of intoxicating liquors, and in many cases finally destroyed. The chief difference between the use of intoxicants and the use of poisonous drugs is a delayed result. The drugs act quickly, the intoxicants more slowly; but both, if continued, are certain destroyers of the human system.

Knowing these facts—and we all know them—it would seem the most reasonable thing in the world that we should put the use of intoxicants on the same footing with the use of poisonous drugs. Such is the apparent human desire for intoxicants or stimulants that our experience has shown that there is but one way with any degree of success to limit the use of intoxicating liquors, and that is by prohibition. It is not an absolutely effective remedy. It does not prevent all men from using intoxicants. Some liquors will be smuggled in. Some will be illegally made in violation of the law. But this does not mean that because the law is violated we should have no law. We have a law against murder, but that does not prevent all murders. We have a law against arson, but that does not prevent the illegal burning of houses by many. We have a law against robbery and stealing, and yet we find innumerable violations of these laws every day; but surely no patriotic citizen would want these laws repealed or seriously modified because they are being violated. And so I take it that any unbiased and observing man will say in reference to the prohibition laws, that even though they are violated they have greatly lessened the consumption of liquors and greatly added to the welfare and happiness of men and women in our whole country.

I think the result of the law is well illustrated by its effect in the city where I live. Ten years ago we had some six or seven hundred saloons in the city of Memphis. Men drinking and drunk were to be seen everywhere. Last July I was at home in Memphis for six days and mingled with all classes of our people. I did not see a single person that I thought was under the influence of liquor or who even had a drink while I was there in those six days. I do not mean to say that there was no drinking in Memphis during that time or that the law was not being then violated. Intoxicating liquors are being drunk there, but what I do mean to say is that the consumption of liquors has been enormously decreased by the prohibition laws and that this enormous decrease has brought about the greatest benefits and blessings to our people. It has contributed untold happiness to innumerable families and makes for a higher, cleaner, more sober, and more prosperous life.

Now, Mr. President, in reference to the particular bill under discussion, its opponents claim it is unconstitutional. I do not believe so. That same claim has been made as to practically every temperance bill that has ever passed in any legislature or in Congress. When I first came to Congress I was caught by one of these claims myself, and yet, Mr. President, practically every temperance law that has ever passed, either in a State legislature or in the Congress, has been declared valid and constitutional. I do not believe there is a single exception, so far as congressional legislation is concerned, and judging from the decisions of the Supreme Court in previous cases, I have not the slightest doubt but that this bill will be declared valid and constitutional if a question is raised about it.

The opponents of the bill then claim that it is an invasion of the rights of the citizen preserved in articles 4 and 5 of the amendments to the Constitution, and especially of article 4, which reads as follows:

The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures shall not be violated, and no warrants shall issue but upon probable cause supported by oath or affirmation and particularly describing the place to be searched and the things to be seized.

If I thought this bill violated that article of the Constitution or any article of the Constitution, I would vote against it; but I do not so believe. The Stanley amendment provides a penalty for a violation of the fourth amendment to the Constitution above quoted. On its face this would seem fair; but, as

a matter of fact, what this proposed amendment does is to prohibit the search by officers of the law without a warrant of automobiles bringing whisky into the country or carrying it through the country. Now, we all know that the automobile is the principal means used for the transportation of illicit liquors. If this Stanley amendment were passed the whisky blockade runners from Canada and Mexico would be practically immune from arrest. They could be 50 miles away and their cargo delivered before a warrant could be sworn out.

Mr. President, I desire to say that it is most remarkable that the fourth amendment of the Constitution has been a part of our Constitution since 1791, 130 years, and no legislator, so far as I am informed, has ever proposed a penalty for its violation until recently. The effect of the Stanley amendment will aid the illicit automobile. I am willing at any time to vote for a bill fixing a specific penalty for the violation of the fourth amendment of the Constitution, but I am unwilling by my vote to say that a penalty should be imposed in such a way as to protect a means of transportation commonly used by the illicit whisky dealers. Amendment 4 of the Constitution was enacted for the purpose of protecting the person and home, and this bill without the Stanley amendment fully does that. That amendment has not even the faintest application to a means of transportation. If you apply the principle of the sanctity of the home and of the sanctity of the person to the protection of automobiles, why not apply the same principle to railroad trains and to wagons and to airplanes, and to all other means of transportation? The question answers itself, there is nothing in that contention. We all know that one of the means principally used to bring in and distribute illicit liquors to the American public is by means of automobiles, I do not for an instant question the good faith of those who favor the Stanley amendment. I know they conscientiously believe they are right. I simply differ with them. Believing in the Constitution and laws of our country I would not want to modify that Constitution and those laws by putting this premium upon their violation. The passage of a law prohibiting murder but providing that no person should be arrested for murder without a warrant would be practically as reasonable. Mr. President, I hope the conference report will be agreed to and that the President may speedily sign the bill. A great majority of the people of these United States favor prohibition. The constitutional amendment voicing the will of the majority is on the statute books. Why not enforce the will of the majority of the people?

The PRESIDENT pro tempore. Under the unanimous-consent agreement entered into on November 8, 1921, the hour of 12 o'clock having arrived, it becomes the duty of the Chair to state the pending question, which is, Shall the conference report upon House bill 7294, an act supplemental to the national prohibition act, be agreed to? The Secretary will call the roll.

The reading clerk proceeded to call the roll.

Mr. GLASS (when his name was called). I have a general pair with the senior Senator from Vermont [Mr. DILLINGHAM], which I transfer to the junior Senator from Oregon [Mr. STANFIELD] and vote. I vote "yea."

Mr. KENDRICK (when his name was called). I have a general pair with the Senator from Illinois [Mr. McCORMICK], who is unavoidably absent. I am informed that on this question he would vote as I intend to vote, and I shall, therefore, vote. I vote "yea."

Mr. CURTIS (when Mr. LENROOT's name was called). The Senator from Wisconsin [Mr. LENROOT] is paired on this question with the Senator from New Hampshire [Mr. MOSES]. If present, the Senator from Wisconsin [Mr. LENROOT] would vote "yea" and the Senator from New Hampshire [Mr. MOSES] would vote "nay."

Mr. PENROSE (when his name was called). I have a general pair with the senior Senator from Mississippi [Mr. WILLIAMS]. I observe that that Senator is not in the Chamber. I transfer my pair to the junior Senator from Pennsylvania [Mr. CROW], who is absent from Washington, and I will vote. I vote "nay."

Mr. GERRY (when Mr. REED's name was called). The senior Senator from Missouri [Mr. REED] is paired with the Senator from Oklahoma [Mr. HARRELD]. If present, the senior Senator from Missouri would vote "nay."

Mr. ROBINSON (when his name was called). I have a general pair with the Senator from West Virginia [Mr. SUTHERLAND], who is absent from the city on account of very serious illness in his family. That Senator informed me before leaving the city that if present he would vote on this question as I intend to vote, and I therefore vote. I vote "yea."

Mr. SIMMONS (when his name was called). Upon this vote I am relieved from my general pair with the junior Senator from Minnesota [Mr. KELLOGG], and I vote "yea."

Mr. SPENCER (when his name was called). I have a pair upon this vote with the Senator from New York [Mr. CALDER]. I transfer that pair to the Senator from Minnesota [Mr. KELLOGG] and vote "yea."

Mr. TRAMMELL (when his name was called). I am paired with the senior Senator from Rhode Island [Mr. COLT], but on this question I am relieved from the pair. I vote "yea."

The roll call was concluded.

Mr. McKINLEY. My colleague, the senior Senator from Illinois [Mr. McCORMICK], is detained from the Chamber on account of the death of his wife's mother.

Mr. OVERMAN (after having voted in the affirmative). I inquire if the senior Senator from Wyoming [Mr. WARREN] has voted.

The PRESIDENT pro tempore. That Senator has not voted. Mr. OVERMAN. I have a general pair with that Senator. I transfer my pair to the Senator from West Virginia [Mr. SUTHERLAND] and allow my vote to stand.

Mr. TRAMMELL. I desire to announce the absence of my colleague [Mr. FLETCHER] on official business. My colleague is paired with the senior Senator from Delaware [Mr. BALL]. If my colleague were present he would vote "yea."

Mr. NELSON. My colleague [Mr. KELLOGG] is detained at home by illness. If he were present he would vote in favor of the conference report.

Mr. CURTIS. I wish to announce the following pairs on this vote:

The Senator from Delaware [Mr. BALL] with the Senator from Florida [Mr. FLETCHER]; and

The Senator from Arizona [Mr. CAMERON] with the Senator from Rhode Island [Mr. COLT].

Mr. McNARY. I wish to announce that my colleague [Mr. STANFIELD] is necessarily absent. If present he would vote "yea."

The result was announced—yeas 56, nays 22, as follows:

#### YEAS—56.

Ashurst	Glass	McKellar	Poindexter
Borah	Gooding	McKinley	Robinson
Bursum	Hale	McNary	Sheppard
Capper	Harris	Myers	Simmons
Caraway	Harrison	Nelson	Smith
Culberson	Hefflin	New	Smoot
Cummins	Hitchcock	Nicholson	Spencer
Curtis	Jones, N. Mex.	Norbeck	Sterling
Dial	Jones, Wash.	Norris	Swanson
Elkins	Kendrick	Oddie	Townsend
Ernst	Kenyon	Overman	Trammell
Fernald	Keyes	Owen	Walsh, Mont.
France	Ladd	Page	Watson, Ind.
Frelinghuysen	McCumber	Pittman	Willis

#### NAYS—22.

Brandagee	King	Pomerene	Wadsworth
Broussard	La Follette	Ransdell	Walsh, Mass.
du Pont	Lodge	Shields	Watson, Ga.
Edge	McLean	Shortridge	Weller
Gerry	Penrose	Stanley	
Johnson	Phipps	Underwood	

#### NOT VOTING—18.

Ball	Dillingham	McCormick	Sutherland
Calder	Fletcher	Moses	Warren
Cameron	Harrel	Newberry	Williams
Colt	Kellogg	Reed	
Crow	Lenroot	Stanfield	

So the conference report was agreed to, as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill H. R. 7294, "An act supplemental to the national prohibition act," having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendment numbered 14.

That the Senate recede from its disagreement to the amendment of the House to the amendment of the Senate numbered 15 and agree to the same.

That the House recede from its amendment to the amendment of the Senate numbered 10, and agree to said Senate amendment.

That the House recede from its disagreement to the amendments of the Senate numbered 17, 18, and 19, and agree to the same.

That the Senate recede from its disagreement to the amendment of the House to the amendment of the Senate numbered 32, and agree to the same with an amendment as follows:

In lieu of the matter proposed in the amendment of the House to the amendment of the Senate insert the following:

"Sec. 6. That any officer, agent, or employee of the United States engaged in the enforcement of this act, or the national prohibition act, or any other law of the United States, who shall search any private dwelling as defined in the national prohibition act, and occupied as such dwelling, without a war-



rant directing such search, or who while so engaged shall without a search warrant maliciously and without reasonable cause search any other building or property, shall be guilty of a misdemeanor and upon conviction thereof shall be fined for a first offense not more than \$1,000, and for a subsequent offense not more than \$1,000 or imprisoned not more than one year, or both such fine and imprisonment.

"Whoever not being an officer, agent, or employee of the United States shall falsely represent himself to be such officer, agent, or employee and in such assumed character shall arrest or detain any person, or shall in any manner search the person, buildings, or other property of any person, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than \$1,000, or imprisoned for not more than one year, or by both such fine and imprisonment."

And the House agree to the same.

THOMAS STERLING,  
KNUTE NELSON,  
*Managers on the part of the Senate.*  
ANDREW J. VOLSTEAD,  
HATTON W. SUMMERS,  
*Managers on the part of the House.*

#### ADJUSTMENT OF WAR CONTRACTS.

The PRESIDENT pro tempore laid before the Senate the amendment of the House of Representatives to the bill (S. 843) to amend section 5 of the act approved March 2, 1919, entitled "An act to provide relief in cases of contracts connected with the prosecution of the war, and for other purposes," which was to strike out all after the enacting clause and to insert:

That section 5 of the act approved March 2, 1919, entitled "An act to provide relief in cases of contracts connected with the prosecution of the war, and for other purposes," be, and the same is hereby, amended as follows:

Add to the first paragraph of section 5 the following proviso: "Provided, That all claimants who, in response to any personal, written, or published request, demand, solicitation, or appeal from any of the Government agencies mentioned in said act, in good faith expended money in producing or preparing to produce any of the ores or minerals named therein and have heretofore mailed or filed their claims or notice in writing thereof within the time and in the manner prescribed by said act if the proof in support of said claims clearly shows them to be based upon action taken in response to such request, demand, solicitation, or appeal, shall be reimbursed such net losses as they may have incurred and are in justice and equity entitled to from the appropriation in said act."

"If in claims passed upon under said act awards have been denied or made on rulings contrary to the provisions of this amendment, or through miscalculation, the Secretary of the Interior may award proper amounts or additional amounts, which shall be paid from the unexpended portion of the appropriation carried in said act, when reappropriated for such purpose."

Mr. POINDEXTER. Mr. President, I move that the Senate concur in the amendment of the House, with an amendment to strike out of the substitute proposed by the House the following language, in the last three lines:

Which shall be paid from the unexpended portion of the appropriations carried in said act, when reappropriated for such purpose.

I also move that the Senate insist upon its disagreement in this respect and ask the House for a conference upon the disagreeing votes of the two Houses, and that the Chair appoint conferees on the part of the Senate.

Mr. KING. Mr. President, I would like to ask for an explanation of the House amendment and the position which the Senator from Washington takes with respect to the Senate proposition.

Mr. POINDEXTER. I will state the substantial difference between the substitute proposed by the House and the bill as passed by the Senate. The Senate bill provided that the Secretary of the Interior might make a just and equitable settlement of claims if they had been proved by the testimony already submitted. The House substitute provides "if they shall be proved," under which would be considered the testimony already submitted or any testimony which may be offered. That is the substantial difference, with the exception of the change to which I have just referred and on which I ask a disagreement; that is, the provision in the House substitute providing that there must be a reappropriation of this money, which has already been appropriated.

The Senate bill provided that the claims when allowed in accordance with the terms of the bill as passed by the Senate might be paid out of the appropriation already made, while the House bill requires that there shall be a reappropriation. Upon that last change I ask for a disagreement and a conference.

Mr. JONES of Washington. Mr. President, as I understand my colleague, he moves to concur in the House amendment with an amendment. It occurred to me that probably it would not

be wise to ask for a conference, because the House might accept the amendment as proposed by the Senate. I merely make that suggestion. The Senator from Washington moves to concur in the House amendment with an amendment. The House might accept that amendment when it is presented to them.

Mr. POINDEXTER. My information is that they are not very likely to accept it; they insist that this matter was very thoroughly debated on this particular point in the House.

Mr. JONES of Washington. I know that, but, so far as any official advice we have is concerned, they might do it. It seems to me it would be the proper thing for them to ask for a conference if they disagreed to the amendment made by the Senate. I merely suggest that to the Senator.

Mr. POINDEXTER. My information is that we shall expedite the consideration of the bill by now asking for a further conference; that it is inevitable that we shall have to have a conference.

Mr. KING. Mr. President, does the amendment which has been offered by the Senator—there was so much noise I could not hear all the Senator said—change the fundamental provisions of the bill or in any way limit the use of the fund which is available to meet the claims which may be presented and finally adjudicated?

Mr. POINDEXTER. Not at all.

Mr. KING. It does not enlarge or diminish the provisions of the bill with respect to the right of recovery as those provisions were carried in the Senate bill?

Mr. POINDEXTER. No; it does not, with the exception that, as I have already stated, the Senate bill was so worded that the consideration of the claims would be confined to the proof which has already been submitted. Under the House provision the claims may be submitted upon any proof that may be offered, including that which has already been submitted.

Mr. KING. May I inquire of the Senator what provision has been made for a tribunal to pass upon the additional proof and make adjudication?

Mr. POINDEXTER. No change whatever has been made in that respect. The same tribunal is to consider the claims.

Mr. KING. As I recall, one of the members of the tribunal was the former Senator from Colorado, Mr. Shafroth, who is not now a member of the tribunal. My understanding was that the tribunal had ceased to function, and I was wondering if a new tribunal had been constituted either by the House bill or by the Senate bill or by any proposed amendment.

Mr. POINDEXTER. That is not changed in the slightest particular.

Mr. NELSON. My understanding is that these claims are pending before the Secretary of the Interior, and he has appointed a board to consider them. The bill relates to manganese and other mineral claims.

Mr. KING. I used the word "tribunal" as meaning board.

Mr. NELSON. The Secretary of the Interior has appointed a board. The members of the board are not appointed by the President and confirmed by the Senate, but it is simply a board appointed or created by the Secretary of the Interior. Our late colleague, Senator Shafroth, was formerly a member of the board.

Mr. ROBINSON. Mr. President, the confusion in the Chamber is so great that some of us have been unable to hear the statements made by Senators who have recently engaged in the colloquy. I desire to ask the Senator from Washington some questions about the matter. Is this the bill which was introduced by myself during the last session and which passed the Senate some months ago?

Mr. POINDEXTER. It is practically the same bill, but it was reintroduced by the Senator from California. It was based upon the former bill.

Mr. ROBINSON. In what respect does this bill differ from the bill which was passed by the Senate during the last session?

Mr. POINDEXTER. The bill does not differ from the bill to which the Senator from Arkansas refers. It is the same bill.

Mr. ROBINSON. I should like to inquire of the Senator from Washington what is the distinction between the House amendment to the bill and the original bill itself? What changes does the House amendment propose to make?

Mr. POINDEXTER. The chief change is the one upon which I have asked a disagreement and a conference; that is, that the House substitute provides that there must be a reappropriation of the funds which have already been appropriated under this bill to satisfy these claims. The Senate bill provides that when the claims are allowed under the terms of the bill they may be paid out of this appropriation.

Mr. ROBINSON. Is that appropriation still available?

Mr. POINDEXTER. It is already available.

Mr. ROBINSON. What is the reason for requiring a reappropriation when the fund is already available?

Mr. POINDEXTER. I do not think there is any reason for it at all; but, of course, the Senator from Arkansas understands that that provision was put in by the opponents of the bill; that it was not put in by the friends of the measure, and if it should remain in the bill it would have the effect of returning to the Treasury the appropriation which has already been made, requiring it to be again taken out by another appropriation. Then the whole matter of the allowance of these claims and the satisfaction of these meritorious services on the part of producers of these essential war minerals would have to be fought over again in the effort to pass through Congress another bill appropriating the money for their satisfaction, though the funds have already been appropriated as the law now stands.

Mr. ROBINSON. Mr. President, does the Senator from Washington move that the Senate disagree to the House amendment and ask for a conference? Is that the motion?

Mr. POINDEXTER. I move that the Senate concur in the House amendment with an amendment, namely, to strike out of the House amendment the words which require the reappropriation of the money, and to ask for a conference.

Mr. ROBINSON. If the motion which has just been made by the Senator from Washington be agreed to, in what respect will that leave the bill different from the original bill as it passed the Senate?

Mr. POINDEXTER. It would leave it substantially the same, with the exception which I have stated several times, that it would permit the claimants to introduce any evidence which they may have to prove their claims, whereas the Senate bill apparently would have confined them to the record which has already been made.

Mr. ROBINSON. In that, then, the House provision is more liberal than the original Senate bill?

Mr. POINDEXTER. It is more liberal, and I think it is more just, especially, as the Senator from California [Mr. SHORTRIDGE] suggests to me, if there has been any mistake or miscalculation concerning the claims heretofore presented.

Mr. ROBINSON. Mr. President, I wish to be heard for just a moment on the motion of the Senator from Washington, if he has said all he intends to say about it.

Mr. POINDEXTER. I think I have stated the whole matter, and I do not desire to go into it further, if the Senator has understood from what I have said just the form in which the question comes before the Senate.

Mr. ROBINSON. Mr. President, I have not had an opportunity of examining carefully the House proposal, but, relying upon the statement of the Senator from Washington, I am heartily in accord with the motion which he has made. The Senate, after somewhat extended consideration of the bill introduced by myself during the last session, passed this measure, I believe, unanimously. I do not recall that there was a single dissenting vote, although I may be in error as to that.

It is stated by the Senator from Washington that the House amendment will require a reappropriation of funds already available to meet the claims covered by this measure. It seems to me that that is entirely unnecessary. The original act to which the pending measure is an amendment made an appropriation adequate in all probability to meet all of the claims that will ever be allowed if this proposed legislation becomes law, and it certainly seems to me to be unnecessary, if not absurd, to provide for the payment of the claims and at the same time take such action as will cover into the Treasury funds already available for their satisfaction, and so require a new appropriation. The motion made by the Senator from Washington, in my opinion, should be agreed to.

The House amendment, in that it authorizes the claimants to submit additional proof, will liberalize the provisions of the Senate bill; it will enable claimants to complete cases which might have been submitted improvidently and upon insufficient evidence. For that reason I should like to see the motion made by the Senator from Washington approved by the Senate.

The VICE PRESIDENT. The question is on agreeing to the motion of the Senator from Washington.

The motion was agreed to, and the Vice President appointed Mr. POINDEXTER, Mr. SUTHERLAND, and Mr. WALSH of Montana conferees on the part of the Senate.

#### EXECUTIVE SESSION.

Mr. LODGE. Mr. President, there is a nomination pending on which immediate action ought to be taken. I therefore move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After 45 minutes spent in executive session the doors were reopened.

#### PETITIONS AND MEMORIALS.

Mr. TOWNSEND presented a petition of sundry citizens of Grand Rapids, Mich., praying for the prompt enactment of the so-called Willis-Campbell antibeer bill, which was ordered to lie on the table.

He also presented a memorial of sundry citizens of Mayville, Bay Port, Silverwood, Roseville, and North Branch, all in the State of Michigan, remonstrating against the enactment of Senate bill 1948, providing for compulsory Sunday observance in the District of Columbia, which was referred to the Committee on the District of Columbia.

He also presented a resolution adopted by the directors of the Saginaw (Mich.) Manufacturers' Association, opposing any reduction in the tariff duty on Cuban sugar or any increase beyond the present 20 per cent preferential granted to such sugar, which was referred to the Committee on Finance.

He also presented resolutions adopted by the Washtenaw County Pomona Grange and members of the Methodist Episcopal Church of Elsie, in the State of Michigan, favoring the limitation of armament so as to promote world peace, which were referred to the Committee on Foreign Relations.

Mr. McLEAN presented telegrams and communications in the nature of petitions from S. H. Barber, of Hartford; the Woman's Christian Temperance Union, of Stafford Springs; the Woman's Christian Temperance Union, of Middletown; the Wesley Methodist Church, of Warehouse Point; and the Woman's Christian Temperance Union, of Unionville; all in the State of Connecticut, praying for the immediate enactment of the so-called Willis-Campbell antibeer bill, which were ordered to lie on the table.

He also presented a petition of the Shelton Building & Loan Association, of Shelton, Conn., praying that the amendment providing for an exemption of \$500 of income derived from investment in domestic building and loan associations be restored in the tax revision bill, which was referred to the Committee on Finance.

He also presented 12 memorials of sundry citizens of Meriden, New Haven, Norwich, and Waterbury, all in the State of Connecticut, remonstrating against the enactment of Senate bill 2135, to enable the refunding of obligations of foreign Governments owing to the United States of America, etc., and urging that foreign Governments pay the principal as well as the interest on loans, so that ex-service men may receive a bonus, which were ordered to lie on the table.

He also presented resolutions of the Chamber of Commerce of Windsor; members of the First Congregational Church, Poquonock Congregational Church, Grace Episcopal Church, Trinity Methodist Church, and Union Church, of Windsor; and the men of the parish of the First Church of Christ of Glastonbury, all in the State of Connecticut, favoring the Conference on Limitation of Armament and the promotion of peace among the nations, which were referred to the Committee on Foreign Relations.

Mr. WILLIS presented resolutions adopted by Sandy Valley Grange, No. 1764, Patrons of Husbandry, of Tuscarawas County, Ohio, favoring the enactment of House bill 5775, for the relief of Liberty loan subscribers of the North Penn Bank, of Philadelphia, Pa.; Santa Rosa National Bank, of Santa Rosa, Calif.; and Mineral City Bank, of Mineral City, Ohio; Robbinsdale State Bank, of Robbinsdale, Minn.; and Farmers and Merchants State Bank, of Kenmare, N. Dak., which were referred to the Committee on Claims.

He also presented resolutions adopted at a mass meeting of citizens of Malta, Ohio, held November 13, 1921, favoring a substantial limitation of armament so as to promote world peace, which were referred to the Committee on Foreign Relations.

#### AMERICAN RELIEF ADMINISTRATION IN RUSSIA.

Mr. WADSWORTH, from the Committee on Military Affairs, to which was referred the bill (S. 2708) to authorize the Secretary of War to transfer without charge certain surplus material of the War Department to the American relief administration in Russia, reported it with amendments.

#### REPRINT OF THE CONSTITUTION OF THE UNITED STATES.

Mr. SHIELDS. From the Committee on the Judiciary I report without amendment the resolution (S. Res. 151) providing for a reprint of the Constitution of the United States, and I submit a report (No. 317) thereon. The report is favorable, but the resolution should be referred to the Committee to Audit and Control the Contingent Expenses of the Senate for report before action is taken upon it. I ask for that reference.

The VICE PRESIDENT. The resolution will be referred to the Committee to Audit and Control the Contingent Expenses of the Senate.



## BILLS AND JOINT RESOLUTION INTRODUCED.

Bills and a joint resolution were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

## By Mr. BURSUM:

A bill (S. 2743) to amend an act approved June 20, 1910, entitled "An act to enable the people of New Mexico to form a constitution and State government and be admitted into the Union on an equal footing with the original States; and to enable the people of Arizona to form a constitution and State government and be admitted into the Union on an equal footing with the original States" (with an accompanying paper); to the Committee on Public Lands and Surveys.

## By Mr. HARRISON:

A bill (S. 2744) to provide for the removal of the Confederate dead from Greenlawn Cemetery to Crown Hill National Cemetery; to the Committee on Military Affairs.

## By Mr. LODGE:

A joint resolution (S. J. Res. 137) transferring to the custody of the Secretary of the Smithsonian Institution certain relics now in the possession of the Department of State; to the Committee on Foreign Relations.

## SALARIES OF CERTAIN ATTORNEYS AND MARSHALS.

Mr. BROUSSARD submitted an amendment intended to be proposed by him to the bill (S. 425) fixing the salaries of certain United States attorneys and United States marshals, which was referred to the Committee on the Judiciary and ordered to be printed.

## AMENDMENT OF RAILROAD TRANSPORTATION BILL.

Mr. HITCHCOCK. I submit an amendment intended to be proposed by me to House bill 8331, to amend the transportation act, 1920, and for other purposes, which I ask may be printed and lie upon the table.

The VICE PRESIDENT. It will be so ordered.

Mr. HITCHCOCK. I also ask that the proposed amendment be printed in the RECORD.

The amendment was ordered to be printed in the RECORD, as follows:

At the end of the bill add the following new paragraph:

"That this act shall not go into effect unless and until the railroad companies named and referred to as respondents or defendants in the case before the Interstate Commerce Commission submitted September 3, 1921, and decided October 20, 1921, shall put into effect the reduction of freight rates on grain, grain products, and hay in carloads by the railroad corporations operating between points in the western and mountain Pacific groups as required by the findings and decision of the Interstate Commerce Commission in that case."

## AMENDMENT OF FEDERAL RESERVE ACT.

Mr. SMITH submitted an amendment intended to be proposed by him to the bill (S. 2263) to amend the Federal reserve act approved December 23, 1913, which was referred to the Committee on Banking and Currency and ordered to be printed in the RECORD, as follows:

Amendment intended to be proposed by Mr. SMITH to the bill (S. 2263) to amend the Federal reserve act approved December 23, 1913, viz: On page 2, beginning with line 15, strike out down to and including line 13, on page 3, and insert in lieu thereof the following:

That the second paragraph of section 10 of the Federal reserve act, approved December 23, 1913, as amended, is amended to read as follows:

"The Secretary of the Treasury and the Comptroller of the Currency shall be ineligible during the time they are in office and for two years thereafter to hold any office, position, or employment in any member bank. The appointive members of the Federal Reserve Board shall be ineligible during the time they are in office and for two years thereafter to hold any office, position, or employment in any member bank, except that this restriction shall not apply to a member who has served the full term for which he was appointed. Of the five members thus appointed by the President at least two shall be persons experienced in banking or finance and one shall be a person whose business and occupation is farming. One shall be designated by the President to serve for 2, one for 4, one for 6, one for 8, and one for 10 years, and thereafter each member so appointed shall serve for a term of 10 years unless sooner removed for cause by the President. Of the five persons thus appointed, one shall be designated by the President as governor and one as vice governor of the Federal Reserve Board. The governor of the Federal Reserve Board, subject to its supervision, shall be the active executive officer. The Secretary of the Treasury may assign offices in the Department of the Treasury for the use of the Federal Reserve Board. Each member of the Federal Reserve Board shall within 15 days after notice of appointment make and subscribe to the oath of office."

Sec. 2. That this act shall not affect the appointment or term of a member of the Federal Reserve Board appointed for a term commencing prior to the date upon which this act becomes law, but the first vacancy existing after such date resulting from the death, resignation, removal, or the expiration of the term of office of such a member shall be filled by the appointment, in the manner provided by law, of a person whose business and occupation is farming.

## MICHIGAN SENATORIAL ELECTION.

The VICE PRESIDENT. The Chair lays before the Senate the resolution, S. Res. 172, which was temporarily laid aside.

The Senate resumed the consideration of Senate resolution 172, declaring Truman H. Newberry to be a duly elected Senator from the State of Michigan.

Mr. POMERENE obtained the floor.

Mr. KING. Mr. President, I think we ought to have a quorum present. I suggest the absence of a quorum.

The VICE PRESIDENT. Does the Senator from Ohio yield for that purpose?

Mr. POMERENE. I yield for that purpose.

The VICE PRESIDENT. The Secretary will call the roll.

The Assistant Secretary called the roll, and the following Senators answered to their names:

Ashurst	Hale	Nelson	Smith
Brandegee	Harris	Norbeck	Smoot
Broussard	Heflin	Norris	Spencer
Bursum	Hitchcock	Oddie	Sterling
Capper	Jones, N. Mex.	Overman	Swanson
Caraway	Jones, Wash.	Owen	Townsend
Curtis	Kendrick	Page	Trammell
Dial	Kenyon	Phipps	Underwood
du Pont	Keyes	Pittman	Wadsworth
Edge	King	Pomerene	Walsh, Mass.
Ernst	Ladd	Ransdell	Walsh, Mont.
Fernald	La Follette	Robinson	Weller
France	Lodge	Sheppard	Willis
Gerry	McKellar	Shields	
Glass	McKinley	Shortridge	
Gooding	McNary	Simmons	

Mr. TRAMMELL. I wish to announce the absence of my colleague [Mr. FLETCHER] on official business. I will let this announcement stand for the day.

The VICE PRESIDENT. Sixty-one Senators having answered to their names, a quorum is present.

Mr. POMERENE. Mr. President, except for the announcement made by the distinguished Vice President, whose word I always accept at par, I would be inclined to question whether there is a quorum present.

Mr. President, if Senators will recall, by the Michigan statutes to which I have referred, it is made an offense and is declared illegal either to give or loan money at a primary or other election, except for certain admitted purposes, and the limitation is made to the candidate that he is not permitted to expend to exceed \$3,750 as a candidate for the Senate. There is no technical limitation placed upon a committee, but that must be accepted with this qualification, namely, that that shall be a committee of friends with which the principal has no connection. In other words, the principle of law, which must control in the election as in anything else, is this: He who does a thing through another does it himself. If this committee was Mr. Newberry's committee, if he suggested it, or was consulted about it, and approved its selection, as he did; if he kept in constant touch with the work it was doing, as he did; if he was supervising that work, as he was; if he was approving or disapproving of its activities, as he was; if I fail to see how he or any other man can accept the result of its work without being legally and actually responsible for the acts of that committee.

Mr. President, I discussed at length on yesterday the facts connected with the financing of this campaign committee by John S. Newberry, the brother, and by the other Newberry interests through their attorney in fact, Mr. Smith. I showed that Mr. Truman H. Newberry's money was being checked out of his account by his attorney in fact into the account of John S. Newberry, the brother, and again that this same Mr. Smith, the attorney in fact for John S. Newberry, was checking that money, which theretofore may have come from Truman H. Newberry or from any one of the other nine Newberry interests, into John S. Newberry's account, and from John S. Newberry's account it was checked over to the treasurer or other officer of the Newberry campaign committee. It may be that if I were out on the hustings I would go into that more in detail, but for the present I am not going to offend any further the intelligence of the Senators who do me the honor to listen to me.

I do want, however, to call attention to some matters in the record which will show beyond peradventure that this was Newberry's committee; that its activities were his activities; that in the midst of these activities they violated the Michigan laws; that they did things not permitted; that they expended large sums of money for purposes prohibited by the Michigan statute; and that Mr. Newberry's title to his seat in the Senate is, in my judgment, vitiated by these illegal things which were done by this committee of his.

Mr. KING. Mr. President—

The PRESIDING OFFICER (Mr. ROBINSON in the chair). Does the Senator from Ohio yield to the Senator from Utah?

Mr. POMERENE. I yield to the Senator.

Mr. KING. Before the Senator enters upon the discussion just indicated by the last paragraph of his remarks I should

like to interrupt him to inquire what his interpretation is of section 45 of the Michigan statute, which in part reads in this way:

It shall be unlawful for any other person to do or perform for or on behalf of any such candidate, or to help or injure the candidacy of any candidate, any of the acts or things which it is by this act made unlawful for such candidate to do.

As I understood the Senator, the inference might be drawn from his observations that committees might be organized independently of a specific candidate for the purpose of aiding him, and while he would be limited to the expenditure of \$3,750, and only for the purpose indicated in the Michigan statute, independent committees and organizations without number might spend money without limit, debauching the electorate of a county or a State, and they would not be amenable to the provisions of the statute and their conduct would not be reflected in the vitiation of the election of the candidate.

It seems to me, if that is the law, it will permit any person to avail himself of the voluntary services of cliques, combines, and representatives of great wealth, of corporations, and of vested interests that might be interested in securing the election of a given person, who might not participate in their activities or know, except by those grapevine methods by which knowledge of such activities is secured, of their large appropriations and of their efforts in his behalf, but he would be the beneficiary of the expenditure of thousands and hundreds of thousands of dollars to the corruption of the State. It seems to me the statute does not mean that; but that if such proceedings are had the candidate must either be deemed to have known of them or the conduct of those persons must be visited upon his head and he be denied his seat because of their corrupt use of money.

Mr. POMERENE. Mr. President, I am very much obliged to the Senator for his suggestion.

Mr. OWEN. I make the point of no quorum, as there are only three Senators on the opposite side of the Chamber just now, and I think there ought to be one or two more.

The PRESIDING OFFICER. A Senator will rise when he desires to address the Chair. Does the Senator from Ohio yield to the Senator from Oklahoma for that purpose?

Mr. POMERENE. I yield.

Mr. WADSWORTH. Mr. President, has any business transpired since the last quorum was called? I understand the absence of a quorum was suggested immediately at the close of the executive session, and no business has transpired since.

Mr. WALSH of Montana. Mr. President—

The PRESIDING OFFICER. Does the Senator from Ohio yield to the Senator from Montana?

Mr. POMERENE. I yield.

Mr. WALSH of Montana. I do not know whether it is material at all, but I notice there are three Senators on the Republican side of the Chamber and perhaps about three times that many on the Democratic side, so that there is actually the want of a quorum.

Mr. WADSWORTH. That has no bearing upon the point of order which I have raised. I remind the occupant of the chair—

The PRESIDING OFFICER. Does the Senator from Oklahoma desire to suggest the absence of a quorum?

Mr. OWEN. I make the point of no quorum.

The PRESIDING OFFICER. Upon that suggestion the Senator from New York makes the point of order that no business has transpired since the last point of no quorum was made. The present occupant of the chair was not in the chair at the time, but he has investigated the record and finds that nothing has since occurred except debate.

Mr. TRAMMELL. Mr. President—

The PRESIDING OFFICER. Just a moment.

Mr. TRAMMELL. I beg the pardon of the Chair.

The PRESIDING OFFICER. And while the precedents are conflicting as to whether debate constitutes business, the Chair thinks that, under the weight of the precedents, he will be compelled to sustain the point of order.

Mr. POMERENE. Mr. President—

Mr. NORRIS and Mr. HARRISON addressed the Chair.

The PRESIDING OFFICER. Does the Senator from Ohio yield; and if so, to whom?

Mr. POMERENE. I yield to the Senator from Nebraska, who first rose.

Mr. NORRIS. Mr. President, I merely wish to make a suggestion to the Senator from Ohio. I realize that, while only a few Senators are in the Chamber—and I regret that situation as much as does anybody, for I should be glad if all Senators were here—I wish to suggest to the Senator from Ohio that nothing can be done to compel Senators to remain in their seats, and the continual making of the point of no quorum does not succeed in providing an audience for the Senator speaking,

because as soon as the Senators answer to their names they again go out, and while the RECORD shows that there is a quorum present, everybody knows that there is not a quorum at the time the announcement is made. I should like to suggest that Senators do not continue to make the point, because those who do not want to hear the debate will not be here in any event; there have not been very many here as this debate has proceeded, and we can not compel Senators to remain here. I have an idea that the country will pay some attention to what the Senator from Ohio is saying, for it is worthy of attention; but no headway can be made by the continual making of points of no quorum, because it does not accomplish anything.

Mr. OWEN. Mr. President, I do not care to insist upon the point of no quorum. I was not aware that it had just previously been made; but I really do not see much use in an advocate presenting his views to a jury which is not present.

Mr. NORRIS. I understand.

Mr. OWEN. I was going to suggest that under the circumstances we might adjourn until the jury was willing to come and hear the argument.

Mr. NORRIS. That would never occur. We never would reach a conclusion. There is not much difference between this debate and what takes place ordinarily.

Mr. OWEN. I think that might be tried; and I move that we adjourn, Mr. President.

The PRESIDING OFFICER. Does the Senator from Ohio yield for that purpose?

Mr. POMERENE. Mr. President, I do not believe I want to yield for that purpose.

Mr. OWEN. I withdraw the motion.

The PRESIDING OFFICER. The Senator from Ohio declines to yield.

Mr. HARRISON. Mr. President—

The PRESIDING OFFICER. Does the Senator from Ohio yield to the Senator from Mississippi?

Mr. HARRISON. I dislike very much to ask the Senator to yield to me, and I would not if this colloquy were not going on; but I have a very important bill that I desire to introduce, out of order.

Mr. POMERENE. I yield.

Mr. KING. Mr. President, will the Senator yield for a moment? Apropos of the point of order that has just been raised by the Senator from New York, will the Chair permit an observation, having ruled?

The PRESIDING OFFICER. The Chair is very clear upon the ruling. Of course, the Senator has a right to appeal from the decision.

Mr. KING. Oh, no, Mr. President; the Senator from Utah does not desire to appeal. I want to state, if the Chair will pardon me, that in my opinion the precedents do support the action of the Chair; and yet I respectfully submit that if that rule shall be enforced it will work very serious injury to legislative work. As long as it is apparent that a quorum is in the Chamber, the suggestion of the absence of a quorum might be regarded as dilatory where no considerable business had been transacted in the meantime; but where it is obvious that a quorum is not here, that only a limited number of Senators are present, it seems to me that the rule ought to be so modified—and I think that the Chair has interpreted it in the light of the precedents—as that the suggestion of the absence of a quorum may be made at any time, because it is intended that the Senate shall transact business in an orderly way. The transaction of business in an orderly way contemplates that a quorum of the Senate shall be present, and when they are not present, technically business may not be transacted; and when it is apparent to the Chair that a quorum is not present, it seems to me the rule ought to be that the suggestion that a quorum is not present may be made at any time, regardless of the fact that no independent business may have been transacted in the meantime.

I thank the Chair.

The PRESIDING OFFICER. The Chair deems it proper to state, in connection with the remarks just submitted by the Senator from Utah, that the rules of the Senate prescribe the method by which the presence of a quorum shall be ascertained. The present occupant of the Chair feels that he has no power to make or modify the rules of the Senate. His duty is to enforce the rules as he finds them. If his decision is wrong, the remedy of course is by appeal, which any Senator is at liberty to avail himself of, even at this time, if he feels that the ruling of the Chair is erroneous.

The Senator from Ohio has the floor.

Mr. HARRISON. I understand the Senator to yield to me for the purpose of introducing a bill.

Mr. POMERENE. I yielded for that purpose.



The PRESIDING OFFICER. The Secretary will state the title of the bill.

The ASSISTANT SECRETARY. A bill to provide for the removal of the Confederate dead from Greenlawn Cemetery to Crown Hill National Cemetery.

The PRESIDING OFFICER. Is there objection to receiving the bill?

Mr. WADSWORTH. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state his inquiry.

Mr. WADSWORTH. This inquiry is not uttered with the slightest idea of being discourteous to the Senator from Ohio. Would the Chair hold that the yielding on the part of the Senator from Ohio for the introduction of a bill, which of course constitutes business on the part of the Senate, will terminate one of the opportunities which the Senator from Ohio has under the rule?

The PRESIDING OFFICER. A written rule of the Senate expressly forbids the interruption of a Senator having the floor for the purpose of introducing a bill, resolution, petition, and so forth; and the same rule enjoins upon the Presiding Officer the duty of enforcing it without formal point of order. Under the practice prevailing in the Senate, however, for a long time, the universal custom is for the Chair to submit requests for unanimous consent for the introduction of bills when a Senator having the floor yields for that purpose; and unless some Senator who is present when the request for unanimous consent is made objects to the interruption, or gives notice that he will make the point of order that the Senator is abandoning the floor when he yields for that purpose, under the practice prevailing in the Senate the Chair has never deprived a Senator having the floor of the privilege of resuming his address.

Mr. WADSWORTH. May I have the Senator's permission to make just an observation?

Mr. POMERENE. I yield.

Mr. WADSWORTH. I really do desire to assure the Senator that this statement is not made with any personal idea in my mind.

The other evening the Vice President, being in the Chair, ruled that if a Senator having the floor and speaking upon a question yielded the floor to another Senator to make a motion, even to the extent of merely suggesting the absence of a quorum, that yielding upon his part terminated the first address which he is allowed to make upon a bill, the rule being that a Senator shall address the Senate not more than twice. If the rule is going to be enforced against one Senator it should be enforced against all.

Mr. HARRISON. Mr. President—

Mr. WADSWORTH. I want an understanding upon that point.

Mr. HARRISON. If the Senator from Ohio will yield just for an observation—

Mr. POMERENE. I yield.

Mr. HARRISON. In view of the remark, which carried with it an implied threat by the distinguished Senator from New York, who is a member of the committee, that he perhaps would make that point of order, I desire to withdraw the bill at this time.

The PRESIDING OFFICER. Without objection, leave will be granted. The Chair hears no objection.

Mr. POMERENE. Mr. President, allow me to observe, in view of what has been said—and I should like the attention of the Senator from New York—that I am not in the habit of filibustering. I do not think anybody can accuse me of that. I am very earnest in some observations that I make, and my friends tell me I am earnest in manner. I do not mean to be rude at any time, and I want to observe the amenities of debate and the rules of the Senate as nearly as I can. It is the universal practice in the Senate to yield to Members when they intend to offer business of the character presented by the Senator from Mississippi. I shall assume, when interruptions of that kind are made, that they are made in the best of faith. I should regret exceedingly if Senators should attempt to take me off the floor. There will not be anything gained by that in the hastening of the deliberations of this body upon the matter which is now being presented. I mean to present it as fairly as I can, as fully as I can, as earnestly as I feel the facts justify, because I am satisfied that whatever the result may be here, and whichever way Senators may vote, there will be an abundance of opportunity for explanation of those votes; if not in the Chamber, hereafter.

Mr. President, if I may advert to the question which was propounded to me by the distinguished Senator from Utah [Mr. KING], when I spoke about the lack of limitation so far as ex-

penditures by a committee were concerned, I purposely stated that proposition as strongly against myself as I could. My point is that if a committee is absolutely independent—and I mean just what I say by that; if it is absolutely independent, with no umbilical cord, so to speak, between the principal and his committee, if they go on sui sponte with their organization, and so forth—I can conceive that that might be a hardship if the principal were to be held responsible for those acts; but the Senator has presented his views with very great force, and he has presented them with reference to the facts in the case at the bar of the Senate, and I share his view when he bases his proposition upon the facts as they are contained in the record in this case.

Section 45, to which the Senator refers, prohibits absolutely the expenditure of money for doing primary work, soliciting votes, trying for pay to persuade men to vote one way or another; and the Legislature of the great State of Michigan said in that very section that the purpose of it was to stop the practice theretofore prevailing of hiring workers at the polls. Then the section to which the Senator from Utah refers, which is the following section, as I remember, expressly provides that no other man may do the things therein prohibited which the candidate himself may not do. Of course, we have to take into consideration that provision of the statute when we try to determine the legal effect of the things which were done in Michigan. It is to follow out that idea that I intended to take up and discuss, more in detail than I did on yesterday, the organization of this committee.

Mr. KING. Mr. President—

Mr. POMERENE. I yield to the Senator from Utah.

Mr. KING. The Senator knows, however, that in Great Britain there is a statute and a prevailing practice to the effect that if any expenditures are made by third persons in excess of the amount permitted by law, even without the knowledge of the candidate, the election is voided. The sins of others are visited upon the innocent head of the candidate.

Mr. POMERENE. I hope we shall have that law here some of these days; but, as I recall—and I wish the Senator would correct me if I am in error—that is due to a statute passed by the British Parliament, is it not?

Mr. KING. Yes; that is my recollection.

Mr. POMERENE. I think so. That is my recollection about it.

Mr. KENYON. Mr. President—

The PRESIDING OFFICER. Does the Senator from Ohio yield to the Senator from Iowa?

Mr. POMERENE. I yield.

Mr. KENYON. I desire to submit an inquiry before the Senator gets away from that proposition. As I understand the common law, a matter of that kind is a corrupt practice. I have followed the Senator in nearly all of his speech, though I may have been out a few moments. There has been a good deal said about Mr. Newberry knowing nothing about these matters.

Mr. POMERENE. Yes; that is true.

Mr. KENYON. The Senator has discussed that. Suppose he did not know anything about it. Suppose a committee goes out and practically buys an election for a man, and he knows nothing about it, perhaps being in Europe. Is not a seat thus won just as tainted with fraud as it would be under the English law?

Mr. POMERENE. There is no doubt about it at all. Under the statute to which I referred on yesterday there are 11 classes of expenditures which are permitted, and only those. They do not permit the hiring of workers at the polls. They permit the hiring of clerks. One expression used in the statute is "canvassers"; but they are not permitted to do many of the things to which I shall call attention as I proceed. In other words, that committee violated the law, and the law having been violated in those illegal acts, I am satisfied that it vitiated that vote.

Mr. KENYON. Even though the candidate knew nothing about it?

Mr. POMERENE. Yes. I will qualify that statement, and I will assume a case in order to illustrate what is in my mind. Let us assume that in a given precinct there had been illegal methods adopted. I think the vote of that precinct could be thrown out; but it would not necessarily vitiate the entire vote.

Mr. KENYON. The illegalities, the Senator feels, must go to the probability of the election of the candidate without the practice of the methods alleged to be illegal? The point I am trying to get at, and which I hope the Senator will discuss, is this: Suppose a man goes off to Europe, and a committee takes charge of his campaign, and goes out and does illegal acts which he knows absolutely nothing about. To what extent must

those acts go before they would be considered as vitiating the election?

Mr. POMERENE. In my judgment, if the law had been violated and the violations had led to the securing of votes which were necessary to constitute the majority, and if the deduction of those illegal votes would result in the vote of the successful candidate being reduced to a minority vote, I think a Senator elected under those circumstances would have to pay the penalty of the illegal acts of his friends.

I recall now a case in the House in which a former distinguished Member of this body was the contestee, the distinguished former Senator Shafroth. The returns showed that he had a majority. He had not been guilty of any illegal acts, and none were committed, so far as he had knowledge; but in the course of the taking of the testimony it developed that there were illegal methods employed and that there were fraudulent votes cast, that there were violations of the law, and of such a character as to justify the House in throwing out the votes of those precincts, and when Senator Shafroth, then sitting as a Member of the House, discovered those facts he did the honorable thing and at the bar of the House tendered his resignation.

Mr. President, I am very anxious that Senators shall understand the organization of this committee.

Mr. NORRIS. Mr. President—

The PRESIDING OFFICER. Does the Senator from Ohio yield to the Senator from Nebraska?

Mr. POMERENE. I yield.

Mr. NORRIS. I was a Member of the House of Representatives at the time of the occurrence of the incident to which the Senator has just referred, though I was not on the committee, but was somewhat familiar with what occurred. The investigation showed that the sitting Member, Mr. Shafroth, did not receive a majority of the votes cast. In the investigation a great many things developed and some illegal votes were found to have been cast and were thrown out, and when a fair canvass was made of the result it was found that Mr. Shafroth was not elected. He did a very honorable thing. When that was discovered and he was convinced of it himself he simply asked the House to vote the other man in, because he was convinced that he had not been elected.

Mr. POMERENE. Mr. President, I had spoken from memory and had not looked at the record of that case for a long time, and I am greatly obliged to the Senator from Nebraska for giving a fuller statement of the facts.

In the report which has been filed by the minority we give the references to the record or the bill of exceptions sustaining the statements of fact which we make in the report, and I want Senators to remember that Mr. J. G. Hayden testified that a Mr. Frederick Cody called on him in Washington early in 1918 and discussed the Newberry candidacy. He told Mr. Hayden that he came representing Newberry. He offered Hayden a large salary to take up the work of managing Newberry's campaign. There is no denial of that, so far as I now recall. This is doubly proven by the undisputed fact that Mr. Cody finally induced Mr. Hayden to go to New York. He did go, and there he met Mr. Newberry and had a talk with him about taking over the management of the campaign.

Mr. Newberry renewed the offer which Mr. Cody had made, and Mr. Hayden declined to take the job, personally advising Mr. Newberry that he was against running a barrel campaign. Mr. Newberry said to him that if he could not get the Senatorship without a large expenditure of money he did not want it. Cody was Mr. Newberry's representative in all his work of organizing the campaign, as is shown by the record; and the references to the record will be found in the report.

Mr. Allan Templeton, who later became the chairman of the committee, was the business associate of Mr. Newberry. At the time they were largely interested in a corporation, which corporation had contracts with the Government. Mr. Templeton says he went to New York frequently. Mr. Templeton stated:

In the winter or spring of 1917-18 Newberry said to me, "A number of my friends have asked me to run for the United States Senate."

That was the first Mr. Templeton had heard about this, though a business associate.

Newberry said, "If I should decide to run, I hope you will interest yourself in my candidacy." Templeton asked in what way he could assist. He said he would be willing to have a business man's committee in Detroit. He later became the general chairman of the committee. Every check which was drawn by John Newberry was drawn to the order of Templeton, except a few which were drawn to "Cash."

Paul King was selected as the executive chairman of the committee. Paul King was waited upon in the city of Detroit by

Templeton and some others. They urged Mr. King to take the chairmanship. Without going into all of the details, Mr. King later on went to New York, and there had a conference with Mr. Newberry.

Now I shall proceed to point out the direct connection of Mr. Newberry with Mr. Templeton and the organization of this committee.

On March 13, A. A. Templeton, from Detroit, wired Newberry at the Hotel Gotham, New York, as follows:

Have spent two days in conference with Cody men from out in the State and city. Everyone thinks, including Frank Blair, that Paul King quite necessary. King will be in New York Saturday and Sunday this week; Mr. Blair next week. Report satisfactory progress.

Later on Mr. King went to New York, and he had the conversation with Newberry which I related on yesterday, about the amount of expenditures in the campaign of Senator Townsend, and later on as to what it would probably cost Mr. Newberry, because he was not acquainted in the State, and he placed the figure at possibly \$50,000.

After this talk Mr. King goes back to his home city, and finally decides to become a member of the committee. He is invited to take this chairmanship. He goes to New York and consults with the principal before he does take it.

I shall not take the time to discuss all of the various subordinates in this committee, but Mr. Charles A. Floyd was afterwards selected by Mr. King as the secretary of the committee, and, without taking the time to refer to the record, you will find that Mr. King said that Mr. Newberry approved Floyd's selection for the place.

Under those circumstances, who was the moving spirit in the organization of that committee? Who was it who first called Mr. Templeton's attention to it? No one but Mr. Newberry, the candidate.

Mr. President, if we will examine further into the record, we will find that Mr. Newberry was not idle. He was busy with his campaign. This record shows that more than 50,000 letters were dictated and sent to Mr. Newberry by this committee for his signature and for his mailing. That he did. The purpose of it, of course, was to show that the letters were from Mr. Newberry personally, and if you will look into this report you will find that Mr. Newberry complained rather earnestly because of the carelessness of some of the stenographers in not writing the letters upon letterheads which would fit the envelopes.

Form letters were sent to Mr. Newberry for his approval. He made certain interlineations and suggestions, so that they would appear rather as personal letters, personally dictated by Mr. Newberry, and they were returned. Of course, he suggested in one of these letters that he did not want to offend Mr. King. I am not using the exact words, but it was something to that effect.

Mr. President, there was not a single step taken in the activities of this committee which was not submitted to Mr. Newberry, either before it was carried out or afterwards, so far as the record shows. At the same time, I should say, as I want to be entirely fair, that Mr. King said, "Yes; I kept him informed about everything, but they were my actions."

Mr. President, Mr. King went out to that State in which there are 83 counties. They had an organization in every county, such as had never existed before. He would go from one place to another and make daily reports to Mr. Newberry as to the men he had seen, as to the kind of letters that should be written to them. All of that was done, and if Senators will examine the record further they will find that he was so scientific in his methods that he sent a map or plat of the State of Michigan designating in one color the counties in which the vote was favorable to Mr. Newberry, in another color those where there was perhaps a lukewarmness, and in another color those where he anticipated there would be some opposition. Mr. Newberry in writing to this very efficient chairman, Mr. King, said to him, "I devour your reports."

The record shows that there were 500 newspapers and more in the State of Michigan. Nearly 500 of them carried advertisements of Newberry. Mr. King said in one of his letters to Mr. Newberry that 201 of these newspapers "are actively supporting your candidacy." The inference is that the advertising had something to do with it. The very witnesses that he consulted said to him, "Why, you are not known personally to a thousand people," and the report of the majority of the committee in that connection states:

The name Truman H. Newberry was practically unknown throughout the State, although he had been Assistant Secretary of the Navy and for a very short time the Secretary of the Navy of the United States.



A man who had held the exalted position of Secretary of the Navy and of Assistant Secretary of the Navy was scarcely known in the State.

Mr. HEFLIN. Mr. President—

Mr. POMERENE. I yield to the Senator from Alabama.

Mr. HEFLIN. He was Secretary of the Navy for four or five months, from November to March, I believe. He was a candidate in Michigan for the Republican nomination to Congress against the present Secretary of the Navy, Mr. Denby, at one time.

Mr. POMERENE. I thank the Senator. Notwithstanding all of these political activities he was said to be scarcely known.

Mr. Newberry on March 7 wrote to Mr. King:

If not too much trouble I should be glad to have a letter from you as often as you find time and inclination to write. I hope you will be able to come down occasionally to go over matters in general or one thing in particular that needs immediate attention.

What does that mean? Why is Mr. Newberry so insistent upon having these frequent reports? Why is it that he wants these personal interviews? Why is it that he wants Mr. King to come down to New York and go to all of that expense? I have an intimate acquaintance with one Senator, at least, who could not afford to pay for very many of such trips from his own State to New York.

Throughout the campaign the managers at various times went to New York to meet Mr. Newberry and to revise their plans and adopt new plans. Mr. King said:

I consulted with Commander Newberry from time to time upon various matters connected with the campaign, but I did as my judgment dictated.

Under their plan of campaign the committee prepared thousands and thousands of personal letters. I have referred to that. No man appears to have performed any services in the campaign, even to the extent of signing the petition of Newberry for Newberry's nomination, without a personal letter from Mr. Newberry. They had these men active throughout the State getting signatures to the petitions, which were necessary under the primary laws before he could be registered as a candidate. Why, Mr. President, it offends the intelligence of the Senate, when we know these facts, even to claim that that was a voluntary committee, that Mr. Newberry had nothing to do with it.

During the time that Mr. King was on the stand he was asked this question:

What was the reason why you should talk with him and confer with him and report to him about everything except the financing?

Mr. KING. Because, as I say, the money was forthcoming from Detroit. There was never any question about it. There was simply a question, Senator, when anything came up to be done—the question in my mind was whether it was a good thing to do; and if it was a good thing to do, I did it. The question of expenses did not come into my mind at all. It was a question of whether it was a good thing to do or not, whether it would help the campaign along or not. If it were a good thing to do, I did it regardless of expense.

Now, just think of that.

If it were not a good thing to do, I did not do it.

Here we had, as we thought, a Federal statute and a State statute limiting expenditures, and yet the chairman of Mr. Newberry's committee comes before the committee and says, "If it were a good thing, in my judgment, I did it regardless of expense. I did not consult Mr. Newberry because the finances were taken care of in Detroit." You know the reason why, and so do I know the reason why, they did not talk any more about the finances than to say "It will cost you possibly \$50,000." King was a lawyer. His law partner was his legal adviser. He paid him a fee of \$500 to advise him. The fact was that they did not want to get Mr. Newberry on record too closely in his knowledge of the finances. That is the reason why.

Whose campaign was this? Why, Mr. President, in Michigan there is a distinguished son of that State, Gov. Warner, so prominent because of his splendid character and the services he has rendered to his people that three times he was elected governor. He had an ambition to become the candidate of the Republican Party for the United States Senate. There was a good deal of talk about it. King and Newberry did not want him to get into the race, and his candidacy was the subject of some correspondence between King and Newberry. Mr. Newberry on April 13, 1913, wrote to Mr. King, his manager, as follows:

I am glad Mr. Warner is scared out for the present, and as long as we keep up our publicity work at full pressure it will be harder and harder for any new man to get any kind of a start that will make it seem worth while for him to be a serious candidate.

Whose publicity? The committee's publicity? No. King's publicity? No. "Our publicity." To whom is he writing? He is writing to Mr. King. "If we keep up our campaign of publicity in 500 papers with unlimited funds at our command it will not be easy for a new man to get into the race." Why,

Mr. President, if all of the Senators in this Chamber were to be confronted by a campaign of this character in their respective States with unlimited funds against them, two-thirds of the Senators here could not win honestly and honorably a seat in this Chamber.

To show how this worked out, on May 23 he wrote again to Mr. King.

MY DEAR PAUL: I return herewith the draft letters with a few notations. Please be assured that these were not made with any intent to criticize, and only as a suggestion.

When you finally settle on the forms, please send me an index descriptive of the people to whom the various letters are intended to be sent, together with clean copies of the forms you finally decide to use.

If in your opinion I should, by the use of these letters, now declare myself to be a candidate under the primary law, would it not terminate our present plan of publicity?

Now let us analyze that last sentence.

If I should now declare myself to be a candidate under the primary law, would it not terminate our present plan of publicity?

Why, "our present plan of publicity" was to have large advertisements inserted in 500 papers, and he is afraid that if he now announces his candidacy it will terminate that plan. Did he have a vision of the Michigan primary law or of the Federal law which limited expenses? What else could he have had in mind? The record will show that at other times and places he said they were in to the finish and they would not get out of the fight.

There are other letters in the record to which I might refer, but I shall not take the time, which show the intimacy of this relationship. There was scarcely a thing done or movement made that was not reported to Mr. Newberry, and some of the things he himself suggested. He suggested how to handle the iron interests in northern Michigan and how he would get in touch with certain officials in New York. He was going to handle that. He did handle it, as the record will show. I shall not take the time of the Senate to go into that more fully.

But again, on May 18, Mr. King wrote to Mr. Newberry suggesting another conference, and what is it about? Why, the platform. He said:

I presume that we ought to get together again soon and settle some of the pending questions, notably that of the platform.

And yet this was an independent committee. It was so independent that Mr. Newberry could not even announce his principles without consulting the committee; and yet we are led to believe by the majority that he had nothing to do with his campaign; that it was conducted by a voluntary committee of friends. Again, on May 20, Mr. Newberry wrote to Mr. King:

Replying to your letter of May 18, I have to look over the proposed forms of letters, and if there are any minor changes that will make them seem more like the letters I would write myself, I will make them in pencil.

He was not satisfied with Mr. King's letters. Oh, Mr. Newberry was not a novice in politics; he knew that if he would write the letter, giving to it a personal touch, it would be more pleasing to the recipient.

I shall call attention to some things which were being done by this committee which Mr. Newberry did not approve; but before I go to that, let me remind Senators that under the Michigan primary law a Republican can be a candidate for nomination both at the Democratic and the Republican primaries, or a Democrat may be a candidate at both the Republican and Democratic primaries.

Mr. HEFLIN. That is true in many other States.

Mr. POMERENE. That is true in many other States, as I am advised.

There was some talk some time in May about the possibility of Mr. Ford being a candidate, though he did not decide to be a candidate until June 14. The Newberry campaign committee conceived that if there would be only one candidate for the nomination on the Democratic ticket, and Mr. Newberry would announce himself a candidate on the Republican ticket, likely more Democrats would go into the Republican primary, and that would endanger Mr. Newberry's chances. So a very smart, cunning, artful politician, by the name of William Mickel, went to one of the substantial Democrats, Mr. James Helme, and urged him to be a candidate at the Democratic primaries for the Democratic nomination for Senator. He so played upon his ambitions that Mr. Helme decided to be a candidate. Mr. Mickel proposed to pay the expenses of Mr. Helme if he would be a candidate, and Mr. Helme got money from the Newberry committee, which was turned over in the interest of the candidacy of Mr. Helme, the reason for it being that they wanted to keep the Democrats in the Democratic primary and thereby prevent the nomination of Mr. Ford in the Republican primary. Some \$300 or \$400—my recollection is that it was \$361—were expended in this way, but be it said to Mr. Newberry's credit

that when he learned of it he disapproved it; he did not want that done. However, that demonstrates conclusively that he was trying to dictate the policies of his committee, does it not? What other explanation can be made of it? Again on June 15—he had just heard that Ford had entered the lists—Mr. Newberry writes to Mr. King:

The unheard of developments in Mr. Ford's case really require pages of comment, and I am going to hope that after 10 days or more you will come down alone or with Allan [Templeton], when we can give some time to a thorough review of the situation as it exists then and plan for the future.

Yet it is claimed that he had nothing to do with this committee; that it was a voluntary committee. Mr. Ford made some little stir; he was the cloud on the horizon, and perhaps was going to dim the chances of Mr. Newberry; and so Mr. Newberry wants 10 days for reflection, and then he will have a conference "and plan for the future." In one of his letters—I do not have it before me now—I believe he says "let us sit tight in the boat."

Mr. President, can there be any doubt that this was Mr. Newberry's committee? Now, let me call attention to some other of these activities. If I could persuade Senators to read this record or to read the reports, I would stop now; but I have such a conception of the importance of the position I occupy as a member of the committee reporting the pending resolution that it will not be my fault if Senators do not have the opportunity to know the facts.

Let me remind Senators, so that they will understand the pertinency of the testimony which I am about to recite, that by the corrupt practices act a candidate is prohibited from giving money or hiring workers or having solicitors paid for the purpose of soliciting votes, and the legislature has said, "It is our intention to stop the practice of hiring workers at the polls or before the primaries."

Let me remind the Senators also that the corrupt practices act requires that the name of the man who receives the money shall be entered on the report. I am going to show that money, literally by the thousands of dollars, was paid to men who were engaged in political activities—organization, work, hiring workers, and so forth—and yet their names do not appear in the report filed. Senators may be somewhat mystified by some of the testimony of Mr. Floyd. It will be remembered he referred to certain large checks which were made payable to him, and they are charged to him on that account. There are many thousands of dollars involved in these checks, but I think perhaps there were only four or five checks all told, and they are entered on the account, let us say, possibly, as amounts paid to Mr. Floyd; but Mr. Floyd used these thousands of dollars to employ Jones and Smith and Barney and everybody else in every section of the State, and their names do not appear on the report. Mr. King says they were not content with the ordinary voter; they wanted to get substantial citizens; and so they had judges; they had lawyers; they had a State senator; they had other men on their pay roll, paying them from \$200 to \$300 and \$400 a month. Yet they say they complied with the law. Let us see about that.

There was Raymond Glocheski, a Polish lawyer at Grand Rapids, who was hired to work all over the State. He received \$600 in salary and \$400 for traveling expenses.

His name does not appear in the report of expenditures which was filed. Paul King said in speaking of Glocheski:

Then I assigned other men whom I did not consider field men in the same sections, men like Mr. Glocheski, to work with certain nationalities of people or certain classes of people. Mr. Glocheski did work among the Polish people of the State. He visited the Polish settlements around the State, especially in Presque Isle County and Manistee County, and there are a good many Polish citizens in Kent County (Grand Rapids).

Q. Were they all under pay?—A. Yes, sir.

Mr. King says they were all under pay.

Q. Did you have a man or men to work with the fraternal societies?—A. Yes, sir.

Q. Under pay?—A. Yes, sir. (R., 516.)

What is that but the ordinary political campaign work that used to prevail in many of the States.

Again Charles Tufts, of Scottsville, Mich., was hired by Paul King and Charles Floyd to work for Newberry. He received \$1,600—\$200 a month for his services and also in addition his expenses. Tufts was a State senator. He stated that he went to Detroit on summons of Paul King and then he proceeded to tell his story:

He told me he (Paul King) was anxious to see Mr. Newberry win out and requested that I work for him—

Note the words "work for him"—

and I discussed with him plans for my work in behalf of Mr. Newberry, and suggested that I travel over a part of the State, going from county to county, and attempt to line up the various county officers; that at the conclusion of my conference with Mr. King, he told me to go ahead with the work and to send to headquarters for expenses

as needed and when I had finished my entire work for Newberry to send in a bill for my expenses. That in accordance with plans made in my conversation with King, I worked the following counties: Mason, Newaygo, Iosco, Alpena, Cheboygan, Presque Isle, Grand Traverse, Manistee, Lake, and Montmorency. That I went to see the county officers of each of said counties, and if they were not lined up with anyone, tried to get them to work for Mr. Newberry, but made no financial agreement because I had no authority for making such agreements. That in Alpena County, A. A. Wentz traveled with me and assisted me in my work for Mr. Newberry; I paid his expenses, but later he told me he was paid so much a week for his services; Wentz and I went together about 10 days or 2 weeks. That E. O. McLean, of Ludington, Mich., a newspaper man, was employed by the Newberry organization to line up the marines—

Now note this—

fishermen, life-savers, etc., and write a number of articles for Newberry for publication; that McLean and I traveled the coast towns together for the purpose of lining up the vote and talked Newberry to the men we met. \* \* \* That my expenses in doing my work for Newberry were heavy at times, for when I would run into a place where things were right, I would buy meals, cigars, etc., for parties of men, and in accordance with my agreement with King I was not limited in my expense, and I spent freely. \* \* \*

None of those expenses are permitted under the Michigan law; and yet this committee files this report and tells us with effrontery that it is a true report, and the original books and records are either burned or destroyed, or at least they are not forthcoming. I do not know how far statements of that kind are going to be accepted on faith by the Senate.

A man by the name of Rollo E. Prescott, a printer by occupation, received \$750 salary and about \$600 expense money, his work lying chiefly in his own county; but he also organized two or three adjoining counties. He testified that he called upon one B. F. Reed to come to Harrisville to talk over the Newberry proposition:

He wanted me to organize Alcona County for Newberry and requested that I get in touch with Paul King in Detroit. I went to Detroit and talked with King. King outlined the plans and requested me to take care of Alcona County. \* \* \* King asked what I would take to do the work outlined and suggested \$150 per month salary and an unlimited expense account. \* \* \* He further agreed to leave the matter of organization entirely to me. \* \* \* In accordance with the agreement, I began upon my work immediately and drew five months' salary at \$150 a month in addition to expenses. \* \* \* That in my work in behalf of Newberry I organized Alcona County. I saw George W. Burt, probate judge, and obtained his consent to act as chairman. I acted as secretary, and as part of my work I attempted, so far as possible, to get the supervisors to take charge of the work in each township—

Now, think of that—

and told them that if they would put in a day's work now and then I would make it right with them. However, neither Burt nor the supervisors were paid any money by me, and their only activity was to circulate literature which I furnished them.

Mr. Prescott's name does not appear upon this record.

Mr. Edward O. McLean is a very interesting witness. King asked him, if he was not affiliated with any other candidate, if he could work for them in the Newberry campaign:

I told him that I could work. \* \* \* Mr. King asked me what my time would be worth, and I told him \$200 per month, and he agreed to pay that and all expenses.

He said he took up work among the marine voters, urging them to support Newberry, and that he worked at this until primary election, about three and a half months:

My total expense was between \$500 and \$1,200 and my salary amounted to \$500, and that he quit work primary day. He said that Paul King wrote him early in June that thereafter he was to deal with Charles Floyd, and that he did so and was paid by Floyd. He said that he came to Grand Rapids to report every two or three weeks to Floyd.

I am not going to read the rest of this memorandum that I have, but it is the usual political work.

J. Scott Hunter, a furniture salesman, attended a smoker at the home of Milton Oakman, a political boss in Detroit. He went to Newberry headquarters and met Mr. B. Frank Emery. B. Frank Emery is the witness we wanted, but who hiked to the Canadian woods.

He asked me at that time to assist in the campaign, but there was no transaction between us. I returned to headquarters a few days afterwards by appointment. At that time he gave me \$300 in currency. He requested me to work for Mr. Newberry's interest with the \$300, and he gave me a lot of literature, buttons, etc., to distribute. I took the literature and buttons and I expended this \$300. I spent it around advertising Mr. Newberry from one place to another, buying drinks and cigars. I spent the entire \$300 that way. \* \* \* After the \$300 was gone I paid more visits to the headquarters. \* \* \* Mr. Emery delivered a second \$300 to me in cash. I did not give him a receipt. It was given to me for the same purpose. There was nothing mentioned in regards to it. I supposed it was meant for services. I spent it the same way as the other; that is, for liquor and cigars and treating through the city.

Zalie Clago, a deputy sheriff, was employed at \$300 a month. Now note a paragraph from his testimony:

He said that when the matter first came up Mr. Oakman asked him if he would like to take a vacation for three or four months with pay and take charge of the Wayne County office of the Newberry campaign, and said that his duty, his first duty at least, was to look after the organization of the factory employees. That Milton Oakman had



charge of all Wayne County, and meetings were held in the county clerk's office on some occasions. That all precinct leaders and ward men were in Oakman's office at times. \* \* \* Among his first duties was the perfection of the organization in factories. He said he took out petitions and visited each factory himself. \* \* \* He also had 20 cases of beer, which he paid for himself, and the meeting was held on April 22, 1918, the Newberry meeting.

There is nothing about that in this record.

William M. Connelly was a State senator. I am not going into all of this, but he said he was to receive \$1,200 from Floyd. He said that he hired some men to distribute literature and he made speeches; at one time he hired a man and made a speech in Nunica. He said later he saw Charles Floyd, and Floyd told him to make up an expense account of something less than \$200. You will find, as you go through this record, that some of these men who were active up there would advise those out in the field to make out their expense accounts for less than they really were.

Terry T. Corliss was an employee of the State auditor's office. He testified as follows:

Paul King asked me if I could do anything for Newberry in Tuscola, and I said I would be glad to do so. Afterwards I met him on telephone call in his Detroit office, and Mr. King wished me to go through the State, various parts of the State, and organize county committees and go ahead with the organization a good deal along the lines that I saw fit, and at that time I said I could not afford to do it for nothing, and he said, "That is all right; we will compensate you for your work." He said, "How much are you getting now?" I said, "Fifteen hundred a year." He said, "Well, that is all right; I will pay you \$75 a week and your expenses to carry on this campaign." I did work for about 21 weeks at that salary, receiving about \$2,275. \* \* \*

Not many of us can afford to conduct a campaign like that.

Frank P. Bohn, a physician and banker, of Luce County, Mich., received \$150. He testified that one payment was of \$100, and one of \$50. Now, note this, because it is on the subject of hired workers, who are prohibited by the statute:

I expended further \$125 for workers distributing literature and getting the vote out. Also, had a list of voters in the townships made, which I used. I employed about 15 men to work primary day and paid them \$5 apiece, 2 of them \$10 who worked before primary day. \* \* \* I told them to get the boys out to distribute literature, and do what they could for the interest of Mr. Newberry. \* \* \* I had told Mr. McGregor that it would take from \$100 to \$150 to take care of the work. The men selected had worked for him (Bohn) in politics before.

There is your political worker.

That I did not know who they were supporting before I hired them.

Money talks in Michigan.

My purpose was to get them to support Newberry. I simply asked them if they were not tied up to support Newberry. It was my intention to get their support and vote for Newberry. I did not know who they were for for Senator.

Mr. TRAMMELL. Mr. President, will the Senator yield?

Mr. POMERENE. Yes; I yield.

Mr. TRAMMELL. Does not that testimony bear the construction that he bought those people for \$5 apiece?

Mr. POMERENE. It is suspiciously near it.

Here is one William E. Rice. Mr. Newberry was in the Spanish-American War, and the Spanish-American War veterans organized bolo clubs throughout the country. William E. Rice testified that Charles Floyd came to him and asked him to become identified with the Newberry campaign. They had some talk, and made a contract. The contract was that he was to do certain work, and that he was to organize bolo clubs throughout the State of Michigan in connection with the Spanish-American War veterans' camps. He went to various cities where these camps were, and did organize the bolo clubs for Newberry. He received \$50 a month and his expenses. His name does not appear in this record.

George C. Walsh testified:

The defendant, Guy Ingalls, during the primary of 1918, delivered to me \$100, and requested me to do something in behalf of Mr. Newberry. I spent between \$27 and \$30 of the \$100. I interviewed a number of men who worked for me, and I hired a man by the name of Peter Connors. I gave him \$10 and asked him to distribute cards and buttons.

He kept the balance.

Mel Deo, of Lapeer County, a druggist, testified that Paul King asked him to take the chairmanship of the campaign for Lapeer County. He says:

Paul King asked us what the expenses would be. I told him just the expenses, and King gave me \$100, which I divided with Carrigan. I spent it treating the fellows. I told them it was on Newberry, and this was at a picnic and other places of that kind.

Frank L. Covert, a circuit judge, said that he employed some men in each township. He says:

We have 25 townships and probably about 25 men; used a total of \$250. We each retained \$100 for our expenses. He said that \$300 was left with him by Chilson, and I turned over \$200 of it to Mr. Seeley. After that I understood about \$200 more was given to Mr. Seeley. I just allowed myself the \$100.

August Field was the manager of a hotel. He had some people at his hotel and served them with lunch and made a charge for it. I will not go into all of that; but he says:

I was canvassing the county to see people in the interests of Newberry. At the close of the primary campaign or the general election I had a talk with Floyd over the telephone. I says, "You know how much money you gave me, and I think I have spent it all; can't you make a report?" He asked me to make it. He said to put in about \$120. As near as I recollect, I did make a report of \$120 instead of \$600; but I do not remember what items I listed in it. \* \* \*

James Fisher says that James McGregor, another of these field men or men that were sent out, came to see him and gave him \$250 and \$100 for Mr. Jones, of Ontonagon County, and \$100 for Mr. Crevezza, of Keweenaw County. He afterwards gave him \$500.

Among other things this witness says that he gave \$80 to a Finnish paper, \$40 to a Polish paper; he paid a couple of Frenchmen for work; also to several men in and about Laurium amounts from \$10 to \$50.

Mr. Fisher further testified that after being subpoenaed he went to Detroit to see Paul King and Mr. McGregor.

He stated the reason he went to see those gentlemen was to find out the line of testimony which would be required before the grand jury and Mr. McGregor told him that he (McGregor) had made his returns for him at \$250 and also returned the \$200 he gave him for Crevezza and Jones. That when he was before the grand jury, to say nothing about any moneys with the exception of the \$250, or said that in substance. Mr. Fisher also stated that he received \$500 from Mr. McGregor as a gratuity.

Frank O. Gilbert stated that he was employed as a grand lecturer of the Masonic Lodge. He testified that he was asked by Mr. James McGregor if he would do what he could to help on the Newberry campaign in talking to men that he saw in his trips through the State, and he said that he would, and he was so employed by Mr. McGregor at that time at \$50 a month.

Mr. KENYON. Mr. President—

The VICE PRESIDENT. Does the Senator from Ohio yield to the Senator from Iowa?

Mr. POMERENE. I yield.

Mr. KENYON. In all these various cases of the employment of workers the Senator has been reading, is there any question but that the action was a violation of section 45 of the Michigan primary act?

Mr. POMERENE. Mr. President, I would not say that all of the money which was thus expended was spent in violation of the law, but the hiring of the workers was a violation of the law.

Mr. KENYON. Where they go out and employ workers?

Mr. POMERENE. Yes.

Mr. KENYON. Will somebody please explain, if he can, why it is not a violation of the law? I have been waiting to hear some explanation of it.

Mr. POMERENE. The Senator will not hear any explanation that will satisfy him.

Mr. KENYON. I do not believe there can be a satisfactory explanation.

Mr. SPENCER. If the Senator would like to have an explanation, I would be glad to give it.

Mr. POMERENE. I yield for the explanation.

Mr. KENYON. I would like to hear it.

Mr. SPENCER. The only workers who were used in that campaign—the Senator calls them workers—were men employed in connection with meetings, and the spreading of literature, and the conducting of the interests of the campaign in the several localities, which every man on this floor is familiar with, which are not prohibited by the statute of Michigan, nor by the statutes of my State, nor by the statutes of any State, so far as I know, unless by the State of Ohio, as was mentioned by the Senator the other day. There was not a man hired to do a single unlawful thing. There were men in every county of Michigan to look after the interests of the candidacy of Mr. Newberry. It was a campaign that was well planned and well carried out, but in the doing of it there was not a single thing that was either illegal in law or improper in morals.

Mr. POMERENE. Is the Senator through?

Mr. SPENCER. Yes; I am through.

Mr. KENYON and Mr. BORAH rose.

Mr. SPENCER. I understood the Senator's question to be as to whether workers had been hired to do anything that was illegal or immoral.

Mr. KENYON. I meant illegal under the statute. I say that the employment of men to go out and work, campaigning, electioneering, soliciting men to help a party who was engaged in the campaign was illegal under the Michigan statute, and this record is full of evidence of things of that kind.

Mr. SPENCER. Section 45 of the Michigan statute, to which the Senator is referring, has two divisions. In the first place, it contains a prohibition against the bribery or corruption of voters, and provides a punishment for a violation, and then, carrying out that main idea, it provides against the hiring of workers or others in the primary or the election not to work: in

the interest of a candidate, but against the doing of the things which had been previously prohibited in the statute. As I said the other day, if, for example, I lived in the State of Michigan and I wanted on election day to go around among my friends, or in the office building in which I was located, and ask those whom I knew or with whom I came in contact as to whether they had voted, and if they had not, to urge them to vote, and to vote for the candidate I thought ought to be elected, the Senator would not for a moment insist that I had done anything illegal or improper under the law of Michigan, which he now has in his hand, would he?

Mr. KENYON. That would be perfectly proper.

Mr. SPENCER. To go a step further, if I, unable to go myself, if you like, should say to another, "I want you to-day to go through this office building, and I want you to see if the men in this building have generally voted, and I want you to distribute these cards and to ask them to be sure to go to the polls, and, if they see proper, to vote for the candidate whom I am supporting," does the Senator say that then I would be a criminal under the laws of the State of Michigan?

Mr. KENYON. The Senator has very skillfully left out of his question the one thing which would make him a criminal. If the Senator did that for pay, he would be a criminal under the statute of Michigan.

Mr. SPENCER. I have already said that I hired the man to do it. Is the man whom I hired a criminal, and I not a criminal?

Mr. KENYON. Both of you would be criminals under the Michigan statute. I can not understand how as good a lawyer as the Senator from Missouri can claim anything else. This is the way the statute reads:

Or on account of agreeing to do or have done any campaign work, electioneering—

Which that would be—

Soliciting votes for such candidate on primary day or prior thereto.

How can the Senator claim that such acts would not be criminal under that statute?

Mr. SPENCER. Mr. President, the interpretation which the Senator from Iowa, a distinguished lawyer and a fair man, puts upon that has never been put upon it in the State of Michigan, and I submit that it is unreasonable and unfair. If the Senator were right, if that had ever been the interpretation which had ever been put upon it in the State of Michigan, where under the law any voter can make complaint of it, why was it that not a single voter, not a single official in the entire State of Michigan ever raised the question?

Mr. KENYON. I am amazed that they did not.

Mr. SPENCER. It was because that interpretation has never been put upon that statute in Michigan.

Mr. KENYON. That interpretation goes back—

Mr. POMERENE. Mr. President—

The VICE PRESIDENT. The Senator from Ohio has the floor.

Mr. KENYON. Let me answer that remark of the Senator from Missouri. I do not know about the statutes of Michigan, but that statute is merely a reiteration of the common law, which was enacted by the British Parliament in regard to corrupt practices as far back as 1846.

Mr. SPENCER. Is that the rule in Iowa?

Mr. KENYON. Yes; you can not go and hire a man for such a purpose.

Mr. SPENCER. Can you hire a man to distribute tickets?

Mr. KENYON. Oh, yes; you can do that; but you can not hire a man to go out and solicit votes.

Mr. SPENCER. What is the distribution of tickets but the solicitation of a vote?

Mr. KENYON. I do not think it is the solicitation of a vote.

Mr. SPENCER. What is it?

Mr. KENYON. The Michigan statute is clear. What does the Senator say about this word "electioneering"?

Mr. SPENCER. In the State of Michigan or in the State of Iowa is it illegal, in the Senator's judgment, for a man either to distribute cards or to ask his friends to vote for a candidate? Certainly that is electioneering.

Mr. KENYON. It is illegal under the statute of Michigan to pay men to go out and electioneer. I do not care about what the rule is in Missouri or in Iowa; I am talking about Michigan. What does the word "electioneering" mean?

Mr. SPENCER. If the Senator reads the section through, he will find that it means electioneering for the purpose of securing a vote for or a vote against a candidate by means of bribery or corruption. That is the gist of that section.

Mr. KENYON. You must go to the man in the building and say, "Here is \$10"—

Mr. SPENCER. That is a crime.

Mr. KENYON. That is the crime?

Mr. SPENCER. That is a crime. But if a man goes to a building and asks a man to go to the polls and vote, that is not a crime.

Mr. KENYON. Mr. President, I have a great affection for the Senator from Missouri, but if that is his view of the Michigan law, I do not wonder at the report which has been filed here. If he is correct, his report is correct; but I leave to any lawyer who will erase all partisanship in the matter to read that statute and draw any other conclusion than that the act of going out and soliciting people for votes, electioneering, is a crime, and I agree with the Senator, I am amazed that all these precious scoundrels who have taken money and gone around the State creating an atmosphere, working in Masonic lodges and working in railroad unions for pay, have not been prosecuted.

Mr. SPENCER. Mr. President, if the Senator from Ohio will permit me for a moment, does the Senator from Iowa realize the proposition he is advancing, that it is wrong in law, under the statute of Michigan, for a man to employ another to distribute information, or to solicit the presence at the polls of men, or to ask them to vote for a candidate, and to explain the reasons why he asks them? It is fundamental in our form of Government that that thing always has been done, and ought to be done, and always will be done. There is nothing wrong in law about it, and there is nothing improper in morals about it. It is only when you interject into it some improper method, corruption or bribery or promise, that there is anything wrong with it. I have a perfect right to hire a man in the State of Ohio to advocate the excellencies of the distinguished Senator from Ohio—

Mr. POMERENE. I thank the Senator.

Mr. SPENCER. When he comes to run again; and the distinguished Senator from Ohio will neither call me a criminal nor call the man whom I hire a criminal if what he does is not a criminal or a wrongful act. I submit that common sense must be used in the interpretation of that statute. It means the electioneering or the canvassing or the asking of a man to vote by improper influence or method, as by the promise of money.

Mr. KENYON. Why does it not say so, then?

Mr. SPENCER. If it is read from beginning to the end, that is what it says, to my mind, and, I submit, to the mind of any other man. If it said anything to the contrary, do you not suppose there would have been proceedings in the State of Michigan? Do you not suppose that if what is contended by the Senator is correct, there would have been some convictions? Do you not suppose some man, in this intense, bitter campaign, would have instituted, by information, some kind of criminal proceeding? Yet out of 480,000 voters in the State of Michigan there was not one who complained, there was not a prosecuting officer who filed an information.

Mr. McKELLAR and Mr. KING addressed the Chair.

The VICE PRESIDENT. Does the Senator from Ohio yield; and if so, to whom?

Mr. POMERENE. I yield to the Senator from Tennessee.

Mr. McKELLAR. I just wanted to say that there was a prosecution of Mr. Newberry going on in the United States court under this very law, and very naturally the matter had cooled off while that prosecution was going on. If there had not been a violation of the national law also, no doubt proceedings would have been had in the State court, because it must be presumed that there are some honest men in the State of Michigan.

Mr. SPENCER. The prosecution in the United States court did not commence until weeks after the election was over.

Mr. McKELLAR. But everybody knew it was to come.

Mr. SPENCER. The Senator knows that the time when the prosecution is had, if election wrongs occur, is the time when the matter is hot, immediately after the election, and if there had been any complaint in the State of Michigan it would have been immediately following the election; but there was never a suggestion of such a prosecution, and the Federal prosecution did not commence until weeks later. My impression is that there was not even a beginning of it until some time in the following year.

Mr. BORAH and Mr. KING addressed the Chair.

The VICE PRESIDENT. Does the Senator from Ohio yield; and if so, to whom?

Mr. POMERENE. The Senator from Idaho rose first, and I yield first to him.

Mr. BORAH. The Senator from Missouri has stated that it was not in violation of law nor in violation of morals to hire men to work at the polls; that it only became a crime, or immoral, when they did something in the way of corrupting a voter by bribing him, and so on. I call the Senator's attention to the fact that at common law the hiring of men to work



at the polls, regardless of the question of actual bribing or purchasing votes, was a crime which invalidated the election. The common law went so far as to invalidate an election if drinks were distributed, or anything of that kind, at the polls, regardless of it being administered to a particular individual or a particular voter. If the candidate provided means in any way to draw the attention of the voters to the fact of his candidacy, it invalidated the election.

I do not understand how the Senator can argue that this is not a violation of the statute unless you corrupt a man. If you corrupt a voter, you have committed a crime, regardless of whether you got any money for it or not. If you corrupt a voter, your crime is complete, whether you were paid for corrupting him or not. My idea is that this statute is intended to incorporate the principle of the common law in the statutes of Michigan, to wit, to make it impossible for a man to hire men to work for him in the way of soliciting votes or at the polls for pay.

Mr. SPENCER. Mr. President, will the Senator from Ohio let me make an explanation? He has been very good about yielding.

Mr. POMERENE. If the Senator from Idaho has concluded his statement, I shall be very glad to yield further.

Mr. BORAH. I have concluded.

Mr. SPENCER. The common law took effect as it existed in 1776 or thereabouts. I undertake to say to the Senator that he will have to go back to that time if he wants any foundation for his proposition. I undertake to say to the Senator there is not a State in the Union in the last 100 years of our history where there has been a prosecution for the thing which now the Senator says is improper, and what is that thing? That a man with a pure purpose and without any bribery or corruption is to be sent to jail because for his day's wage he goes around in a community soliciting men that they shall vote and not forget to go to the polls.

Mr. BORAH. Mr. President, the Senator from Missouri overlooks the proposition that the common law contemplated the punishment of anyone who for hire solicited votes for another party. It was the idea of the common law that a man should cast his vote without the influence of anyone who had a material or sinister purpose behind him.

When I spoke of the common law I did not speak of the common law of the United States. I meant the common law of England. This statute simply embodies what was the well-known practice and principle of the common law for many years before we became a government.

Mr. KENYON. Mr. President—

Mr. POMERENE. I yield to the Senator from Iowa.

Mr. KENYON. Not only the common law but the law of the State of Missouri, to which I wish to call the attention of the Senator, so provided. In the case of *Keating v. Hyde* (23 Mo. Appeals, p. 555) this question is discussed and the distinction is drawn. In that case a contract intended to influence a primary, though not falling within the expressed prohibition of any statute, was held void because contrary to public policy.

Mr. SPENCER. That is, there was no law against it.

Mr. KENYON. The court said this, and I wish the Senator would listen to it:

There is a clear distinction between the purchase of services to be devoted only to an advertising of the fact that one is or desires to be a candidate—

That is what the Senator has been telling us, about going around the buildings—

and the purchase of service to be employed in advocating his peculiar merits and eligibility, so as to influence the choice of the voter.

That is the distinction drawn by the court in the Senator's own State. Is that the highest court, may I ask the Senator?

Mr. SPENCER. No; it is not the highest court, but it is a court of eminent jurisdiction.

Mr. KENYON. Being a Missouri court, it must be a pretty good court.

Mr. SPENCER. It is a very good court.

Mr. KENYON. So Missouri is in line with the common law.

Mr. SPENCER. In that matter there is no crime, there is no wrong, there is no punishment.

Mr. KENYON. It is a corrupt practice.

Mr. POMERENE. I wish to ask a question of the Senator from Iowa.

Mr. WALSH of Montana. Mr. President—

Mr. POMERENE. I will yield in just a moment. The Senator from Iowa has quoted from the Court of Appeals of the State of Missouri. Is he quoting that for the purpose of showing that the court is wrong and that the Senator from Missouri [Mr. SPENCER] is right, or the reverse?

Mr. KENYON. That is an embarrassing question. My regard for the Senator from Missouri and my appreciation of him as a lawyer is such that I shall have to side with him, of course, if the Senator from Ohio presses the question. But I believe the Senator from Missouri in time, when he studies the case in the court in his own State, will see the distinction that we are drawing between merely advertising the fact of a man being a candidate and the purchase of influence to have men secure votes.

Mr. SPENCER. It will be a great satisfaction to the Senator from Iowa, I know, when he reads that decision in full—he has now read only an excerpt from it, found in the brief of the counsel of Henry Ford—to learn that it does not differ from the position which I take.

Mr. KENYON. I have read it in full.

Mr. BORAH. I have twice read the decision in full. The decision simply announces the doctrine of the common law that a contract of hire to perform services with reference to securing votes or urging votes for a candidate is unmoral and therefore void.

Mr. KENYON. Is that the Missouri case?

Mr. BORAH. That is the Missouri case. It will bear reading clear through.

Mr. POMERENE. I now yield to the Senator from Montana.

Mr. WALSH of Montana. I had intended when I discuss the resolution before the Senate to go into the question of the Missouri decision in this matter. I wish to call the attention of the Senate now, however, since the discussion has been precipitated to a case later than the Keating against Hyde case, a case decided in 1920 by the same Court of Appeals of the State of Missouri. I am bound to assume that the Senator from Missouri is entirely ignorant of this decision of a court of his own State, because in view of his erudition as a lawyer and as a judge he could not possibly have known of this decision and taken the position he does take.

This was a contract not between the candidate and a party at all but between some outside parties, exactly the case he supposes, where the friend was unable or unwilling to go out himself and advocate the cause of his candidate, but employed some one else to go out and do it. It possesses some historic interest as well. I will read from the opinion as follows:

This is an action by plaintiff against defendant, the petition in two counts. In the first count it is averred that on or about February 1, 1912, a certain agreement was made or entered into by and between plaintiff and defendant to the following effect:

I am reading from Two hundred and fourth Missouri Appeals Reports, page 420, the case of *Eads against Stifel*, decided June 8, 1920:

Plaintiff was employed to devote his time and services to promoting the candidacy of Mr. William H. Taft for nomination as President of the United States (and of Mr. Otto F. Stifel for national committeeman for Missouri) in the various congressional districts of Missouri, and for said time and services was to receive \$100 per week and the actual expenses incurred by him in carrying out the objects of his said employment.

Identically the same kind of employment in which attention has been called by the Senator from Ohio. The court further said:

Our court, in *Keating v. Hyde* (23 Mo. App. 555), held that a promise to pay for services rendered by another as a canvasser at a primary election to secure the promisor's nomination for an office was unlawful and void. In that case, at page 559, the court quotes section 1474, Revised Statutes, 1879, which is as follows:

"If any person shall, directly or indirectly, give or procure to be given, or engage to give any money, gift, or reward, or any office, place, or employment upon any engagement, contract, or agreement that the person to whom or to whose use or on whose behalf such gift or promise shall be made, shall, by himself or any other, procure or endeavor to procure the election of any person to any office at any election by the electors, or any public body, under the constitution or laws of this State, the person so offending shall on conviction be adjudged guilty of bribery, and punished by imprisonment in the penitentiary for a term not exceeding five years."

This is section 3722, Revised Statutes, 1889; section 2090, Revised Statutes, 1899; and section 4461, Revised Statutes, 1909.

Our court said, in *Keating v. Hyde*, supra, that this section had been in force since the revision of 1855, and that it is sufficient for the conclusion of our court, since it clearly indicates the policy of the State. The conclusion of our court in the *Keating* case was that the agreement was void as against public policy. That decision has been cited approvingly by law writers, as see notes to *Exchange National Bank of Fitzgerald v. Henderson* (139 Ga., 360, in 51 L. R. A., (N. S.), 551), and is amply supported by the decisions of courts of other States. These cases are so fully cited in the notes in 51 L. R. A., supra, and there commented upon that we do not think it necessary to reproduce them here. Among the cases sustaining this is *Trist v. Child* (21 Wall., 441), where the principle is recognized, and it was there held that a contract to take charge of a claim before Congress by personal solicitation by the agent and others supposed to have personal influence in any way with Members of Congress to procure the passage of a bill—lobbying for its passage—was void.

That is the law in the State of Missouri. It answers the question of the Senator from Missouri whether, if he hires

some one to go out and advocate the election of his candidate, that man is guilty of crime.

Mr. SPENCER. Could I be punished if I did or was hired, or could he?

Mr. WALSH of Montana. Both could be punished.

Mr. SPENCER. I happen to be familiar with that case. All that I said was that a contract to do that can not be enforced, and that payment under the contract can not be compelled by law.

Mr. WALSH of Montana. Why can it not be done? Because it is against public policy.

Mr. SPENCER. But the Senator is now trying to invoke a punishment as great as the punishment which could be inflicted for any crime.

Mr. WALSH of Montana. No; we are not trying to convict this man of crime. I wish the Senator would bear in mind that the court held it was against public policy and void because it violated that statute, and that statute makes it a crime.

Mr. POMERENE. Is that the case of Eads against Stifel?

Mr. WALSH of Montana. It is.

Mr. POMERENE. I observe that the case arose in St. Louis, and I wondered whether the Senator from Missouri was sitting as the trial judge when that case came up.

Mr. SPENCER. No; I was not; but I happen to remember the case.

Mr. POMERENE. Mr. President, this diversion is very interesting and very instructive, but in view of the questions which the Senator from Missouri has asked and his position with regard to hiring workers, I am, at the expense of repetition, going to call the Senator's attention to that provision of section 45, which prohibits the hiring of men to solicit votes or do work of that kind. In the latter part of the section it is provided:

It being the intent of this clause to prohibit the prevailing practice of candidates hiring, with money and promises of positions, workers on primary day and prior thereto.

Then I wish to call the Senator's attention to this: Charles A. Floyd, the secretary of this committee, made his report to Paul King on July 27 as to conditions in 8 or 10 counties, the names of which I gave on yesterday, and he reported to him as follows:

In addition to the above and in general I have encouraged all the organizations to make as wide a distribution of literature as possible during the remaining days of the campaign.

And then follows this:

I have arranged with them also to provide for representation at each voting precinct the entire day at the primary so that throughout this whole district you can be sure that there will be at least one man and in some cases two or three giving their entire time and saying the final word.

If that does not constitute a worker at the primaries then I fail to understand the English language.

Mr. President, when this colloquy began I was about to advert to the testimony of Judge John M. Harris, for many years probate judge of Charlevoix County. He said:

Met Paul King at senatorial headquarters in Detroit, and he asked me to interest myself in the Newberry work, wishing me to organize the county committees in the immediate neighborhood in which I live, and I said I would. He offered me for that work \$200 a month and my expenses, and the first thing I did was to organize the county work in my own county.

He mentions a number of men whom he engaged to act, and said:

He did not pay these men any money, but suggested their working and to have them go to Paul King and make the arrangements with him personally. He received \$800 in salary and about \$400 expense money. (R., 432.)

Mr. WILLIS. Mr. President, will my colleague yield?

Mr. POMERENE. Certainly.

Mr. WILLIS. I have been trying to follow quite closely my colleague in his illuminating address. Can he explain how this testimony happened to be in the third person? For example, my colleague has read, "He did not pay these men any money." Who is "he"?

Mr. POMERENE. To make myself very definite I would have to refer to the original record, but as I understand it, it refers to Harris himself. That is as I understand it.

Mr. WILLIS. It is not quoted as Harris's own testimony.

Mr. POMERENE. I know, but that comes about, if the Senator will permit me—

Mr. WILLIS. I am trying to find out who is giving this testimony.

Mr. POMERENE. That is perfectly proper.

Mr. WILLIS. The same question has occurred to me a number of times. For instance, take the matter appearing on page 36, where the statement is in the third person.

Mr. POMERENE. The Senator will find, if he examines the record, that it was agreed, for instance, that one man who

was an attorney before the grand jury could read before the committee the testimony or notes which he had taken in the grand-jury room. I am not quite clear, but my present memory is that Judge Harris himself appeared, but in any event, if the Senator will look at the record, I think he will be able to determine that this is an abbreviated form of the testimony. I am not pretending to give the whole of it. Necessarily the Senator realizes that this is a tremendously long record.

Mr. WILLIS. I have read some of it, and I know it is so.

Mr. POMERENE. And this language has been abbreviated for the purpose of saving space and time.

Mr. WILLIS. What I am trying to develop is whether this is the direct testimony of the witness or a statement made by somebody else as to what that witness said.

Mr. POMERENE. It comes with all the sanctity of a sworn statement and is accepted as such. The details I am not quite able to give to the Senator without myself referring to the record. Judge Harris, among other things, said:

Q. Did you testify before the grand jury as follows: "Judge Harris said Mr. King told him that the financial situation during this campaign was considerably different than during the Townsend campaign, and that they had plenty of money to carry on the campaign"?—A. I said something like that.

Q. And that was true, was it not; he did tell you that?—A. I think so. (R., 431.)

Q. Did you not have some request to send in a statement of your expenditures?—A. I think I did.

Q. What did your report cover?—A. It covered the expenses in Charlevoix County.

Q. Something like \$75 or \$80?—A. Something like that.

Q. Your report did not cover the other \$1,100, did it?—A. No, sir.

Q. You got \$1,200 and you reported about how much?—A. I think it was between \$70 and \$80.

Q. What was the other \$1,100?—A. I acted on a salary. I went around and I wrote letters covering the northern part of Michigan. (R., 427.)

Q. Well, you kept most of it as your salary of so many hundred dollars a month?—A. Yes. That was spent in this way—I traveled around some and I came into quite an orderly correspondence throughout the campaign in my office in connection with the campaign, and it was applied that way. Call it salary or whatever you want to.

Q. That is the way it was spent?—A. Yes, sir.

Q. Wait a minute, was it spent; how much of that did you keep for services?—A. Well, you might say the way I figure it, I kept \$800.

Mr. SPENCER. Will the Senator tell me from what he is reading?

Mr. POMERENE. Yes; I am reading from the views of the minority which have been filed here.

Mr. SPENCER. From what page is the Senator reading?

Mr. POMERENE. What I am now reading the Senator will find on page 38.

Mr. SPENCER. Then, perhaps, I can locate it.

Mr. KENYON. Mr. President—

Mr. POMERENE. I yield to the Senator from Iowa.

Mr. KENYON. Mr. President, I should like to return to what is perhaps an unpleasant subject, but the Senator from Missouri [Mr. SPENCER] has stated that if I would read this case fully I might gather a different idea of it. It would be rather presumptuous, of course, for me to try to instruct the learned Senator from Missouri as to the laws of Missouri, and I do not like to try to do that, but, inasmuch as he has challenged me to follow this case through, I accept the challenge. The statute of Missouri, as set forth in the Keating case, is as follows:

SEC. 1474. If any person shall, directly or indirectly, give or procure to be given, or engage to give any money, gift, or reward, or any office, place, or employment upon any engagement, contract, or agreement, that the person to whom, or to whose use, or on whose behalf, such gift or promise shall be made, shall, by himself, or any other, procure—

Now note—

or endeavor to procure, the election of any person to any office, at any election by the electors, or any public body, under the constitution or laws of this State, the person so offending shall, on conviction, be adjudged guilty of bribery and punished by imprisonment in the penitentiary for a term not exceeding five years.

"This law has been in force," the opinion says, "ever since the revision of 1855"; and, I take it, from the case cited by the Senator from Montana [Mr. WALSH], there has been no change in it. I am referring to this because it reaches the heart of the law in this case. The opinion continues:

To "endeavor to procure" the nomination of an individual is at least a step in the direction of endeavoring to procure his election.

That is an important point also in this controversy. We are told by some Senators that the election is perfectly legal, and consequently we can not go back to the primary, and some comfort is sought from the decision of the Supreme Court. The opinion continues:

It is, therefore, no less a matter of public concern that purity of suffrage shall prevail in the selection of the party candidate than in the ultimate choice of the officers. Since the law has taken special cognizance of primary elections for delegates to nominating conventions, its protest is yet more emphatic than before, if possible,



against making the selection of a party's candidate a subject of bargain and sale. There is a clear distinction between the purchase of services to be devoted only to an advertising of the fact that one is, or desires to be, a candidate, and the purchase of service to be employed in advocating his peculiar merits and eligibility so as to influence the choice of the voter. No public policy forbids the making of compensation, under agreement or otherwise, for printing or distributing announcements—

As the Senator has suggested—

or for the employment of any proper agency which may bring the fact of a person's candidacy more prominently before the public eye.

Mr. SPENCER. That was in my mind.

Mr. KENYON. That was in the Senator's mind and also in his voice.

The information thus disseminated is essential to the intelligent determination of the voter's choice. But—

And I want to get this also into the Senator's mind—

But it becomes a very different thing when money is paid or promised for efforts to control the voter's free agency in selecting the object of his suffrage. In the present case the promise or agreement shown in the testimony and remarked upon in the instructions belongs to the last-mentioned class.

Now I will ask my good friend from Missouri to listen.

Mr. SPENCER. I will.

Mr. KENYON. The opinion continues:

The defendant was to "work for" the plaintiff's nomination; not as an advertiser, but as an advocate. We think that the circuit court committed no error in holding that the agreement was void as against public policy.

I wanted to put that portion of the opinion in the record because it sustains the clear judicial judgment of the circuit court of Missouri.

Mr. SPENCER. Mr. President, the Senator from Ohio has been most generous in yielding, and yet perhaps I ought, in answer to what the Senator from Iowa has said, make a brief statement, which I think I can put in a sentence or two. The case to which the Senator from Iowa refers, and with which I am not particularly familiar, because it is a very old case in point of years, and the case to which the Senator from Montana has referred, with which I am familiar and which was decided more recently, have both entirely to do with the carrying out of civil contracts. The statute which has been read and which is a part of the corrupt practices act of the State of Missouri, as the Senator has read it, has only to do with the purpose of corrupting a voter in his free choice. There is nothing in the law of Missouri as quoted, nor in either of the cases cited, that makes it a criminal act to solicit a vote and to present in connection with the solicitation the facts upon which the solicitation is based.

I submit that, in common fairness, where nothing is shown but that men presented to others the reasons why the candidate in whom they believed should be supported, those men have done nothing wrong. Of course, we ought to remember running all through this case—and I call it to the conscience and fairness of Senators—that none of the acts to which reference has been made touch Truman H. Newberry; they were acts of independent organizations in different counties about which he knew nothing.

Mr. WALSH of Montana. That was true in the case to which I have called attention, namely, that of Henry L. Eads.

Mr. SPENCER. That had to do with a civil case.

Mr. WALSH of Montana. Exactly.

Mr. SPENCER. There was no justification of a candidate in that case.

Mr. WALSH of Montana. Exactly.

Mr. SPENCER. There was no attempt to deprive the candidate of his office.

Mr. WALSH of Montana. Exactly.

Mr. SPENCER. There was merely an attempt to enforce a civil contract; that is all there was in that case.

Mr. WALSH of Montana. Which the court held was in contravention of the criminal statute.

Mr. SPENCER. What I desire to say, and then I will sit down, for I do not desire to intrude upon the time of the Senator from Ohio, is that there has nothing been shown, nor can anything be shown, to connect Truman H. Newberry with these acts.

Coming into the Capitol at noon I said to friends of mine—and I doubt not that what is true with regard to myself might also be true with regard to the distinguished Senator from Ohio—that if every act of every man in any county in Missouri in my behalf, although I did not know his name and knew nothing of his acts, was brought to light, there would have been many things which I would have regretted and some which I would have deplored. What the Senator is trying to do is to punish a man for acts that he knew nothing about; and which if they were committed were committed by men with whom he had no connection and in whose employment he had no part.

Mr. POMERENE. Well, Mr. President, if the Senator from Missouri did not look so serious I would not think he was in earnest; I deny emphatically the statement that Newberry did not know about these acts. The things about which he did not know were either willfully kept from him or he tried to be willfully ignorant of what was going on, and, if I stood here with this kind of testimony against me, I would resign my seat in the Senate, and so ought he.

Mr. McKELLAR. And if the Senator were innocent he would have testified before the committee and before the grand jury which investigated the case.

Mr. POMERENE. I would have been the first man to rise in my seat and demand an investigation.

Mr. CARAWAY. Mr. President, will the Senator permit me to interrupt him for just a moment?

Mr. POMERENE. I yield.

Mr. CARAWAY. Does the Senator propose to read the testimony of Mr. Hugh Maddigan, which appears on page 40 of the views of the minority submitted by him?

Mr. POMERENE. I intended to do so in just a moment.

Mr. CARAWAY. I merely want to call attention of the Senator from Missouri to the fact that here was a man who said he was for Ford, but after Newberry agents talked to him for a considerable time he said, "Under those conditions I will be with you."

Mr. POMERENE. Inasmuch as the Senator has brought that up, I will read from page 40 of the views of the minority submitted by me:

HUGH A. MADDIGAN.

This witness was chief inspector of plant 35 of the Buick Motor Co., at Flint, Mich.:

"As chief inspector of this plant, there were a large number of men under my supervision. I knew Fred Henry (Newberry manager of campaign in Flint). He came to my home and asked me if I had lined up to work to elect a United States Senator. I told him I had not. \* \* \* I told him I had not considered whom I would support, and he asked me what I thought of Newberry. Well, I told him I had not studied up much on the campaign yet, or the candidates. \* \* \* I told him I thought Ford was a pretty fair man. He told me he was going to be manager of Genesee County for Newberry, and he asked me if I would support him. I told him I would consider it, so we talked there between two and three hours. Before he left I had decided that I would line up with Newberry."

Greenbacks "line up" some men.

"He said, of course, that he did not expect that we would devote our time for nothing. He asked me what I would expect if I would swing my support to Newberry. I told him I thought it was worth \$150."

Mr. McKELLAR. A good price for a vote.

Mr. POMERENE (reading):

"\* \* \* So then he told me he would expect I would devote all my spare time from that time on until after the primaries, and I told him if I had to do that I wouldn't do it for \$150—I would have to get more than it. While he said he would not let that stop it, that if I went out and devoted my time I would get twice that amount; he didn't just use them words, but it was taken for granted that I was to get twice \$150; that is the way I took it. He gave me \$15 that evening. \* \* \* He told me that there would be some petitions out and wanted to know how many signers I could get. I told him between 700 and 1,000 throughout the factories."

Mr. WALSH of Montana. Mr. President, may I make an inquiry of the Senator?

The PRESIDING OFFICER (Mr. ROBINSON in the chair). Does the Senator from Ohio yield to the Senator from Montana?

Mr. POMERENE. I yield.

Mr. WALSH of Montana. Who was the gentleman interviewing Maddigan?

Mr. POMERENE. Fred Henry.

Mr. KING. Manager for Genesee County.

Mr. WALSH of Montana. Yes; manager for Genesee County. I should like to inquire of the Senator from Missouri what he thinks about the criminality of Henry's case.

Mr. SPENCER. I beg the pardon of the Senator; I was talking to another Senator.

Mr. WALSH of Montana. Will not the Senator kindly read the testimony again for the enlightenment of the Senator from Missouri?

Mr. POMERENE. Yes; I will read a part of it.

Mr. SPENCER. I did not hear it.

Mr. POMERENE. Fred Henry, a Newberry manager, saw this man, and this was the conversation.

Mr. SPENCER. What was the name of the man?

Mr. POMERENE. Hugh Maddigan; on page 40.

He came to my home and asked me if I had lined up to work to elect a United States Senator. I told him I had not. \* \* \* I told him I had not considered whom I would support, and he asked me what I thought of Newberry. Well, I told him I had not studied up much on the campaign yet, or the candidates. \* \* \* I told him I thought Ford was a pretty fair man. He told me he was going to be manager of Genesee County for Newberry, and he asked me if I would support him.

Mr. SPENCER. May I interrupt the Senator again? Will the Senator give me that reference once more? He said "page 40."

Mr. POMERENE. Page 40; yes.

Mr. SPENCER. Of what?

Mr. POMERENE. Of the minority report.

Mr. SPENCER. Oh!

Mr. POMERENE (reading):

I told him I would consider it, so we talked there between two and three hours. Before he left I had decided that I would line up with Newberry. He said, of course, that he did not expect that we would devote our time for nothing. He asked me what I would expect if I would swing my support to Newberry. I told him I thought it was worth \$150. So then he told me he would expect I would devote all my spare time from that time on until after the primaries, and I told him if I had to do that I wouldn't do it for \$150—I would have to get more than it. While he said he would not let that stop it; that if I went out and devoted my time, I would get twice that amount; he didn't just use them words, but it was taken for granted that I was to get twice \$150; that is the way I took it.

Mr. WALSH of Montana. Mr. President, I ask the Senator from Missouri what he would say as to the criminality of Henry's act under the Missouri statutes, which I now read:

If any person shall, directly or indirectly, give or procure to be given, or engage to give any money, gift, or reward, or any office, place, or employment upon any engagement, contract, or agreement, that the person to whom or to whose use, or on whose behalf, such gift or promise shall be made, shall, by himself or any other, procure or endeavor to procure the election of any person to any office at any election by the electors or any public body under the constitution or laws of this State, the person offending shall on conviction be adjudged guilty of bribery—

And so forth.

Mr. SPENCER. I am glad to answer the Senator's question. I will say to the Senator this, for what I now have in mind clearly illustrates what I said a moment ago.

No man who is here—

Mr. WALSH of Montana. The question is, Is that—

Mr. SPENCER. Will the Senator let me finish?

Mr. WALSH of Montana. Yes.

Mr. SPENCER. No man who is here either saw or heard Maddigan. There was no effort on the part of the contestant to bring him before the committee, where there might have been some opportunity to question him and to find out what he said. The statement that the Senator from Ohio has read is the testimony of some man in Michigan that was made before a grand jury, and, the secrecy being removed by his consent, was then repeated. There was no opportunity upon any side to question him about it nor to inquire into the facts. I do not like that testimony any more than the Senator from Montana does.

Mr. POMERENE. Mr. President—

Mr. SPENCER. Just a moment.

Mr. POMERENE. Let me correct the Senator.

Mr. SPENCER. Will the Senator let me finish, please? Perhaps I will correct it myself before I get through.

I do not like that any more than the Senator from Montana does; but I say that to pick out an isolated instance in some little county or precinct in Michigan of a man who never appeared before this committee, who appeared only before the grand jury or the petit jury—I do not care which—and whose testimony is repeated in this record—to take and make of that an incident, under those circumstances, as against the sworn testimony of the men who did appear for cross-examination before the committee, is making a mountain out of a molehill and is evidencing merely a predetermination to arrive at a conclusion by the substitution of inferences and details for facts and witnesses that appear. I do not like what he said. If that happened; if the Senator from Montana, if you like, or the Senator from Ohio had had an opportunity to cross-examine him and to find out what he was saying and had got the truth of the thing, it would have been an incident in a campaign that I do not like any more than the Senator does.

Mr. POMERENE. Mr. President—

Mr. SPENCER. I conclude with this sentence: This witness says that at some time some man by the name of Henry, of whom nobody ever heard, came to his home and told him these facts. Who Henry was, we do not know. He said he had something to do with the campaign of Newberry in that county, but it is a roundabout method of arriving at a fact which could not be accepted in a court of law as evidence, and no one knows it better than the Senator. It is not only hearsay, it is quadruple hearsay.

Mr. POMERENE. Mr. President, I want to express here my gratitude to my very good friend when he says that if there had been an opportunity for myself or himself to cross-examine this witness perhaps we could have elicited the truth. That is the substance of what he said, and then I thought of what the Good Book says:

Oh, that \* \* \* mine adversary had written a book.

And then I remembered that the Senator refused to permit Mr. Newberry to come before this committee to be cross-examined. It might have elicited the truth.

Mr. SPENCER. The Senator knows that that is not an accurate statement.

Mr. POMERENE. Then let us make it accurate.

Mr. SPENCER. The Senator knows that all that the committee did was to say that it would not require his presence.

Mr. POMERENE. No; that they would not invite him to come.

Mr. SPENCER. Very well, that they would not invite him. There was not a word to sustain what the Senator has said—that they refused to permit him to appear, and the Senator knows it.

Mr. POMERENE. Then, Mr. President, I want to correct that. I asked, and asked several times, that he be called before the committee, or invited to appear before the committee, and the majority of the committee refused to do it. There is no defense that can be made, either in this Chamber or elsewhere, of a refusal to invite the Senator, who knew more about these facts than anybody else, to appear before the committee. When he did not appear, it is a very strong circumstance tending to show that the claims of the contestant with regard to the illegality of this election were well founded, and that he did not dare to come before that committee and submit himself to cross-examination.

Mr. SPENCER. The Senator, when he thinks of this—

Mr. McKELLAR. Mr. President—

Mr. KING. Mr. President—

The PRESIDING OFFICER. Does the Senator yield; and if so, to whom?

Mr. POMERENE. Yes; I yield to the Senator from Missouri.

Mr. SPENCER. The Senator, when he comes to think afterwards, will not make such statements as he has now made. The Senator knows that there was no fear in the heart of Truman H. Newberry.

Mr. POMERENE. What was it, then?

Mr. SPENCER. I am telling the Senator. The Senator knows that the advice of his counsel and his friends was that upon a case which had absolutely failed in its proof, which had not been established in any of its essential particulars, which had been denied under oath by him, for him again to repeat his denial was unnecessary and unwise. The Senator is a lawyer.

Mr. POMERENE. I am, sir.

Mr. SPENCER. And he knows that when a plaintiff who makes allegations fails to sustain them the defendant never introduces any testimony in the case. There is what the Senator and I both know as a demurrer to the evidence, which ends the case.

Mr. POMERENE. Mr. President—

Mr. SPENCER. May I say one thing more?

Mr. POMERENE. Let me say a word now. When the Senator, sitting as one of the trial judges, denied me the right to call a witness there who I felt could give pertinent testimony, I know, sir, that the Senator from Missouri as a trial judge sitting in his court in Missouri never would have done that with an associate judge.

Mr. SPENCER. Will the Senator be good enough to name one witness whose presence he required and who was not subpoenaed?

Mr. POMERENE. Yes; I will name a number of them.

Mr. SPENCER. Name them. The Senator has spoken of Emery, the man with the fivefold fractured skull. We know about him.

Mr. POMERENE. Oh, well, the Senator is "still harping on my daughter."

Mr. SPENCER. Will the Senator name another one?

Mr. POMERENE. Yes; I will. I asked to have the officers of the bank subpoenaed with their books, to show the Newberry accounts, after it was claimed by the witnesses who did come that they could not find the Newberry books relating to Mr. Newberry's title to his seat in this body. They being gone, the only way in which we could get that evidence would be to call the bank officials, with their books, showing the state of the accounts of the various Newberry interests, and to bring before us the deposit slips and such other evidence as there might have been. That was refused. Again, Senator Wolcott, as I recall now, asked to have the officers of a New York bank called to bring their books with respect to the testimony of one Green, who was one of the big contributors to this fund; and that the Senator and the majority members of the committee refused to do. I asked that any witness be called that might be thought desirable by any member of the committee, and that was denied.



Mr. SPENCER. The Senator will bear me out that he has not mentioned the name of a single witness whom he desired to have called—

Mr. POMERENE. Mr. President—

Mr. SPENCER. Please let me finish the sentence.

Mr. POMERENE. Very well.

Mr. SPENCER. That he has not given the name of a single witness that he desired to have called.

Mr. POMERENE. Mr. President—

Mr. SPENCER. It is true that upon both occasions, where some of the minority wanted to open up a discussion which the committee felt had already been entirely exhausted, that when some of the minority requested that the banks bring their books and papers from Detroit to Washington in regard to a matter about which the majority of the committee did not believe there was any contradiction, and concerning which the testimony was all one way, the committee said, "We do not care to go into that matter."

Mr. POMERENE. Mr. President—

Mr. SPENCER. Just let me answer that, and then I will be through with the Senator's question. The Senator knows, with regard to the witness from New York, whose name, I think, was Brooks and not Green, that when the witness testified as to the checks he had given, he sent the checks to the committee, and they were on file with the committee. In view of that fact, and there not being a word of evidence to the contrary, the committee came to the conclusion that it would be both unfair and unnecessary to require that bank to bring down all its confidential dealings with that witness, and produce its books and papers in Washington; and they refused to go into it. Those are the two cases the Senator has mentioned.

Mr. WALSH of Montana rose.

Mr. POMERENE. Will the Senator wait just a moment?

Mr. SPENCER. The Senator will remember that the record shows, at the very close, when those checks were ordered to be produced, it was stated, in answer to Senator Wolcott, that if the production of the checks was not fully satisfactory, if there was any question he desired further to look into, the committee would subpoena any witnesses he wanted called.

Mr. POMERENE. Mr. President, I did not name any bankers who might be called, but we did refer, in general terms, to the officers of the banks where the Newberrys kept their several accounts. The Senator knows that. The Senator did not ask for any names. The Senator had determined that there should be no other evidence; and when I say the Senator from Missouri had determined that, I mean he and the Senator from Indiana and the Senator from New Jersey. That is what had been determined upon, and it is perfectly frivolous for the Senator now to make the objection that we did not mention names. The Senator gave us no opportunity to get those names.

Mr. SPENCER rose.

Mr. POMERENE. Just a moment. We were confronted by this situation: John Newberry had been subpoenaed to bring the books and the records. He is a man of large business affairs, as is Truman Newberry, and I daresay that in all the history of that great business, when they had litigation, never once before did it happen that the books and papers which were pertinent to the issues in that litigation were missing. John Newberry, when he came before us, said he had gone down to the barn to get those books, and had made a search; he did not have the books—

Mr. SPENCER. Mr. President, the Senator is mistaken. It was not John Newberry; it was Frederick P. Smith.

Mr. POMERENE. It was John Newberry.

Mr. SPENCER. No; the Senator is mistaken. He made the same mistake the other day. It was Frederick P. Smith.

Mr. POMERENE. I thank the Senator; I sometimes make mistakes. It was Frederick P. Smith, Mr. Newberry's confidential man. Mr. Frederick P. Smith said he went down to the barn, he made a search, the doors were opened, and he brought some of the campaign literature here, and that is all. He was asked whether he had taken those books down to the barn. He said no; that it was done by his cashier. He was asked whether he inquired of the cashier as to the whereabouts of those books. He said he had not. Let me suggest that if John Newberry had a thought that his brother's title to this seat in the Senate was valid or unimpeachable he would have realized that those books would have helped to show it, and John Newberry would have exerted himself day and night to find that cashier in order that he might trace those books; but, like everyone else who is engaged in a criminal conspiracy, they are not going to help to uncover the tracks which lead to their guilt. That is the situation.

Mr. SPENCER. The Senator has been a prosecuting officer with great power; but I am sure the Senator does not mean to

say that there was any direct or indirect attempt on the part of the contestee or any of his friends to destroy or conceal or not to produce any evidence that was available.

Mr. POMERENE. Mr. President, if the Senator had brought Senator Newberry before that committee, so that we could have cross-examined him in order to elicit the truth, to use the language of the Senator from Missouri, I could then better answer the Senator's question.

Mr. SPENCER. The Senator will be able to answer it in his own heart—

Mr. POMERENE. I will, sir.

Mr. SPENCER (continuing). When he remembers that the witness he now says he thinks ought to have been before the committee under the admitted facts from both sides was not in the State of Michigan and did not know one solitary thing about one of the matters of which the Senator is now speaking.

Mr. POMERENE. Does not the Senator know that you can communicate between New York and Detroit by telephone or by telegraph, or by mail?

Mr. SPENCER. But you could not find books, and you could not hunt cashiers.

Mr. POMERENE. No; but the Senator, who had a trusted employee, an attorney in fact, who had absolute control of his bank account and his brother's and his mother's estate and his father's estate and his wife's and his brother's wife's, and their sons' estates, I think could control that situation.

Mr. SPENCER rose.

Mr. POMERENE. Just a moment. If the title to the seat of the Senator from Missouri were questioned here, every shred of evidence that he could produce would be forthcoming.

Mr. SPENCER. The Senator knows that the trusted employee to whom he was referring was subpoenaed; was before our committee; was examined at as great length as the Senator or any others desired as to the facts.

Mr. POMERENE. Yes; he was there, and by his interpolation the Senator has reminded me of a fact to which I wanted to advert. I asked that this man Smith should be recalled in order that I might have an opportunity to cross-examine him. I do not by what I say now, and did not by what I said then intend to reflect upon the very great ability shown by Senator Wolcott, but there was certain information in my mind, and certain phases of that testimony, about which I wanted to interrogate him, and again the majority of the committee would not permit it. Mr. President, it may be that the majority will be able to keep this man in his seat, but there will be a hearing hereafter before a popular tribunal, which will rightly decide it.

Mr. McKELLAR. Mr. President—

The PRESIDING OFFICER. Does the Senator yield to the Senator from Tennessee?

Mr. POMERENE. I yield.

Mr. McKELLAR. Mr. President, in order to show what this witness Smith did say about the books, I would like to read at this point what seems to be material:

Senator WOLCOTT. The subject matter was being investigated, and yet you allowed these evidences, written evidences, of the entire business of this whole transaction to get from under your sight. That is correct, is it not? (R., 774.)

Mr. SMITH. We only have a limited space there in our offices. Every so often we have to clean them out with the enormous amount of business that comes through that office every year.

Senator WOLCOTT. Yes; but this was only a period of about two or three months of financing. How did you keep your books, in loose leaves or bound books?

Mr. SMITH. In bound books.

Senator WOLCOTT. Did you ever inquire of this cashier what he did with the books and checks?

Mr. SMITH. No, sir.

Senator WOLCOTT. Did you ever make any investigation about their whereabouts after they came back from Grand Rapids?

Mr. SMITH. No; I did not.

Senator WOLCOTT. They were not destroyed, were they, to your knowledge?

Mr. SMITH. Not to my knowledge.

The ACTING CHAIRMAN. Were they all before the grand jury?

Mr. SMITH. I do not know whether he got them from the office or whether he got them up there.

Senator WATSON. You were not subpoenaed?

Mr. SMITH. No; I was not subpoenaed.

Mr. President, if these checks and these books, documents having the most direct influence upon this proceeding, were not premeditatedly destroyed or lost, designedly lost or destroyed, why did not somebody come and give a better explanation of their loss than that given by this agent of the contestee? Why did not the contestee himself come before the committee and make a statement about it?

I have looked up the record of contests for a number of years back. Some years ago the seat of the Senator from Utah [Mr. SMOOT] was contested, and one of the first witnesses who took the stand in his own behalf was the senior Senator from Utah himself. Later on, when Mr. Lorimer's title to his seat was contested, he took the stand in his own behalf; and about the

same time, when Mr. Stephenson's title to his seat was contested, he took the stand in his own behalf.

So far as I have been able to find out, the sole and only contestee whose seat has been contested in this body who has ever stood mute when he was charged with all manner of crimes and misdemeanors, was the contestee in this case, Mr. Newberry. Gentlemen talk about it being understood that there was not enough evidence to bring him to the witness stand, when he had actually been convicted before a Republican jury and a Republican court in the State of Michigan. Is it possible that under those circumstances there was not enough evidence before the committee to warrant the calling of the contestee, if he had been innocent? No power on earth would have ever kept him from demanding the right to come before that committee and make a clean breast of the whole situation.

Mr. WALSH of Montana. Mr. President, we have gone far afield from the question I addressed to the Senator from Missouri, which was as to what he thought about the criminality of the acts recited in the testimony read by the Senator from Ohio. The Senator from Missouri did not answer that question, but he went on to tell that that witness testified before the grand jury, that his testimony before the grand jury was read in the trial at Grand Rapids, and that no opportunity was afforded to anyone representing Mr. Newberry to cross-examine him. The Senator is quite in error in that. Mr. Maddigan testified in the trial at Grand Rapids. He was subjected to cross-examination by Mr. Littleton, one of the ablest cross-examiners of the American bar. There is a stipulation in this case that the bill of exceptions in the Grand Rapids case, from which the Senator from Ohio read the testimony of Maddigan, shall be considered as though the witnesses were actually present and testified.

The Senator will find the record at page 331 of the bill of exceptions and the cross-examination by Mr. Littleton at the bottom of page 333.

Mr. POMERENE. Mr. President, will the Senator correct me if I am in error? Was not Maddigan one of the defendants in that case?

Mr. WALSH of Montana. Yes; and he entered a plea of nolo contendere, and was therefore called to the witness stand and testified. I do not care to press the question which I addressed to the Senator from Missouri. Of course, it is perfectly obvious that he does not desire to answer the question; but I call the attention of the Senator to this language in the report:

The amount of money spent at the primary was large, too large; but there was no concealment whatever in regard to it, and it was spent entirely for legal and proper purposes.

Either the Senator from Missouri believes that the expenditure of this money which was paid to Maddigan was for an entirely legal and proper purpose, or else he will rise in his place in the Senate and amend his report.

Mr. SPENCER. Mr. President—

Mr. POMERENE. I yield to the Senator from Missouri.

Mr. SPENCER. That is very good of the Senator from Ohio. The Senator misunderstood me if he thought for a moment that I did not want to answer. I want to answer, and to answer him frankly and fully.

The testimony of the witness we have only a synopsis of. Here is what he said under cross-examination as to what he did:

I distributed literature throughout the street, and on primary day I passed literature and Newberry cards to different men I met. I mean I distributed literature throughout the city of Flint, not making a street canvass, but as I met my different friends. I gave on an average two hours a day to the work of the campaign, including the evenings.

That was his statement under cross-examination. That statement, to my mind, presents nothing either illegal under the laws of Michigan or improper in morals.

As the testimony came out on the direct examination it looked as if he had been paid to influence voters, and I agree with the Senator from Montana that if that was the fact it was to be condemned, it was wrong; but I call the Senator's attention again to the fact that this man Maddigan never even came in contact with Newberry or anybody in Detroit. All that he did was with regard to somebody by the name of Henry, whose connection with the matter we are not familiar with, except that Maddigan says he understands he was a Newberry supporter.

I now publicly wish to express to the Senator from Ohio my regret, if there was any new point which he desired to bring out from the witness, Frederick P. Smith, that that witness was not recalled.

In the first place, I know that Frederick P. Smith's testimony occupied pages 753 to 775. He was examined by Senator Wolcott and by Mr. Lucking in extenso. Every phase of the question was gone into.

I remember when the Senator from Ohio came back from an enforced absence that had called him away from Washington, he expressed the desire to have Smith recalled. The Senator will correct me if I am wrong, but I do not understand that he said anything more than that he wanted to interrogate the witness Smith about some things. The committee felt and I felt that that case which we had had already before us more than a year and had practically closed ought not to be reopened for the return of Smith.

Mr. POMERENE. Mr. President, the Senator and I are colleagues in this Chamber, and, I think, friends.

Mr. SPENCER. We certainly are on this side.

Mr. POMERENE. I am sure I am one of the Senator's best personal friends, but if my question was so indefinite why could not the Senator, as the chairman of that committee, have asked me to make it more definite?

Mr. SPENCER. I could have done so, and if I had thought of it I would have done it. Does it not occur to the Senator from Ohio that the definiteness ought to have originated on his side?

Mr. POMERENE. Why, no; it does not. When I name certain witnesses, as I did in that instance, and name a certain kind of proof that I want and that is obtainable, if the primary evidence is destroyed, then in the form of the secondary evidence to be obtained from the bank's books I would like to know the Senator who as a lawyer would tell me that that was not pertinent and not material testimony.

Mr. SPENCER. There is much in what the Senator has said.

Mr. POMERENE. Undoubtedly so.

Mr. SPENCER. The Senator will only remember that the case had been closed—

Mr. POMERENE. No; it had not been closed.

Mr. SPENCER. The case had been closed by the committee and this witness had gone back from Washington to Detroit. He had been examined at length.

Mr. POMERENE. Well, Mr. President—

Mr. SPENCER. Let me add one other sentence, and I shall be through.

Mr. POMERENE. Very well.

Mr. SPENCER. The Senator said that if the contestee should be seated in this way there would be something more heard of it hereafter. I do not know whether the Senator referred to the hereafter in this world or the next, but if he referred to this world, I merely call to his attention the fact that there were some of these associates who, together with Truman H. Newberry, were indicted in Grand Rapids and were tried and convicted, who in the following campaign were candidates upon the ticket in Michigan and went before the people of Michigan in the light of what had happened, and every one of them was returned by an enormous majority when the people had a chance to express their opinion indirectly upon these proceedings.

Mr. POMERENE. I do not like to and would not allude to the fact save for what the Senator has said, but that case was tried before a Republican judge and before a jury of which either 10 or 11 members were Republicans.

Mr. McKELLAR. Eleven.

Mr. POMERENE. I am advised that there were 11 Republican jurors. There was a conviction. There is no question about that. I remember, too, that some of the defendants went on the stand and testified in behalf of Newberry, but Newberry never went on the stand to testify in their behalf, and though he claims to be a sitting Member here by a plurality of less than 4,000 now—

Mr. McKELLAR. A little over 4,000.

Mr. POMERENE. A little over 4,000, I am told, and the title to his seat is being tried again, he does not appear before that committee or before the Senate. My good friend has referred to the fact that his counsel had advised him not to appear. Now, just think of the situation. I wish to read a paragraph from page 807 of the record. Mr. Murfin said:

With that I have nothing further to offer—

Referring to some testimony—

Senator WOLCOTT. You are not going to call Senator Newberry himself?

Mr. MURFIN. I am not. That is a matter we have discussed at length, and frequently, and have changed our minds frequently; but that is the conclusion I now have.

Again, on page 932, the Senator from Tennessee [Mr. McKELLAR] calls my attention to the following:

Senator WOLCOTT. Suppose this committee should determine that it desired to have Senator Newberry as a witness. Are counsel prepared to come back here any day the committee may fix?

Mr. ALFRED LUCKING. I shall come, of course.



Senator WOLCOTT. I want the question of Senator Newberry's appearing as a witness left open for decision by the full subcommittee. My own view is that if nobody else makes that application or motion before the subcommittee, I will do it myself. So let us understand that that is not closed.

But the Senator from Missouri said it was closed, and because Newberry's attorneys said, "We have finally decided not to put him on the stand," two United States Senators sitting there as a committee to hear this testimony and report their findings to the full committee and then to the Senate, were turned down; no respect was paid to their request.

Mr. CARAWAY. Mr. President, will the Senator yield to me?

Mr. POMERENE. Certainly.

Mr. CARAWAY. Before the Senator leaves the question of being denied the opportunity to cross-examine the witness, the Senator from Missouri now claims that the Senator from Ohio did not name the witnesses. Was there any such objection made at the time by the Senator from Missouri?

Mr. POMERENE. Oh, none whatever. I wish to make this statement; that it had been determined by the majority of the committee beforehand, as I believe, that these men should not be subpoenaed.

Now, Mr. President, here is another witness, John E. Kern. I read his testimony not because the money was wrongly used finally, but because it shows the extravagance of the methods used by this committee. This witness was in the real estate business in Midland County. He saw Mr. King in Detroit.

We discussed the campaign there in Midland County and the conditions politically. \* \* \* Finances, we discussed. \* \* \* While Mr. King and I were talking there and in the presence of King, a sealed envelope was put on the table right beside me, to take all right. I put it in my pocket. I didn't open it there. I opened the envelope on the train on my trip home and found \$400 in it. This was between the 15th and 20th of August. I was probably called secretary of the Newberry organization in Midland County. \* \* \* When I went on these trips with Mr. Corliss I introduced him to men over the county. That was my purpose in going out. (B. E., 123.)

It appeared that this gentleman, of his own motion, returned to the committee all the money except his actual expenses. There is the one man who was heard in this trial who returned the money.

Mr. McKELLAR. Was there anything the matter with him?

Mr. POMERENE. Well, I do not know. I am not going to read many more of these, but there are two or three more which I feel I must read because they are illuminating. One of the men was Allan K. Moore, printer, in Grand Rapids. He said:

I told Mr. King I understood he wanted me to go into the upper peninsula and do some work up there. He said he did and gave me a list of names which we talked over, that I should call on up there, and I should see John G. Mangum, at Battle Creek, and have him suggest men to see in the different counties up there. I think Mr. King mentioned Mr. M. M. Duncan, general manager of the Cleveland Cliffs Iron Co.; Mr. Moriarity, of Crystal Falls; Capt. Richards, of Crystal Falls; Bob Douglass at Ironwood, and a banker at Munising. There was no further conversation, except he wanted me to see these men there and see how they stood for Mr. Newberry and report back. I think I was to make daily reports. \* \* \* I worked in Marquette, calling on the people that I knew for several days, finding out whether they favored Newberry or not. During that time I was just calling on men that I knew and advertising Mr. Newberry's candidacy by conversation and literature. \* \* \* After this I went to Detroit, where, I think, I saw Mr. King in the Newberry headquarters. I do not recall anything special that was said at that time about my work by Mr. King, except that I had done good work up there in the northern peninsula. \* \* \* He also told me that the reason I was taken out of the upper peninsula was because the defendant Rogers Andrews objected to my work there. \* \* \* I think he told me at that time that Andrews had charge of the work in the upper peninsula. Witness was then told to report to Mr. Floyd at Grand Rapids, and he proceeded: "As near as I can remember, but Floyd said that he had work to keep me busy all summer; thought I would like it better than chasing around in the upper peninsula. That he made arrangements through Dr. William Smith, of Muskegon, and George R. Murray, president of the Railway Men's Relief Association, whereby Mr. Murray would give me letters of introduction to different railroad men who were members of this organization for me to call on. \* \* \* I got in touch with George Murray. He published a monthly magazine in connection with the association, which is mailed to all the members. Mr. Murray gave me a letter to the officers of this association in various cities. \* \* \* Mr. Floyd told me he wanted me to go to these men and get them to circulate petitions for Mr. Newberry, and he says, 'You can not expect that they are going to do this work for nothing,' and he gave me in person, I think, at that time, \$300 in cash to pay these men for the work they did.

Witness then describes calling on the different persons.

"I called with Mr. Jack Murray one or two days at the different street car barns and different railroad yards and met different men." Witness then describes large number of men he had called upon, giving each one of them money, \$20, \$40, \$25, \$75, and one \$250, etc. (B. E., r. 97, 98, 99, 100, 101, 102.)

"From there I went to Manistee and saw Joseph Linder, who was secretary of the relief association. I think I paid him \$20. \* \* \* I made two trips to Flint, where I called on Mr. Myers, who has charge of the Pere Marquette freight office. I think I paid Mr. Myers \$80 altogether, and I think I paid A. D. Cole, yardmaster of the Grand Trunk. I paid Roy Larrabee, a man who worked for the Interurban, \$10. At Battle Creek I met a man by the name of Mellon, engineer on the Grand Trunk. The first time I went down there I paid him \$140. I gave him \$52 once or twice after that. I think twice. I also went to Jackson, where there was a man by the name of Lloyd, secretary of the association, to whom I think I paid \$40."

Most of these names do not appear in this correct record.

Each time I paid these sums I made a report to Mr. Charles Floyd, from whom in each instance except one I got the money I paid out to these railroad people. I think my work continued 20 weeks at the same salary I have heretofore mentioned (\$75 per week). (Record, p. 98.) \* \* \* From the time I was assigned to this railroad work by Mr. Floyd up to the end of my employment I did no other line of work except that during the last week of the campaign I went back to Marquette at the request of Mr. Mangum. \* \* \* During the time that I worked for the Newberry committee I received \$1,500 salary and \$1,219 expense money. The total that I received was approximately \$2,719. It might have been \$3,600 or \$3,700. \* \* \*

And so forth.

Mr. President, let me call attention now to Mr. George R. Murray, who was president of the Railway Men's Relief Association and published its monthly magazine. He was in a position of influence. He went around with Allan K. Moore. He said in part:

They asked me if there was anything I could do to help get the railway men lined up for Newberry, and I assured them I would give them my support. It was kind of a hurried trip, and they shook hands and bade me good-by. Before leaving they said anything I could do to help along the line they would take care of me. \* \* \* I got no money from Floyd besides the \$300. Four hundred dollars was paid to the magazine which was published; that went into the association funds. \* \* \*. In the month of July a display advertisement was published in the magazine, and in August a personal letter from me to the railroad men. \* \* \*. I think our bill for the one display was \$150. In August we published an article about Mr. Newberry's campaign, not an advertisement, just an article which I wrote. Twenty thousand extra copies were ordered through the Grand Rapids office. (B. E., pp. 195, 196.)

I desire now to refer to Myron J. Sherwood, who was a lawyer at Marquette, and who handled about \$1,500, according to his testimony. King asked him to support Newberry and to take charge of the management of the campaign in the upper peninsula of Michigan. He said in part:

"I employed men to work at the polls on election day." That there were five precincts in the city. He had put men in each of the four precincts, but none in the other. He said, "I paid these men \$7 per day." He also had a man out over the city reporting the sentiment and paid him \$50 per month. (R., 883, 884.)

Mr. President, in that connection I desire to state that Newberry was not supposed to have any knowledge of the manner in which this campaign was being conducted, but every once in a while the footprints are seen. King, who was making daily reports and who signed his name "Paul" on August 15, 1918—I read from the bill of exceptions on page 888—in reporting to "My dear Commander," says:

I am inclosing herewith the proof of an advertisement which will appear next week showing the indorsement of leading farmers and men interested in agricultural matters throughout the State. This should help.

Our only weakness is with the labor vote, and my reports indicate that we are getting stronger there. The Flint Labor News, which has been strongly Osborn—

That was Gov. Osborn, who was a candidate—

is weakening, and I am sending a man there to-day with a page advertisement for insertion just before the primaries.

For what?

Mr. OWEN. From whom was that letter?

Mr. POMERENE. That was from Paul H. King, the chairman of the committee, to Commander Newberry. Here is a labor paper that had been for Gov. Osborn, and King says, "it is weakening, and I am sending a man there to-day with a page advertisement for insertion just before the primaries."

Mr. NORRIS. Mr. President, may I ask the Senator from Ohio a question?

Mr. POMERENE. Yes.

Mr. NORRIS. I remember reading in the record what the Senator from Ohio has just read when I was examining the record. I was unable, however, in any further examination of the record to find out what effect the placing of this page advertisement in the Labor News had upon the paper. I should like to ask the Senator if there is anything in the record to show whether there was any difference in the attitude of that paper "before taking and after"?

Mr. POMERENE. Mr. President, I am having that matter investigated, but I am not able now to answer the Senator's question. There is, however, a list of newspapers which obtained advertising.

Mr. NORRIS. I understand that.

Mr. POMERENE. Whether that paper appears in the list or not I do not know.

Mr. NORRIS. I do not desire to ascertain whether or not the paper appears in the list; of course, it does not appear, I presume. What I am trying to ascertain, as a matter of curiosity, somewhat, is what effect the placing of the advertisement had upon the editorial policy of the paper.

Mr. POMERENE. I so realize. The Senator's query is very pertinent.

Mr. OWEN. Mr. President, I should like to make an inquiry which I think will be more pertinent. Did not Mr.

Newberry make oath that he knew nothing about these expenditures?

Mr. POMERENE. He certainly did.

Mr. OWEN. How does the Senator explain that?

Mr. POMERENE. We are required under the ruling of the majority of the subcommittee and a majority of the full Committee on Privileges and Elections to be content with his denial under oath.

Mr. OWEN. Did he come before the committee and make denial under oath?

Mr. POMERENE. Never.

Mr. OWEN. Why not?

Mr. POMERENE. We might have gotten the truth. The chairman of the committee said a little while ago that with the opportunity to cross-examine another witness we might have elicited some information. Of course he as a lawyer knew that, but he did not want to enable us to elicit information from Mr. Newberry, and Mr. Newberry was not willing to have us elicit information from him.

Mr. NORRIS. Mr. President—

Mr. POMERENE. I yield.

Mr. NORRIS. When the Senator refers to a general denial he does not mean that Mr. Newberry appeared before the committee and made a general denial?

Mr. POMERENE. No.

Mr. NORRIS. He has reference to the affidavit which Mr. Newberry filed with the Secretary of the Senate under the law?

Mr. POMERENE. It is that to which I refer, and I thank the Senator for making it clear.

Mr. McKELLAR. Mr. President, if the Senator will yield to me, there are very few Senators present, and I suggest the absence of a quorum.

The VICE PRESIDENT. Does the Senator from Ohio yield for that purpose?

Mr. POMERENE. I yield for that purpose, if I may.

The VICE PRESIDENT. The Secretary will call the roll.

The reading clerk called the roll, and the following Senators answered to their names:

Brandegee	Harrison	Nicholson	Spencer
Capper	Heflin	Norris	Stanley
Caraway	Jones, N. Mex.	Oddie	Sterling
Curtis	Jones, Wash.	Owen	Swanson
Dial	Kendrick	Page	Townsend
Edge	Kenyon	Pittman	Trammell
Ernst	Keyes	Polindexter	Wadsworth
Fernald	King	Pomerene	Walsh, Mass.
Gerry	Ladd	Ransdell	Walsh, Mont.
Glass	McKellar	Robinson	Watson, Ga.
Hale	McNary	Sheppard	Watson, Ind.
Harris	Nelson	Smith	Willis

The VICE PRESIDENT. Forty-eight Senators have answered to their names. A quorum is not present. The Secretary will call the names of the absentees.

The reading clerk called the names of the absent Senators, and Mr. BURSUM, Mr. FRANCE, Mr. FRELINGHUYSEN, Mr. McCUMBER, Mr. OVERMAN, Mr. PHIPPS, Mr. SIMMONS, and Mr. SMOOT answered to their names when called.

The VICE PRESIDENT. Fifty-six Senators have answered to their names. A quorum is present.

Mr. POMERENE. Mr. President, the Senators who are interested will find the so-called Blair report of receipts and expenditures in the bill of exceptions, beginning on page 252. Mr. Blair was the very distinguished gentleman, a very good citizen, who lent himself to this committee as its treasurer. The bank account, I believe, was kept in his bank. Mr. Blair signs and swears to this report. The evidence will show that Mr. Blair knew nothing about the correctness of this report. Some little explanation was made to him by, perhaps, King and some others, and he signed it. I want to read just a paragraph bearing upon the character of this report:

I told Mr. Hopkins to be sure to have in every newspaper bill, every bill in connection with the publicity department, before the time for the filing of the report. I do not recall whether or not prior to the time Mr. Blair signed it and it was filed I had a conference or a talk with Mr. Blair about the report. I told Mr. Blair, it seems to me, at the time that he came over to sign the report that we had made every effort to get every bill, and so far as I knew all of the bills were in, and that I had been so advised by Mr. Hopkins and Mr. Emery. It was after I told that to Mr. Blair that he signed the report. So far as I knew, Mr. Blair had nothing to do with the preparation and making up of that report; I did. I first got in on the preparation of the report about 10 o'clock on the morning of September 6. Mr. Emery—

That is the witness who went to Canada—

Mr. Emery had been working on it before that, and the various members of the office force had been working on it. Mr. Emery was at his home on the morning of September 6, as I remember. Various members of the office staff, I think the most of them, assisted me on that day in the preparation and finishing up of this report. The report, or the documents in connection with it to make up the report, were in a very chaotic condition. Mr. Emery had been working for several days to get the report ready and had repeatedly assured me that it would be

ready, and, in fact, as I was advised by one of the respondents, when I got to the office that morning, he had worked all night the night of the 5th on the report and had fainted away from exhaustion at 4 o'clock and had been taken home in a taxicab. The Blair report was, in my judgment, as nearly correct as could be made from the information we had.

If you will examine the report, you will find that there was an attempt to classify the expenditures in such a way as to conceal expenditures which were made and which were not permitted to be made under the Michigan law; and I do not wonder that Emery fainted before he got through it. I would, too, if I were doing business of that kind.

Mr. President, there is a good deal of Mr. King's testimony that might be very interesting to read. You will find that it was necessary to have Mr. Emery here, because, if you will examine the record, you will find that this man Floyd, when he is interrogated about these accounts, refers to original records and papers.

"Where are they?"

"I do not know. I saw some of them about the office."

"Who would know about them?"

"Mr. Emery."

Mr. Turner, another publicity man who was active about the headquarters, testified that he did not know where these records were.

"Where are they?"

"They were in the charge of Mr. Emery."

He himself testified that he supposed that Emery was keeping books, and so forth. I am not attempting to quote him literally, but that is the substance of it. Every time you attempt to trace one of these witnesses down to a specific piece of original evidence, it is Emery that knows it. If Emery is an honest man, his conscience must hurt him as much as his head hurt him after he was bumped by a Ford machine.

Mr. President, I am going to take the time of the Senate to read a part of my cross-examination of Mr. King. I think you will agree with me that by his testimony he has shed a great light upon conditions as they prevailed in this committee.

I asked the question:

Mr. King, it appears—and if I do not correctly state your attitude, you may take any exception to it or make any explanation that you deem proper—it appears thus far in the testimony before this committee that you had a number of conferences with Mr. Newberry with regard to his candidacy and his campaign; that in one of these conversations you talked with him about the amount it would cost, and thereupon, in substance, you said to him that it cost the friends of Senator Townsend \$20,000, but that you thought his campaign would cost \$50,000 or thereabouts.

After that you had a number of conversations with him and you wrote to him giving him reports of what was being done. You have referred here to a so-called field report which you made, and you have read, at my request, one of these reports from one of the counties. I take it that those field reports gave him a general bird's-eye view of every part of this campaign except the financing. Will you explain why it was that you explained all of these other matters and did not explain to him the financing?

Mr. KING. Why, it is very easy of explanation. The funds were being provided at Detroit. The campaign was being financed. Questions of policy, as I have stated, were discussed, as to what was a good thing to do and what was not a good thing to do. I have no recollection of ever discussing with Senator Newberry the financing of his campaign or any part of it.

Senator POMERENE. Let us see. Does that satisfactorily explain it to your mind? You have referred to the general policy, and I think he had his campaign in very able hands.

Mr. KING. Thank you. (R., 633.)

Senator POMERENE. Why should you say now that the financing was taken care of in Michigan by his friends and give that as a reason for not counseling him on that subject, when the general policy of his campaign was being taken care of by his friends?

Mr. KING. The general policy was being taken care of by his friends; that is true.

Senator POMERENE. And I dare say, from what I have observed, that the general plan of his campaign and what was done outside of the finances by you was as well done as was the financing by his other friends. What was the reason why you should talk with him and confer with him and report to him about everything except the financing?

Mr. KING. Because, as I say, the money was forthcoming from Detroit. There was never any question about it. There was simply a question, Senator, when anything came up to be done—the question in my mind was whether it was a good thing to do, and if it was a good thing to do, I did it. The question of expenses did not come into my mind at all. It was a question of whether it was a good thing to do or not, whether it would help the campaign along or not. If it were a good thing to do, I did it regardless of the expense. If it were not a good thing to do, I did not do it.

I wish Senators could have had the opportunity to see Mr. King. He was a very bright, keen, shrewd gentleman, and when he said that the question of the finances never occurred to his mind, I accepted it with some mental reservation.

Senator POMERENE. You knew where most of this money was coming from, did you not?

Mr. KING. I knew that Mr. John S. Newberry was supplying a considerable part of it, because I saw the checks.

Senator POMERENE. In view of your State statute and the Federal statute, did you regard it as a pretty important thing to look after the finances of this campaign as well as after the other features of it?

Mr. KING. I did. I thought we were.

Senator POMERENE. Yes. Was it because you had in mind the State statute or the Federal statute, or both statutes, limiting the amount of



money that could be expended, that you did not want Senator Newberry to have knowledge of it?

Mr. KING. No; I would not say that.

Senator POMERENE. Is not that the reason?

Mr. KING. I do not think it was, Senator.

Senator POMERENE. As he had to file an account, can you explain why he was not concerned about this financing?

Mr. KING. To tell the honest truth, the matter of the account that he had to file never came into my mind at all until the blanks came to our office from the office of the Secretary of the Senate, I think it was, and I think I mailed them down to him. That was the first time that the matter of his accounting ever occurred to me at all.

Just think of a shrewd, clever lawyer, who had managed senatorial campaigns before, who is supposed to be familiar with the election laws of his own State, as well as of the Federal Government, not thinking of that!

Senator POMERENE. You had an attorney, one of your own office men, who was advising with you in regard to the law?

Mr. KING. As to details of the law; yes. I do not think he advised as to the financial features of it.

Senator POMERENE. Now, let me go to another matter.

Senator EDGE. May I ask just one question right there, Senator?

Senator POMERENE. Yes.

Senator EDGE. Was it not discussed rather generally in the press?

Mr. KING. When the attacks were made by these three papers I have mentioned—that was in August some time just before the (R., 634) primary, which was on the 27th—that was the only time that the question of expenditures had risen at all. Mr. De Foe raised the question, and Mr. Vandenberg.

Senator POMERENE. You did discuss with him the amount of advertising and the necessity for their general scheme or plan along that line?

Mr. KING. I think I told him about my plan for publicity; yes.

Senator POMERENE. And your general scheme of sending out field agents and organizing each county?

Mr. KING. Yes, sir.

Senator POMERENE. And you made these reports?

Mr. KING. Yes, sir.

Senator POMERENE. Let me go to another matter.

Your primary day was August 27?

Mr. KING. Yes, sir.

Senator POMERENE. And your report was filed on what date?

Mr. KING. September 7, I think, or 6—within 10 days after the primary. It had to be.

Senator POMERENE. Did you give instructions to destroy or burn the letters and other files that you had in the office?

Mr. KING. As I stated the other day, the form letter correspondence, I told the office staff that they could throw out.

Senator POMERENE. When did you do that?

Mr. KING. That was just before the State central committee moved in. It must have been—I left on my vacation trip on the night of the 7th of September, 1918. It must have been the first week in September that we were closing up.

Senator POMERENE. Before or after your report was filed?

Mr. KING. The report was filed the night of the 7th. I left on the midnight train that night on my trip.

Senator POMERENE. Did you give any other instructions with regard to the books of account or your contracts, advertising or other contracts?

Mr. KING. No, sir.

Senator POMERENE. Did you know of their being destroyed? Did you know they were to be destroyed?

Mr. KING. I did not.

Senator POMERENE. Do you know they have been destroyed?

Mr. KING. It has been so testified.

Senator POMERENE. When did you first learn that some question was being raised about the character of the campaign that was being conducted in behalf of Mr. Newberry?

Mr. KING. I can not recall just the date when these three papers opened up on us.

Senator POMERENE. Name those three papers.

Mr. KING. The Charlotte Republican, the Escanaba Journal, and the Grand Rapids Herald. But I regarded those attacks as being purely political and inspired for political purposes. Senator Smith's paper, the Grand Rapids Herald, I thought was attacking us because of Mr. Vandenberg's possible aspirations for Senator, and the fact that Senator Smith had contemplated reentering the race at the last moment and had found that Senator Newberry had, through their own investigations—they sent out inquiries to the county clerks and judges of probate and members of the legislature, and the replies (R., 635) which they printed in their own columns showed that the sentiment was so overwhelmingly for Commander Newberry that Senator Smith decided not to allow his petition to be filed, right at the last minute, I think, right up to midnight of the final day.

Senator EDGE. What was the final day for filing petitions?

Mr. KING. Thirty days, I think, before the primary.

Mr. MURFIN. July 26.

Mr. KING. Up to 4 o'clock on that day; that was the final hour. They were in the possession of the secretary of state, and they were withdrawn by him when he discovered, through the investigation of his own paper, that sentiment was so overwhelmingly for Commander Newberry; and I thought it was his personal pique, perhaps, incident to the situation, that induced those attacks by the Grand Rapids Herald.

Senator POMERENE. You knew, prior to August 27, the day of the primary, that there were serious charges being made about the character of the Newberry campaign?

Mr. KING. Yes, sir.

Senator POMERENE. And those were made in part by Democrats and in part by Republicans?

Mr. KING. Yes, sir.

Mr. ALFRED LUCKING. No Democrats, I think, your honor, that I remember.

Senator POMERENE. Just let me go on.

Mr. ALFRED LUCKING. Pardon me.

Senator POMERENE. You remember that there was a letter written by your lieutenant governor on August 22, 1918?

Mr. KING. I remember the letter very well; yes.

Senator POMERENE. In which he made certain serious charges?

Mr. KING. Yes, sir.

Senator POMERENE. And you remember the character of them. I do not care to go into it, because I distinguish between evidence and charges. Also about that time—

Mr. KING. He was not even produced at the Grand Rapids trial by the Government.

Senator POMERENE. That is all right. That was printed immediately, was it not, after it was written?

Mr. KING. Yes; I think he put it in the paper before he mailed the letter to Commander Newberry.

Senator POMERENE. In any event, it was printed four or five days before the primary?

Mr. KING. Yes, sir.

Senator POMERENE. And then, also, Representative Wiley wrote a pretty scorching letter bearing on this same subject, on August 22, 1918?

Mr. KING. As representing Gov. Osborn, who was also a candidate; yes.

Senator POMERENE. That may all be, but he did make serious charges, did he not?

Mr. KING. Yes, sir.

Senator POMERENE. Without going into the details, they took up the question of the extravagance of the campaign as to money?

Mr. KING. Yes, sir. (R., 636.)

Senator POMERENE. This being so, did not the fact that these serious charges were made by representative men in the Republican Party admonish you that some question might be raised afterwards with regard to Senator Newberry's title to his seat if he were elected? Did not that occur to you?

Mr. KING. It looked to me just like a hot political fight, Senator. The subsequent developments that ensued, I am frank to say, never entered my mind at all.

Oh, he was an innocent abroad!

Senator POMERENE. You are evidently right that it was a hot political fight.

Mr. KING. Yes; and the press will also show that I answered these attacks by stating the reasons why it was necessary to conduct the publicity campaign that we had conducted. Mr. Ford was the best advertised man in Michigan or in the country; that he was backed by the Democratic organization from the White House down, the Democratic national committee, the Democratic State central committee; he was backed by his own forces, which were in large numbers scattered throughout the State, and by his sales agencies. He was backed by the people who furnished supplies and materials, wealthy manufacturers who furnished these supplies and materials to his plants. I thought it was necessary to conduct a campaign of this kind of publicity and to organize to meet just exactly that kind of opposition, and I had no apologies to offer for it.

The ACTING CHAIRMAN. You mean, backed for what?

Mr. KING. Backing Henry Ford for United States Senator.

The ACTING CHAIRMAN. Was this in the primary?

Mr. KING. In the primary.

The ACTING CHAIRMAN. They were back of him as a Republican candidate in a Republican primary?

Mr. KING. Absolutely. The plan was to put him on both tickets, and the suggestion came from the White House that he was Mr. Wilson's candidate.

Senator POMERENE. Do you know that?

Mr. KING. Mr. Ford himself stated that he ran at the suggestion of the President; that he was drafted.

Senator POMERENE. Let me see if I understand you. From what you have said thus far do I understand that you were giving your reasons for the campaign you were conducting, or do I understand that you were making answer to these charges and are giving the substance of your answers?

Mr. KING. That is what I am trying to do.

Senator POMERENE. Then let me go a step further.

Of course, it is to be presumed that in your office you did have an account of receipts and disbursements.

Mr. KING. There was such an account, I suppose.

Senator POMERENE. You have no doubt about it, have you?

Mr. KING. No. In the beginning of the campaign—

Senator POMERENE. Do you know where that account is?

Mr. KING. I do not, Senator.

Senator POMERENE. Have you made any inquiry about it?

Mr. KING. No; I do not know that I have.

He was one of the men under indictment, who was later tried, and who has never inquired about these books which reported the big, legal, honorable expenditures in this campaign.

Senator POMERENE. As you were unfortunately one of the defendants in this case, after your indictment, when you had become involved in what was a serious charge, did it not occur to you that it would be necessary to have all this evidence? (R., 637.)

Mr. KING. Why, I had not thought of it in that way; no.

Now, just think of a lawyer under indictment and trial and sentenced to the penitentiary, and it never occurring to him to have these books of accounts.

Senator POMERENE. Does it not occur to you that that is a reasonable conclusion to which any man might come?

Mr. KING. I regarded the whole trial and everything as part and parcel of the political fight.

Senator POMERENE. But be that as it may, it was tried, nevertheless. Whether rightly or wrongly, it got into the courts; and would you not be interested, then, in making your defense so you could produce these records?

Mr. KING. I have not found it necessary to make such defense in Michigan.

Senator POMERENE. Very well.

Mr. KING. My reputation stands up there with anyone else's thus far.

As a political manipulator, yes.

Senator POMERENE. I am not disputing that. If I am tiring you, I will stop.

Mr. KING. No; I am glad to answer these questions.

Senator POMERENE. There are just a few questions that I want to ask you.

In view of the fact that these serious charges were being made just prior to the primary, as well as immediately after the primary, did it not occur to you that it would be wise to have all of your original records?

Mr. KING. I supposed they were in possession of the proper custodian. I had had nothing to do with keeping them.

He supposed that, but never inquired anything about it. Will anyone believe that story?

Senator POMERENE. As to your correspondence, if you had correspondence with different people that represented you outside—and I am assuming now, for the sake of the question, that all of your correspondence was perfectly legitimate—would it not have been a good thing for you to have had all of that correspondence in the office if any controversy should arise after the primary?

Mr. KING. It would have been necessary to have arranged for storage space. It never occurred to me it was necessary at all.

Senator POMERENE. That may all be. Did it not occur to you, or to some of your associates, that it would be a very important thing, in view of the hot campaign that you had, that you should have your original books of entry, both as to receipts, expenditures, and as to contracts for advertising and other supplies and services? Did not that occur to you?

Mr. KING. I supposed, as I say, they were in the hands of the proper officers.

Senator POMERENE. But assuming, for the sake of the argument, that every item of receipt was legitimate and every item of expenditure was a legitimate expenditure, would it not have served you and Mr. Newberry and all the other defendants in good part to have had all of these original books of entry?

Mr. KING. I presume it would.

Senator POMERENE. Is it customary in your State that a campaign committee shall destroy the books showing their financial operations after the campaign is over?

Mr. KING. I can not testify as to what is customary. The only other senatorial campaign—

I hope Senators will note this:

The only other senatorial campaign that I managed, the Townsend senatorial campaign, we kept books of correspondence for a long, long time, and I had the idea that I could refer to them for political information (R., 638) later; but they soon became obsolete and were in the way. We moved them from place to place, and finally dumped them all out. So when we came to this point I said to myself, "There is certainly no object in preserving all this mass of correspondence," and I said to the office staff, "We will not keep it."

Senator POMERENE. Senator Townsend had a pretty energetic campaign up there, did he not?

Mr. KING. He did.

Senator POMERENE. And no question was ever raised about the character of his campaign?

Mr. KING. No, sir. And this campaign, Senator, was, in principle, exactly like Senator Townsend's campaign, because where I had one field man then, part of the time, I had six or eight in this campaign. Where I inserted an occasional advertisement in a paper in that campaign, I had a definite plan of publicity with 13 insertions in all the papers, and where I had one poor little stenographer in the office who worked herself nearly to death, I had 50, if you please, in this campaign. It was simply an amplification of exactly the same procedure that I had followed in the Townsend campaign. In principle there is no difference at all.

Senator POMERENE. Let us pursue that a little bit further. There was no question raised about the legitimacy of Senator Townsend's campaign, either before or after his primary?

Mr. KING. No, sir; although a very substantial sum of money was spent in that campaign.

Senator POMERENE. I understand that, and you have been very frank about that. But here was a campaign in which no charges were made with reference to a violation of the law or any extravagance, and yet you kept all your correspondence and files for a number of years thereafter. But when it comes to this Newberry campaign, with these very aggravated charges, whether right or wrong—I am not passing on that—when these very aggravated charges were being made against the character of the campaign, charging extravagance and even charging fraud and violation of the law, does it not strike you as a little strange that all of this correspondence should be destroyed at that time and the books of entry not available?

Mr. KING. The correspondence which was destroyed was purely former letter correspondence. This correspondence is in the record here and fully covers the questions at issue. That was preserved. There was no idea of destroying anything that might be used in future proceedings, because the idea of all these proceedings had never occurred to me, I am frank to say.

But the coincidence that all these books evidently are destroyed!

Senator EDGE. What book entry was saved beyond that report?

Mr. KING. I do not know, Senator Edge. I had nothing to do with that part of it, as I have stated, and I do not know what books were saved. So far as I know, I do not know that they are destroyed. I do not know that they are now.

Senator POMERENE. Did you have an understanding with John S. Newberry that he was to finance this campaign?

Mr. KING. No, sir; I did not know him at that time at all.

Senator POMERENE. How did you get your information that it was going to be financed by some of these gentlemen?

Mr. KING. I think from Mr. Templeton. (R., 639.)

Senator POMERENE. What did he say to you on the subject?

Mr. KING. I can not recall, except that the expenses would be paid; and later, when I needed money, I asked him for money, and he very promptly procured money for me. This was in the form of a check or checks signed by Mr. John S. Newberry.

Senator POMERENE. Did he tell you who was to finance it?

Mr. KING. I do not know that he did.

Senator POMERENE. You knew who these substantial contributors were from day to day?

Mr. KING. Yes; I think I knew about it. For instance, Col. Hecker, who is a very well known and prominent man in Detroit—he came into my office and left a check on my desk for a thousand dollars, which I turned over to Mr. Blair. So that indirectly, one way and another, I think I knew about it.

Mr. CARAWAY. Mr. President, was not this one of the men whom Senator Newberry especially requested should conduct his campaign?

Mr. POMERENE. It was, and his business associate, too. Think of that situation of Mr. King taking great pride in the

fact that he preserved the records in the Townsend campaign for nearly two years, when no question was ever raised either before or since about the validity of the primary, but when it comes to another primary where there is a question raised the books are all gone.

Mr. WALSH of Montana. Mr. President, may I inquire of the Senator from Ohio if it is anywhere disclosed in the record—I do not recall—just exactly what books this so-called committee did keep? I do not now speak of receipts and canceled checks and check stubs, but I speak of books of account in which a record of the financial transactions was kept.

Mr. POMERENE. That was one of the very unsatisfactory things about this hearing. One of the witnesses referred to what he thought were ledgers in the bookkeeping department.

Mr. WALSH of Montana. I recall that there is testimony to the effect that they had an auditing department.

Mr. POMERENE. Yes; that was referred to as an auditing department.

Mr. WALSH of Montana. So it would appear that the thing was well organized to preserve the book accounts of transactions.

Mr. POMERENE. Certainly; and yet with all of this assistance about the headquarters we can not get a trace of any of those books. One man suggested that certain documents or records were left there and the State Republican campaign committee took charge, but the chairman of that committee is dead; and Emery, the one man who is supposed to have all the information and who is referred to repeatedly by a number of these witnesses, we found was in the woods under the circumstances indicated in the previous part of this discussion, but later on, when it became known that the committee had closed its hearings, Emery was in Detroit.

Mr. TOWNSEND. Mr. President, may I ask the Senator from Ohio if he believes that now or at any time Emery has been in a condition when he could go before a committee and testify as a man might testify under ordinary circumstances?

Mr. POMERENE. I will be just as frank as the Senator might expect me to be. I have no positive knowledge on the subject except that I have been reliably informed at different times that he came back to Detroit and that he went about his business and on the streets.

Mr. TOWNSEND. But the Senator knows from the record and from the statements of the attorney for Mr. Ford that he went to Canada, not in the woods, but he went there after counsel had determined that he could not testify; he went to a relative's home, not intending to stay there; he did not stay there and did not go there for his home, but has been in Detroit, his home, ever since.

Mr. POMERENE. Why, Mr. President, that is simply going over what we went over yesterday. It is true that when the process server served the subpoena upon him he went to Mr. Lucking and said that that man was not able to come to Washington. If my memory serves me rightly, Emery's attorney, or some one representing him, made a similar statement to Mr. Lucking, and Mr. Lucking then stated, in substance, that if he was not able to come, of course he would cancel the service. It was after that that he went away, but bear in mind that that was 30 days or more before the final conclusion of this testimony. While it may be true that at that particular time he was not in condition to come, it nowhere appears that at the time we were seeking to get him—I mean the last time—he was not in a condition to come, and there has been nothing shown here to the contrary, so far as I now know.

Mr. SWANSON. Mr. President, may I ask the Senator from Ohio if there was anything to disclose that Emery would have been unable to testify if the subcommittee had gone to Detroit to examine him?

Mr. POMERENE. That was one of the thoughts that we had in mind. I can not give the various stages of the matter now, but we wanted to get some competent physician to go and examine him, and, if possible, to take his testimony on written interrogatory. We took the testimony of the witness Joy by interrogatory, all of which had been agreed upon. No such opportunity was given as to this man Emery.

Mr. TOWNSEND. And none was asked.

Mr. POMERENE. Oh, well—

Mr. TOWNSEND. Just a moment—

Mr. POMERENE. Yes; just one moment. I will answer that statement. I do not propose to be put in that attitude when we presented these different resolutions after the testimony had been closed by the majority of the committee. We asked for other witnesses and such witnesses as each member of the committee might call for. That was denied.

Mr. TOWNSEND. Did the Senator have in mind Mr. Emery?



Mr. POMERENE. I had, sir. I had in mind Mr. Smith. I had in mind Mr. Newberry. I had in mind the bank officials up there. I had in mind some of these bank officials in New York.

Mr. SWANSON. Does the Senator from Ohio know of any reason why the majority should not have wanted Mr. Emery as much as the minority? I am surprised that the majority did not ask for him.

Mr. SPENCER. If the Senator from Ohio will permit me to answer the statement of the Senator from Virginia, we certainly did want his testimony. Will the Senator let me read just a sentence or two from the record?

The fact of the matter is that this man Emery was mentally as well as physically incompetent as a witness. Three witnesses testified before us, in addition to his doctor's certificate, as to his mental condition. Mr. Lucking, the counsel for Ford himself, excused Emery and then afterwards said that he was misinformed, and the record shows this from the counsel of Mr. Emery himself. We wanted them to have Dr. Sladen—he was Ford's doctor; that is, he was a doctor in Ford's hospital—examine Emery, and we telegraphed up there and Dr. Sladen examined Emery and confirmed the fact that he was mentally and physically incapacitated.

Mr. POMERENE. What is the date of that?

Mr. SPENCER. I am reading from page 730 of the record. The date of the telegram back from Dr. Sladen is June 11, 1921. Dr. Sladen telegraphed back that he could not examine Emery because Emery had gone to Canada, and something was made of that. Emery's counsel put this statement in the record:

Upon positive assurance made to me by Mr. Lucking at a conference held at his suggestion—

Mr. SWANSON. What date is that?

Mr. SPENCER. June 13, 1921, when we were trying to get Emery.

At a conference held at his suggestion, and with a full understanding on his part of Mr. Emery's serious condition, and the recall of subpoena and Mr. Emery's notification thereof, Mr. Emery left Detroit for a few days' stay at my home in Canada in order to prepare for a serious operation in the near future. Dr. Sladen's inference as quoted in press is untrue.

That inference was that he had skipped to Canada.

Mrs. Emery simply refused responsibility, and referred him to me—

That is, Dr. Sladen—

for any arrangements to be made. I have never heard from him. Mr. A. Lucking—

That, I think, is the young man—

has in his files in the case of Emery v. Ford—

For, by a curious circumstance, Emery was hurt by a Ford machine and is now suing Mr. Ford for a large sum of money for damages—

Mr. A. Lucking has in his files in the case of Emery v. Ford a complete diagnosis of Mr. Emery's very serious condition, and as his attorney in the case mentioned, I can not consent to have his interest jeopardized. The statements that were forwarded to the Senate committee from his own physicians seem to be ample to excuse his attendance.

The Senator from Ohio is right, that that was perhaps 20 or 30 days before the next request was made, but, Senators, that man, according to the testimony of every witness, was mentally as well as physically incapacitated. A man with his skull fractured in five places does not recover in 30 days, if he ever recovers; and the committee felt that it would possibly have resulted in nothing less than his death to have required that man to have subjected himself to an examination in the face of those conditions.

Mr. POMERENE. I submit that the committee had no evidence upon which to base any such contention as that.

Mr. SPENCER. The committee took the doctor's statement that to compel him to undergo an examination would bring upon him a collapse that might prove fatal. Those are the words of the physician.

Mr. POMERENE. It has not proved fatal; and he is still up there and attending to business.

Mr. SPENCER. He has not been examined, but he is not attending to business.

Mr. POMERENE. How does the Senator know that he is not capable of giving testimony now?

Mr. SPENCER. The Senator from Ohio can not point his finger to a single line of testimony to show that he is attending to business. He was able to walk, and he did go to his office, but the testimony shows that whenever one talked with him all he could speak about was his injury; that his mind seemed to be gone on other matters. He is mentally incompetent as well as physically incompetent. Why make so much over a fact like that?

Mr. POMERENE. If it were a fact, I would not raise any question about it.

Mr. SWANSON. At what time was the evidence closed?

Mr. SPENCER. The evidence, I think, was closed on or about June 15, within a very few days after that.

Mr. SWANSON. He has not been since examined?

Mr. SPENCER. Not since June 13.

Mr. WALSH of Montana. Before we leave this point I desire to inquire of the Senator from Ohio if Mr. Emery was the only man about the office—I understand that at one time there were at least 200 people employed there—if Mr. Emery was the only man about the office who could tell as to the actual books that were kept and what became of those books and just exactly why books of account, which were intended to be a permanent record of the financial transactions, should be destroyed?

Mr. POMERENE. Mr. President, that is one of the things about which I sought to get some reliable information; but the whole record points to Mr. Emery as the one man who would know. I have read Mr. King's testimony here, or a large part of it, on that very point.

Mr. WALSH of Montana. Mr. Turner, who was the assistant secretary, says he does not know anything about it.

Mr. SPENCER. Mr. Blair knew most about it in the absence of Mr. Emery, but I agree with the Senator that Mr. Emery knew more than did any other man about the details of the management.

Mr. WALSH of Montana. Does the Senator think he could tell why he destroyed the account books?

Mr. SPENCER. From the testimony before the committee concerning him, I do not think he could have answered anything coherently or intelligently, and I think it would have been at the very risk of his life to have subjected him to an examination.

Mr. WALSH of Montana. I mean if he were competent, would he be able to tell us why he destroyed the account books?

Mr. SPENCER. I do not think there is the slightest evidence that any account books ever were destroyed. The only testimony of any destruction is that of the ordinary circular letters and other documents that were thrown out at night, as was stated, to be destroyed.

Mr. WALSH of Montana. Where are those account books?

Mr. SPENCER. The only account books that were ever kept were of the items as they came in. Contributions were deposited and as items were paid out the bills were filed; and every check which paid the bill—and every bill was paid by a check—was before our committee.

Mr. WALSH of Montana. That is, there were no account books?

Mr. SPENCER. There were no account books in the sense of bound books, but there was an absolute account of every dollar that was received and every dollar that was paid out. That is what an account is, and the Senator knows it as well as I do.

Mr. WALSH of Montana. I am not talking about the bound kind of accounts; I am talking about accounts, whether they were loose-leaf books or bound books.

Mr. SPENCER. I have told the Senator that the accounts were on loose sheets; that they were kept until at the end of the campaign, and that the checks which had paid the debts were entered upon a check register, which was before our committee and which was the original book of account and represented the expenditures of the committee.

Mr. WALSH of Montana. What was the original book of account?

Mr. SPENCER. I have told the Senator, but I will tell him again. The original book of account was a book about 2 feet long and a foot and a half wide, and had upon it each check by its number, its payee, and its purpose. Every expenditure of the campaign was paid in that way, except the pay roll, and that was in another similar book.

Mr. WALSH of Montana. When was that check register made?

Mr. SPENCER. That check register was made just upon the eve of making the report, at the very end—

Mr. WALSH of Montana. Exactly.

Mr. SPENCER. And every item that went into it had been carefully kept and filed until it was entered in the original book.

Mr. WALSH of Montana. Exactly. I am talking about a book in which from day to day, as the transactions took place, they were entered.

Mr. SPENCER. That also was done, but not in a book. The Senator is straining at a gnat. Here is what was done: When a man came in with a bill against the campaign committee—

Mr. POMERENE. The Senator from Missouri is swallowing a camel.

Mr. SPENCER. That is swallowed. As I was saying, when a man came in with a bill for any amount, when any expenditure was made or amount paid out, the receipt was kept. If the expenditure was not on account of a bill, a memorandum of the amount and the circumstances was filed—I mean put upon a filing book or anything else that they had—and a check was drawn for it. Those constituted the original memoranda, as any man who is familiar with bookkeeping knows; and at the end of the campaign everyone of those items that had been carefully kept was tabulated in the check register. That was the original book of account, and that was before the committee in its entirety.

Mr. WALSH of Montana. I do not know very much about bookkeeping, but I make a vast distinction between an invoice file and a book of accounts. Perhaps the Senator from Missouri does not do so, but I do.

Mr. SPENCER. There were no such books of accounts as a great corporation or a business house would have kept. I frankly admit that.

Mr. WALSH of Montana. I want to add that the witness who knows all about it says that there were books of account kept, actual bound books.

Mr. SPENCER. There is no witness who says that there were bound books of account, and the Senator can not put his finger on such testimony. There is one witness who speaks of little books that he saw around there, but just what they contained he did not know. The testimony of the witnesses is that the original book of account was the check register and the pay-roll register to which I have already referred.

#### EXECUTIVE SESSION.

Mr. HARRISON. Mr. President—

Mr. POMERENE. I yield.

Mr. HARRISON. The Senator from Ohio has been on the floor speaking for about four hours and a half. It has been intimated that there is going to be an executive session.

Mr. CURTIS. I inquire if the Senator from Ohio is through for to-night?

Mr. POMERENE. I think I would rather that a recess be taken at this time.

Mr. CURTIS. It is desired to have a short executive session, and I move that the Senate proceed to the consideration of executive business.

The motion was agreed to, and the Senate proceeded to the consideration of executive business. After five minutes spent in executive session the doors were reopened.

#### RECESS.

Mr. CURTIS. I move the Senate take a recess until to-morrow morning at 10 o'clock.

The motion was agreed to; and (at 5 o'clock and 30 minutes p. m.) the Senate took a recess until to-morrow, Saturday, November 19, 1921, at 10 o'clock a. m.

#### NOMINATIONS.

*Executive nominations received by the Senate November 18 (legislative day of November 16), 1921.*

##### COLLECTOR OF INTERNAL REVENUE.

Noah Crooks, of Unionville, Mo., to be collector of internal revenue for the sixth district of Missouri, in place of George F. Crutchley, resigned.

##### UNITED STATES MARSHAL.

Robert R. Levy, of Illinois, to be United States marshal northern district of Illinois, vice John J. Bradley, resigned, effective January 1, 1922.

##### POSTMASTERS.

###### ALABAMA.

Jewell Bratton to be postmaster at Jemison, Ala. Office became presidential October 1, 1920.

###### CALIFORNIA.

Kenneth F. Reynolds to be postmaster at Irvington, Calif. Office became presidential April 1, 1921.

William P. Coffman to be postmaster at Burbank, Calif., in place of Charles R. Thompson, resigned.

###### FLORIDA.

Goldie B. Helm to be postmaster at Oneco, Fla., in place of G. B. Dillaplane, name changed by marriage.

###### IDAHO.

Charles B. Mirgon to be postmaster at Cascade, Idaho, in place of S. A. Jones, resigned.

###### ILLINOIS.

Mary E. Lister to be postmaster at Percy, Ill. Office became presidential October 1, 1920.

William E. Kitch to be postmaster at Niantic, Ill. Office became presidential July 1, 1921.

Jefferson Louk to be postmaster at Prairie City, Ill. Office became presidential July 1, 1920.

Edna G. Mallette to be postmaster at Reynolds, Ill. Office became presidential July 1, 1920.

Henry E. Petersen to be postmaster at Ashkum, Ill., in place of C. A. Heffern. Incumbent's commission expired March 16, 1921.

George Howard to be postmaster at Brimfield, Ill., in place of Fred Arber. Incumbent's commission expired March 16, 1921.

Arthur L. Burdette to be postmaster at Danvers, Ill., in place of A. H. Nafziger. Incumbent's commission expired April 24, 1921.

Henry C. Arkebauer to be postmaster at Mount Olive, Ill., in place of L. D. Fuess. Incumbent's commission expired September 7, 1920.

William D. Abbaduska to be postmaster at Odell, Ill., in place of P. H. Langan. Incumbent's commission expired January 8, 1921.

###### INDIANA.

Jesse A. McCluer to be postmaster at Marshall, Ind. Office became presidential January 1, 1921.

Forrest Oilar to be postmaster at Chalmers, Ind., in place of Earl Chamberlain. Incumbent's commission expired March 16, 1921.

###### IOWA.

Freddie Baldwin to be postmaster at Chester, Iowa. Office became presidential July 1, 1921.

Miller C. Rhoads to be postmaster at Clarksville, Iowa, in place of Albert Neal. Incumbent's commission expired July 27, 1920.

John P. McNeill to be postmaster at Melcher, Iowa, in place of C. O. Goode. Incumbent's commission expired March 16, 1921.

Keith L. McClurkin to be postmaster at Morning Sun, Iowa, in place of Bert McKinley. Incumbent's commission expired June 29, 1920.

###### KANSAS.

Josie Curtis to be postmaster at Englewood, Kans., in place of Josie Curtis. Incumbent's commission expired May 7, 1921.

###### KENTUCKY.

Louis E. Rue to be postmaster at Danville, Ky., in place of W. L. Wood, resigned.

###### LOUISIANA.

James H. Leech to be postmaster at Mer Rouge, La., in place of J. H. Leech. Incumbent's commission expired January 23, 1921.

###### MAINE.

Charles W. Farrington to be postmaster at Mexico, Me. Office became presidential January 1, 1921.

###### MASSACHUSETTS.

Wallace M. Ripley to be postmaster at Wilbraham, Mass. Office became presidential April 1, 1921.

###### MICHIGAN.

Fred R. Allen to be postmaster at Leslie, Mich., in place of D. D. Ranney, resigned.

William M. Snell to be postmaster at Sault Ste. Marie, Mich., in place of James McKenna. Incumbent's commission expired January 18, 1920.

###### MISSOURI.

Charles E. Leach to be postmaster at Deepwater, Mo., in place of J. H. Dunning. Incumbent's commission expired August 26, 1920.

Selma Brashear to be postmaster at Parnell, Mo., in place of Goldie Wilson. Incumbent's commission expired January 8, 1921.

###### MONTANA.

Richard Murray to be postmaster at Klein, Mont. Office became presidential July 1, 1920.

Hazel F. McKinnon to be postmaster at Bearcreek, Mont., in place of U. H. Nottingham. Incumbent's commission expired March 16, 1921.



Malcolm W. Clarke to be postmaster at Browning, Mont., in place of Peter Des Rosier. Incumbent's commission expired January 30, 1921.

John R. Farris to be postmaster at Conrad, Mont., in place of J. A. Goodrich. Incumbent's commission expired August 3, 1920.

Roy Ross to be postmaster at Moore, Mont., in place of A. B. Hensley, resigned.

Garfield Hankins to be postmaster at Musselshell, Mont., in place of W. L. Bruce, removed.

Robert M. Fry to be postmaster at Park City, Mont., in place of R. M. Fry. Incumbent's commission expired April 16, 1921.

John A. Brown to be postmaster at Ryegate, Mont., in place of C. H. Allan. Incumbent's commission expired March 16, 1921.

Noble O. Anderson to be postmaster at Savage, Mont., in place of M. U. Maine. Incumbent's commission expired March 16, 1921.

William A. Francis to be postmaster at Virginia City, Mont., in place of W. A. Francis. Incumbent's commission expired June 27, 1920.

Harry J. Waters to be postmaster at Rapelje, Mont. Office became presidential January 1, 1920.

## NEBRASKA.

Amos W. Shafer to be postmaster at Polk, Nebr., in place of H. M. McGaffin. Incumbent's commission expired June 27, 1920.

Edgar A. Wight, jr., to be postmaster at Wolbach, Nebr., in place of V. E. Plank. Incumbent's commission expired September 7, 1920.

Esther Schwerdtfeger to be postmaster at Cambridge, Nebr., in place of G. C. Chadderdon, resigned.

Peter S. Petersen to be postmaster at Dannebrog, Nebr., in place of A. P. Thomsen. Incumbent's commission expired March 16, 1921.

## NEW HAMPSHIRE.

Ervin W. Hodsdon to be postmaster at Mountainview, N. H. Office became presidential April 1, 1921.

Alfred S. Cloues to be postmaster at Warner, N. H., in place of C. P. Johnson. Incumbent's commission expired January 5, 1920.

## NEW JERSEY.

Bertha A. Grabosky to be postmaster at Palisade, N. J., in place of G. F. Stabel, resigned.

## NEW MEXICO.

Joseph H. Gentry to be postmaster at Fort Stanton, N. Mex. Office became presidential January 1, 1921.

Florence S. Shafer to be postmaster at Mills, N. Mex. Office became presidential July 1, 1920.

## NEW YORK.

Ivan L. Connor to be postmaster at Natural Bridge, N. Y. Office became presidential January 1, 1921.

William D. Streeter to be postmaster at Richland, N. Y. Office became presidential January 1, 1921.

Edward J. McCourt to be postmaster at Arlington, N. Y., in place of J. W. Rose. Incumbent's commission expired January 28, 1920.

George W. Hulbert to be postmaster at Downsville, N. Y., in place of A. G. Neff, resigned.

Sylvester P. Shea to be postmaster at Freeport, N. Y., in place of T. B. Smith. Incumbent's commission expired May 6, 1920.

Sheldon G. Stratton to be postmaster at Sacket Harbor, N. Y., in place of C. M. Stearne. Incumbent's commission expired July 12, 1920.

## NORTH DAKOTA.

Harry M. Pippin to be postmaster at Halliday, N. Dak. Office became presidential October 1, 1920.

Myron T. Davis to be postmaster at Lisbon, N. Dak., in place of C. S. Ego, resigned.

Dorothea L. Haugen to be postmaster at Maddock, N. Dak., in place of Perry Roath, resigned.

Albert J. Olson to be postmaster at Medina, N. Dak., in place of Peter Karpen, resigned.

D. G. McIntosh to be postmaster at St. Thomas, N. Dak., in place of A. C. Grant, resigned.

Abraham T. Anderson to be postmaster at Turtle Lake, N. Dak., in place of A. T. Anderson. Incumbent's commission expired January 7, 1920.

## OHIO.

Robert S. Nichols to be postmaster at Jackson Center, Ohio. Office became presidential April 1, 1921.

John M. Poplin to be postmaster at Bergholz, Ohio, in place of H. A. Carson, resigned.

John E. Scamahorn to be postmaster at Brilliant, Ohio, in place of W. H. Miller, declined.

Lida R. Williamson to be postmaster at Seaman, Ohio, in place of L. F. Williamson, deceased.

Hugh C. Bell to be postmaster at Utica, Ohio, in place of C. C. Hughs, resigned.

## OKLAHOMA.

Roy E. Cline to be postmaster at Osage, Okla. Office became presidential January 1, 1921.

Gaylord S. Clute to be postmaster at Barnsdall (late Bigheart), Okla., in place of M. D. Swift, resigned.

Walter S. Miller to be postmaster at Copan, Okla., in place of M. J. Courtney. Incumbent's commission expired January 19, 1921.

## PENNSYLVANIA.

Karl Mette to be postmaster at Woolrich, Pa. Office became presidential January 1, 1921.

Russell H. Brown, to be postmaster at Yukon, Pa., Office became presidential July 1, 1920.

John J. Mather to be postmaster at Benton, Pa., in place of Percy Brewington. Incumbent's commission expired June 29, 1920.

William L. Hendricks to be postmaster at Bolivar, Pa., in place of Thomas McHall. Incumbent's commission expired August 26, 1920.

Samuel H. Hughes to be postmaster at Camp Hill, Pa., in place of U. G. Hawbecker, declined.

Earl W. Hopkins to be postmaster at Leetsdale, Pa., in place of H. A. Brown. Incumbent's commission expired July 21, 1920.

Demas L. Post to be postmaster at Marianna, Pa., in place of D. M. Shidler, declined.

James C. Bovard to be postmaster at Marion Center, Pa., in place of J. C. McCormick. Incumbent's commission expired January 2, 1921.

Jacob R. Snyder to be postmaster at Mount Holly Springs, Pa., in place of I. C. Gleim. Incumbent's commission expired September 5, 1920.

Robert E. Gammell to be postmaster at Tremont, Pa., in place of M. J. Fleming, deceased.

## SOUTH CAROLINA.

William R. Rozier to be postmaster at Bethune, S. C. Office became presidential October 1, 1920.

Paul E. Bryson to be postmaster at Woodruff, S. C., in place of B. K. Arnold. Incumbent's commission expired August 1, 1917.

## SOUTH DAKOTA.

Oscar N. Hunt to be postmaster at Quim, S. Dak. Office became presidential January 1, 1921.

Clarence Mork to be postmaster at Pierpont, S. Dak., in place of J. H. Parrott. Incumbent's commission expired January 15, 1921.

Elmer J. O'Connell to be postmaster at Ramona, S. Dak., in place of Nora O'Donnell. Incumbent's commission expired July 25, 1920.

Mary A. Pike to be postmaster at Tyndall, S. Dak., in place of M. A. Pike. Incumbent's commission expired January 8, 1921.

## TENNESSEE.

Charles L. Bitner to be postmaster at Chuckey, Tenn. Office became presidential July 1, 1920.

John D. M. Marshall to be postmaster at Lookout Mountain, Tenn. Office became presidential April 1, 1921.

James C. Key to be postmaster at Riceville, Tenn. Office became presidential April 1, 1921.

Arthur Taylor to be postmaster at Lenoir City, Tenn., in place of W. N. Lacy. Incumbent's commission expired April 16, 1921.

Paul E. Walker to be postmaster at Ridgely, Tenn., in place of T. L. Fowlkes. Incumbent's commission expired January 2, 1921.

Mettie M. Collins to be postmaster at Rutledge, Tenn., in place of C. E. Smith. Incumbent's commission expired January 2, 1921.

James H. Christian to be postmaster at Smithville, Tenn., in place of J. B. Moore. Incumbent's commission expired March 16, 1921.

## TEXAS.

Enoch G. Fletcher to be postmaster at Grand Saline, Tex., in place of G. D. Staton. Incumbent's commission expired July 15, 1920.

## UTAH.

Henry C. Ward to be postmaster at Myton, Utah, in place of William Zowe. Incumbent's commission expired January 5, 1920.

## WEST VIRGINIA.

Ulysses S. Jarrett to be postmaster at St. Albans, W. Va., in place of G. F. McComas, resigned.

## WISCONSIN.

George J. Chesak to be postmaster at Athens, Wis., in place of F. A. Lonsdorf, resigned.

Illma Dugal to be postmaster at Cadott, Wis., in place of P. P. Dugal, deceased.

Asa B. Cronk to be postmaster at Clear Lake, Wis., in place of F. A. Partlow, removed.

John E. Huff to be postmaster at Florence, Wis., in place of Herbert Winkler. Incumbent's commission expired July 10, 1920.

Harry E. Eustice to be postmaster at Livingston, Wis., in place of R. A. Tenney. Incumbent's commission expired July 10, 1920.

Mary G. Helke to be postmaster at Nekoosa, Wis., in place of L. G. Schaar, removed.

Guy M. Boughton to be postmaster at St. Croix Falls, Wis., in place of M. W. Blanding. Incumbent's commission expired June 2, 1920.

## CONFIRMATIONS.

*Executive nominations confirmed by the Senate November 18 (legislative day of November 16), 1921.*

## AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY.

John W. Riddle to be ambassador extraordinary and plenipotentiary to Argentina.

## CHARGÉ D'AFFAIRES TO GERMANY.

Ellis Loring Dresel to be chargé d'affaires to Germany.

## COLLECTOR OF CUSTOMS.

Alexander L. McCaskill to be collector of customs, customs collection district No. 15, with headquarters at Wilmington, N. C.

## COLLECTOR OF INTERNAL REVENUE.

Josiah T. Rose to be collector of internal revenue, district of Georgia.

## POSTMASTERS.

## ALABAMA.

James A. Stallworth, Crichton.

## ARIZONA.

John Murray, Snowflake.

## CALIFORNIA.

Arthur L. Doran, Barstow.

Christian J. Aggergaard, Big Creek.

James R. Weatherly, Camarillo.

Abraham Clevenger, Caruthers.

Leonard E. Whitener, Coalinga.

William J. Mowry, Colma.

Winfield S. Smith, Del Rey.

William C. Brill, Elk Grove.

Marguerite J. Decions, Fort Bidwell.

Edward Smith, Grimes.

Louisa A. Cobden, Groveland.

Carl F. Becker, Samoa.

Daisy L. Plant, Spreckels.

Dollie L. Carr, Templeton.

## COLORADO.

Reno H. Auld, Otis.

## IDAHO.

Milton L. March, Huston.

Milton H. Brinton, Victor.

Grace Eubanks, Winchester.

## ILLINOIS.

Guy R. Correll, Hutsonville.

## INDIANA.

Mary J. Haines, Amboy.

Alfred S. Hess, Gary.

## IOWA.

Milton W. Knapp, Aurora.

Earl Miller, Cantril.

Michael D. Kelly, Harpers Ferry.

Chester B. De Veny, New Hartford.

Andrew Maland, Slater.

Eric L. Ericson, Story City.

John A. Bigger, Wapello.

## KANSAS.

James Rae, Franklin.

Elizabeth Cooper, Utica.

## MICHIGAN.

Gordon D. Dafoc, Owendale.

## MISSISSIPPI.

Rosa W. Burton, Alligator.

Sarah A. Tyner, Bay Springs.

Fletcher H. Womack, Crenshaw.

Frances G. Wimberly, Jonestown.

Anslem P. Russell, Magee.

John C. Bowen, Senatobia.

Rosa Del Buono, Stonewall.

## NEW JERSEY.

Elmer B. Ramsey, High Bridge.

## NEW MEXICO.

Philip Jagels, Bernalillo.

Laura J. Smith, Koehler.

Fred D. Hunting, Los Lunas.

Philip N. Sanchez, Mora.

## NEW YORK.

Robert W. Gallagher, Buffalo.

Thomas W. Crane, Locust Valley.

F. L. Babcock, Massena Springs.

George H. Fischer, Mayville.

Horton Davry, Mechanicville (late Mechanicsville).

J. Wilfred Shaw, Newfane.

Frederick G. Newell, Niagara Falls.

## NORTH DAKOTA.

John Brusven, Barton.

Dana E. Cone, Beulah.

Emma B. Dean, Crary.

Ida G. H. Morrow, Drake.

August M. Bruschwein, Driscoll.

Noyes H. Whitcomb, Flasher.

Olaf N. Hegge, Hatton.

Samuel N. Rinde, Lankin.

Martin A. Wahlberg, Oberon.

Eldor G. Sogehorn, Stanton.

Jessie M. Lewis, Werner.

## OHIO.

Paul R. Hart, Bradford.

Ora A. Ridiker, Brunswick.

Myron C. Cox, Fremont.

Thomas O. Armstrong, Middle Point.

William A. Cooper, Piketon.

## OKLAHOMA.

Ethelbert H. Moats, Calumet.

Herman J. Fleming, Canton.

Fred C. Knapp, Depew.

John T. Williams, Perkins.

Frank S. Roodhouse, Shawnee.

## PENNSYLVANIA.

James F. Wills, Belleville.

John G. Scott, Burgettstown.

Lincoln W. Pentecost, Clarks Summit.

Ralph Simons, Cornwells Heights.

Albert J. Matson, Delta.

Charles D. Kelley, Eldred.

Frederick V. Pletcher, Howard.

James H. Beamer, Manor.

Esther F. Rivers, Ogontz School.

George M. Jameson, Petrolia.

Samuel L. Miller, Schwenkville.

William A. Sickel, Snow Shoe.

Roger A. McCall, Trafford.

Oscar Maul, Turbotville.

Carl B. Troy, West Brownsville.

Mary A. Jefferis, Wynnewood.



## SOUTH CAROLINA.

Bessie F. Cannon, Clifton.  
John L. Bunch, McColl.

## SOUTH DAKOTA.

Chester T. Chester, Arlington.  
Guy R. Neher, Dell Rapids.  
Henry F. Cook, Northville.  
Ida V. Uhlig, Whitewood.

## TEXAS.

Manley J. Holmes, Baird.  
G. Carroll W. Wayland, Buda.  
Charles S. Brown, Dayton.  
Frank Farrington, Diboll.  
Walter S. Yates, Forney.  
Pearl B. Zinn, Fostoria.  
William C. Young, Garrison.  
Matilda Akesson, Hale Center.  
Charlie B. Starke, Holland.  
Lucy Breen, Mineola.  
Will C. Easterling, Ozona.  
John O. Holmes, Panhandle.  
Willard A. Maxey, Parks.  
Walter Wood, Springtown.  
Thomas J. Darling, Temple.  
Kit C. Stinebaugh, Walnut Springs.

## WASHINGTON.

Ira A. Moore, Greenacres.  
Edwin O. Dressel, Mataline Falls.  
Cyrus F. Morrow, Walla Walla.

## WEST VIRGINIA.

William B. Wilson, Panther.  
Kenna W. Snedegar, Renick.

## WISCONSIN.

Edward W. Guth, Adell.  
Henry F. Roehrig, Arpin.  
Carl F. Swerman, Bangor.  
Margaret L. Staley, Birnamwood.  
Arthur V. Carpenter, Crandon.  
Alexander M. Powers, Delafield.  
Lila O. Burton, Eagle.  
Arthur M. Howe, Elk Mound.  
George F. Sherburne, Fremont.  
Paul L. Fugina, Fountain City.  
Charles H. Prouty, Genoa Junction.  
Marion L. Kutchin, Green Lake.  
George A. Slaikeu, Luck.  
Frank E. Christensen, Necedah.  
Hannah Goodyear, Niagara.  
Alfred E. Redfield, Stevens Point.  
William J. Winters, Tripoli.  
Charles W. Eagan, Wautoma.  
Thomas E. Noyes, Winter.  
Alice K. Hoyer, Woodruff.

## WITHDRAWAL.

*Executive nomination withdrawn from the Senate November 18 (legislative day of November 16), 1921.*

## POSTMASTER.

Abbie Tonjes to be postmaster at Palisade, in the State of New Jersey.

## HOUSE OF REPRESENTATIVES.

FRIDAY, November 18, 1921.

The House met at 12 o'clock noon, and was called to order by the Speaker.

The Chaplain, Rev. James Shera Montgomery, D. D., offered the following prayer:

O Lord, be merciful unto us for Thy name's sake. Hear us as we make in the spirit of humiliation our appealing protest against our unfinished natures and the incompleteness of our little lives. O enlarge our natures and yet subject their tendencies; preserve our hearts and yet destroy their selfishness; control our wills and yet sustain their courage. But not by might nor by power, but by the spirit of Him who is our Elder Brother. O may we be tempted from evil by being drawn to goodness. Give us the spirit of fellowship with those whose food is the bread of tears. May we be thoughtful of the wants and the needs of others, and let us be burdened with the deeds and the destinies of our country. In the name of Jesus. Amen.

The Journal of the proceedings of yesterday was read and approved.

## LEAVE OF ABSENCE.

By unanimous consent, Mr. McSWAIN was granted leave of absence for 10 days, on account of illness in his family.

## QUORUM—CALL OF THE HOUSE.

Mr. WINSLOW. Mr. Speaker, I rise to make the point of no quorum.

The SPEAKER pro tempore (Mr. WALSH). The gentleman from Massachusetts makes the point that there is no quorum present. Evidently there is no quorum present.

Mr. MONDELL. Mr. Speaker, I move a call of the House.

The SPEAKER pro tempore. The gentleman from Wyoming moves a call of the House.

A call of the House was ordered.

The SPEAKER pro tempore. The Doorkeeper will close the doors, the Sergeant at Arms will notify the absentees, and the Clerk will call the roll.

The Clerk called the roll, and the following Members failed to answer to their names:

Anderson	Gahn	McSwain	Rossdale
Bell	Garrett, Tex.	Madden	Rucker
Bland, Ind.	Goodykoontz	Mann	Sabath
Brand	Gorman	Mansfield	Schall
Briggs	Gould	Merritt	Sears
Buchanan	Graham, Pa.	Mills	Shelton
Carter	Griest	Montague	Siegel
Chandler, Okla.	Harrison	Morin	Snell
Connell	Hays	Mott	Snyder
Cooper, Ohio	Herrick	Mudd	Stoll
Copley	Hukriede	Nolan	Sullivan
Davis, Minn.	Husted	O'Brien	Taylor, Colo.
Dempsey	Jeffers, Nebr.	O'Connor	Ten Eyck
Draue	Johnson, Ky.	Ogden	Tilson
Driver	Johnson, S. Dak.	Oliver	Tinkham
Echols	Kahn	Perlman	Tyson
Elston	Kelley, Mich.	Peters	Upshaw
Fish	Kitchin	Rainey, Ala.	Vare
Fitzgerald	Knight	Rainey, Ill.	Ward, N. Y.
Flood	Kreider	Rhodes	Wason
Focht	Lyon	Riordan	Wright
Free	McArthur	Ronch	
Freeman	McCormick	Rogers	

The SPEAKER pro tempore. On this call 342 Members have answered to their names. A quorum is present.

Mr. MONDELL. Mr. Speaker, I move that further proceedings under the call be dispensed with.

The SPEAKER pro tempore. The gentleman from Wyoming moves that further proceedings under the call be dispensed with. The question is on agreeing to that motion.

The motion was agreed to.

The SPEAKER pro tempore. The Doorkeeper will open the doors.

The doors were opened.

## PROTECTION OF MATERNITY AND INFANCY.

Mr. CAMPBELL of Kansas. Mr. Speaker, I submit a privileged resolution from the Committee on Rules.

The SPEAKER pro tempore. The gentleman from Kansas submits a privileged resolution from the Committee on Rules, which the Clerk will report.

The Clerk read as follows:

*Resolved, That immediately upon the adoption of this resolution it shall be in order to move that the House resolve itself into Committee of the Whole House on the state of the Union for the consideration of the bill (S. 1039) for the public protection of maternity and infancy and providing a method of cooperation between the Government of the United States and the several States.*

Mr. CAMPBELL of Kansas. Mr. Speaker, this resolution makes it in order for the chairman of the Committee on Interstate and Foreign Commerce to move that the House resolve itself into Committee of the Whole House on the state of the Union for the consideration of what is known as the maternity bill.

This bill has been before Congress now through two Congresses. In its original form it was very different from the bill which is now before the House. As originally introduced it was objectionable to me and to many Members of the House of Representatives. As it has been changed by the Committee on Interstate and Foreign Commerce and is now before us, many, if not most, of these objections have been removed.

I want to congratulate the members of the committee for the splendid work that they have done with respect to this bill.

Does the gentleman from North Carolina [Mr. POW] desire to use some time?

Mr. POW. I wish the gentleman would yield me about 10 minutes.

Mr. CAMPBELL of Kansas. I yield to the gentleman from North Carolina 10 minutes.

The SPEAKER pro tempore. The gentleman from North Carolina is recognized for 10 minutes.

Mr. POW. Mr. Speaker, this measure is not privileged under the general rules of the House. Therefore the only way to bring it before the House is by a rule.

This matter has been much discussed throughout the country, and there is certainly a demand for its passage sufficient to justify the Committee on Rules in giving the House an opportunity to vote on it. That would seem sufficient justification for giving the measure a privileged status. Mr. Speaker, I reserve the balance of my time, and I yield five minutes to the gentleman from Tennessee [Mr. GARRETT].

Mr. GARRETT of Tennessee. Mr. Speaker, I shall not attempt to prevent or delay the consideration of the bill which this rule proposes to make in order. I do not understand, however, just why the rule is presented at this time. Some four or five days ago the Committee on Rules adopted resolutions making in order two bills—this bill, the maternity bill, and the reclassification bill. Both of these had been reported at that time and were upon the calendar of the House. For some reason the powers that be on the majority side determined to bring up the reclassification bill first. It was brought before the House, it was debated in general debate, and it was taken up under the 5-minute rule. All the debate, as I remember it in the general debate and under the 5-minute rule, had been devoted exclusively to the reclassification bill. It was being discussed with the greatest interest by Members, all recognizing it as an extremely important measure.

Now, here, suddenly, I do not know for what reason, it is proposed to sidetrack that measure—whether that means an indefinite postponement I, of course, am not aware—and take up this measure. It seems to me, Mr. Speaker, that the gentlemen of the majority side resemble in their course of the conduct of the business of the House, and of the country, Kipling's monkey people whom he designated as "Banderlog" in the Jungle Book, in that they jump from tree to tree, throwing down trash, chattering and chattering all the time, but never completing any task to which they set themselves, abandoning the end in sight even before a real beginning has been made. [Laughter.]

Mr. CAMPBELL of Kansas. Mr. Speaker, I yield five minutes to the gentleman from Wyoming [Mr. MONDELL].

Mr. MONDELL. Mr. Speaker—

Mr. LAYTON. Will the gentleman yield for a parliamentary inquiry?

Mr. MONDELL. I will.

Mr. LAYTON. Mr. Speaker, a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. LAYTON. When, if at all, will a motion be in order to offer a substitute to this rule for the House to return to the consideration and completion of the classification bill?

The SPEAKER pro tempore. The Chair will state that that motion will be in order if the gentleman from Kansas would yield to the gentleman from Delaware for that purpose.

Mr. MONDELL. Mr. Speaker, the gentleman from Tennessee seems to be in an inquiring state of mind this morning. I did not expect to speak on this rule, but I rise to gratify the craving of the gentleman from Tennessee for information. For a long time, as is well known, Members of the House have desired to have advance information, so far as it was possible to give it, with regard to the program of legislation. In an endeavor to meet that very proper desire we have been endeavoring to give the House in advance a tentative statement of the probable program.

Last week, after consultation with many Members of the House, and particularly with the members of committees interested, the chairman of the Committee on Rules and members of that committee, it was decided that on Tuesday of this week we should take up for consideration the classification bill with the expectation that that bill might be disposed of, and that on yesterday we would take up for consideration what is known as the maternity bill.

The classification bill was first taken up because at the time that tentative program was agreed upon the maternity bill, while agreed upon by the committee, had not been reported to the House. The other bill had and was on the calendar. It was proper, therefore, to give it the right of way.

We have not proceeded with the classification bill as rapidly as we had anticipated. There was some question in the minds of the Members whether or no, under these circumstances, and in view of the fact that it was necessary to utilize the time yesterday for a highly important measure, we should endeavor to keep the promise tentatively made in regard to the maternity bill or continue the consideration of the classification bill. I will say very frankly that my own thought has been that a part of the troubles we have had with the classification bill was due to a somewhat covert opposition to the maternity bill. I was of the opinion that we might clear the way for the classification bill a little if we considered the maternity bill first. Further, in so doing we are keeping faith

with many good people who are tremendously interested in the maternity bill, some of whom have come to Washington from a long distance to be here during the consideration of the bill.

Under these circumstances it seems entirely proper to take this bill up to-day. That was the desire of the chairman of the Committee on Rules, and in that I fully agree and acquiesce. I assure the gentleman from Tennessee and gentlemen on both sides that after the consideration of this bill we shall return in due time to the consideration of the classification bill. We shall pass this bill to-morrow. The classification bill may be delayed, but in due time we hope to pass them both and within a reasonable time place them on the statute books. [Applause.]

Mr. CAMPBELL of Kansas. Does the gentleman from North Carolina desire to use any more time?

Mr. POULSON. No.

Mr. CAMPBELL of Kansas. Then, Mr. Speaker, all the information sought by the gentleman from Tennessee has been given by the gentleman from Wyoming, and all gentlemen being satisfied—

Mr. WINGO. Will the gentleman yield?

Mr. CAMPBELL of Kansas. Yes.

Mr. WINGO. On October 31 the law expired which would take from under the 10 per cent restriction clause loans made to any one borrower by a national bank that were secured by Liberty bonds where the borrower was originally the subscriber of those bonds. Before October 31 the Senate passed a bill extending the time for another year, and the House committee recommended it and adopted a motion asking for a rule for its consideration and it is on the calendar. Can the gentleman give any idea when we shall be permitted to pass that bill?

Mr. CAMPBELL of Kansas. This is the first time I have had any information that such a bill had been reported.

Mr. WINGO. And this is the first information the gentleman has had of that?

Mr. CAMPBELL of Kansas. This is the first information that I have had that any such condition existed.

Mr. WINGO. I regret to hear that. I had hoped that the condition would appeal to the responsible leaders of the Republican Party, sufficiently to have them give relief by prompt passage of the bill.

Mr. CAMPBELL of Kansas. I can see the great bearing that the question has on the bill now pending, however.

Mr. WINGO. I merely wanted to know when we would probably come to the consideration of that measure. The gentleman said that we were going to take up the reclassification bill after the conclusion of this. We are wasting time on the basket bill, and as a member of the Committee on Banking I am being written to by people who want to know if the banks will be compelled to cut down these loans, because the time expired on October 31. What shall I tell these country bankers?

Mr. CAMPBELL of Kansas. I suggest that the gentleman tell them that the Committee on Banking and Currency has not asked for the consideration of their bill up to this time. [Applause and laughter.]

Mr. WINGO. That criticism does not apply to me. The Republicans control both the committee and the House.

Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the passage of the resolution.

The question was taken; and on a division (demanded by Mr. LAYTON) there were—ayes 188, noes 24.

So the resolution was agreed to.

Mr. WINSLOW. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of the bill (S. 1039) for the public protection of maternity and infancy and providing a method of cooperation between the Government of the United States and the several States. Pending the consideration of that motion I ask unanimous consent that the time for general debate may be controlled equally by the gentleman from Kentucky [Mr. BARKLEY], a member of the committee on the Democratic side of the House, and by the chairman of the committee on this side of the House.

The SPEAKER pro tempore. The gentleman from Massachusetts moves that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of the bill S. 1039, and pending that asks unanimous consent that the time for general debate on the bill be controlled one-half by the gentleman from Kentucky [Mr. BARKLEY] and one-half by the gentleman from Massachusetts [Mr. WINSLOW]. Is there objection?



Mr. LAYTON. Mr. Speaker, reserving the right to object, I would ask whether the gentleman from Massachusetts is in favor of this bill or is opposed to it?

Mr. WINSLOW. I am in favor of the bill.

Mr. LAYTON. Mr. Speaker, in that contingency, and following the rules of the House and the fair play of parliamentary procedure, I ask that the time in opposition to the bill shall be placed in the hands of an avowed opponent of the measure. [Applause.]

The SPEAKER pro tempore. Is there objection?

Mr. BARKLEY. Mr. Speaker, reserving the right to object, I suggest to the gentleman from Delaware and to any others who are opposed to this bill that the gentleman from Massachusetts and I are both willing to yield to anyone who is opposed to the bill such time as they desire.

Mr. LAYTON. Mr. Speaker, I do not accede to that unless I am turned down by the Chair. This is an important measure; the whole country from one end to the other is interested in it, because there is a principle underlying it which strikes at the foundation of constitutional government.

SEVERAL MEMBERS. Regular order.

The SPEAKER pro tempore. The regular order is demanded. The regular order is, Is there objection?

Mr. LAYTON. Is it not the regular order all the time to have fair play?

The SPEAKER pro tempore. Is there objection?

Mr. CLARKE of New York. Mr. Speaker, I object.

The SPEAKER pro tempore. The gentleman from New York objects. The question is on the motion of the gentleman from Massachusetts that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of the bill S. 1039.

The motion was agreed to.

Accordingly the House resolved itself into the Committee of the Whole House on the state of the Union for the consideration of the bill S. 1039, with Mr. HUSTED in the chair.

The CHAIRMAN. The Clerk will report the bill.

The Clerk reported the title of the bill.

Mr. WINSLOW. Mr. Chairman, I ask unanimous consent that in the reading of the bill that part which is stricken out, which is a Senate bill, be omitted.

Mr. MONDELL. As I understand it, the gentleman asks for the reading of the House amendment.

The CHAIRMAN. The gentleman from Massachusetts asks unanimous consent that the House amendment be read in lieu of the Senate bill. Is there objection?

Mr. GARRETT of Tennessee. Mr. Chairman, reserving the right to object, I desire to propound a parliamentary inquiry. As the Chair will observe, the bill is a Senate bill, all of which has been stricken out and an amendment by way of a substitute proposed by the committee. My inquiry is this, When the amendment page is reached under the 5-minute rule, will the Senate bill then be read section by section for amendment?

The CHAIRMAN. It is the opinion of the Chair that it would be.

Mr. GARRETT of Tennessee. Will the committee amendment by way of a substitute be treated as one amendment, or will it be read section by section for amendment?

The CHAIRMAN. Unless by unanimous consent it is otherwise ordered, the amendment will be treated as one amendment.

Mr. STAFFORD. Mr. Chairman, that has never been the rule heretofore in the consideration of a House substitute, where the House substitute consists of different sections of the bill. They have been read section by section. I think the Chair is establishing a new precedent entirely.

Mr. SANDERS of Indiana. Mr. Chairman, I think the gentleman from Wisconsin is mistaken about establishing a precedent. The rule governs and the rule would require that the amendment be read altogether. It is usually the custom to couple with the unanimous-consent request which has just been made by the gentleman from Massachusetts, a further request that the amendment be read section by section, subject to amendment, in the same way as though it were an original bill. I hope that that will be done.

The CHAIRMAN. It is the view of the Chair that it must be treated as one amendment unless the committee or the House orders otherwise by unanimous consent.

Mr. Sisson. Mr. Chairman, I ask unanimous consent that the House amendment be considered by sections.

The CHAIRMAN. The Chair would suggest that we have not yet reached the reading stage.

Mr. Sisson. But I suppose I can prefer a unanimous-consent request at any time.

The CHAIRMAN. The gentleman is correct. Is there objection to the request of the gentleman from Massachusetts?

Mr. CLARKE of New York. Mr. Chairman, will the Chair please state what the situation is at the present time?

The CHAIRMAN. The gentleman from Massachusetts has preferred a unanimous-consent request that the House amendment be read in lieu of the Senate bill. Is there objection?

Mr. Sisson. Reserving the right to object, has the gentleman any objection to the amendment being treated by sections?

Mr. WINSLOW. None whatever.

Mr. Sisson. Then why not couple with his request for unanimous consent a request that the House amendment be considered by sections.

Mr. WALSH. Mr. Chairman, I object to the request of the gentleman from Massachusetts and ask for the reading of the Senate bill and the House amendment.

The CHAIRMAN. The gentleman from Massachusetts objects and the Clerk will read the bill.

The Clerk read as follows:

*Be it enacted, etc.,* That there are hereby authorized to be appropriated annually, out of any money in the Treasury not otherwise appropriated, the sums specified in section 2 of this act, to be paid to the several States for the purpose of cooperating with them in promoting the care of maternity and infancy as hereinafter provided.

Sec. 2. That for the purpose of aiding in paying the expenses of said cooperative work in providing the services and facilities specified in this act, and the necessary printing and distribution of information in connection with the same, there is authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, the sum of \$480,000 for each year, \$10,000 of which shall be paid annually to each State, in the manner hereinafter provided: *Provided*, That there is hereby authorized to be appropriated for the use of the States, subject to the provisions of this act, for the fiscal year ending June 30, 1922, an additional sum of \$1,000,000, and annually thereafter a sum not to exceed \$1,000,000: *Provided further*, That the additional appropriations herein authorized shall be apportioned among the States in the proportion which their population bears to the total population of the United States, not including outlying possessions, according to the last preceding United States census: *And provided further*, That no payment out of the additional appropriation herein authorized shall be made in any year to any State until an equal sum has been appropriated for that year by the legislature of such State for the maintenance of the services and facilities provided for in this act.

So much of the amount appropriated apportioned to any State for any fiscal year as remains unexpended at the close thereof shall be available for expenditures in that State until the close of the succeeding fiscal year. Any amount apportioned under the provisions of this act unexpended at the end of the period during which it is available for expenditure under the terms of this section shall be reapportioned, within 60 days thereafter, to all the States in the same manner and on the same basis, and certified to the Secretary of the Treasury and to the State agencies described in section 4 in the same way as if it were being apportioned under this act for the first time.

Sec. 3. The Children's Bureau of the Department of Labor shall be charged with the carrying out of the provisions of this act, as herein provided, and the Chief of the Children's Bureau shall be the executive officer. The Chief of the Children's Bureau as executive officer, is hereby directed to form an advisory committee to consult with the Chief of the Children's Bureau and to advise concerning any problems which may arise in connection with the carrying out of the provisions of this act, such advisory committee to consist of the Secretary of Agriculture, the Surgeon General of the United States Public Health Service, and the United States Commissioner of Education. The Children's Bureau shall have charge of all matters concerning the administration of this act, as herein provided, and shall have power to cooperate with the State agencies authorized to carry out the provisions of this act. It shall be the duty of the Children's Bureau to make or cause to be made such studies, investigations, and reports as will promote the efficient administration of this act.

Sec. 4. That in order to secure the benefits of the appropriations authorized in section 2 of this act any State shall, through the legislative authority thereof, accept the provisions of this act and designate or authorize the creation of a State agency with which the Children's Bureau shall have all necessary powers to cooperate as herein provided in the administration of the provisions of this act: *Provided*, That in any State having a child-welfare or child-hygiene division in its State agency of health the State agency of health shall administer the provisions of this act through such divisions. The Children's Bureau shall recommend to the State agencies cooperating under this act the appointment of advisory committees, both State and local, to assist in carrying out the purposes of this act; the members of such advisory committee shall be selected by the State agencies, and at least half of such members shall be women, all of the members of which advisory committee shall serve without compensation. If in any State the legislature of which has not made provision for acceptance of this act or which does not meet in 1922, the governor of that State, so far as he is authorized to do so, may, under the provisions of law, accept the provisions of this act and designate or create a State agency to act in cooperation with the Children's Bureau, the said Children's Bureau shall then recognize such State agency for the purposes of this act until the legislature of such State meets in due course and has been in session 60 days.

Sec. 5. That so much, not to exceed 3 per cent, of the additional appropriations authorized for any fiscal year under section 2 of this act, as the Children's Bureau may estimate to be necessary for administering the provisions of this act, as herein provided, shall be deducted for that purpose, to be available until expended. Within 60 days after the close of each fiscal year the said Children's Bureau shall determine what part, if any, of the sums theretofore deducted for administering the provisions of this act will not be needed for that purpose, and apportion such part, if any, for the fiscal year then current in the same manner and on the same basis, and certify it to the Secretary of the Treasury and to the several State agencies described in section 4, in the same way as other amounts authorized by this act to be apportioned among the several States for such current fiscal year.

Sec. 6. That out of the amounts authorized under section 5 of this act the Children's Bureau is authorized to employ, to be taken from the eligible lists of the Civil Service Commission, such assistants, clerks, and other persons in the city of Washington and elsewhere, to purchase such supplies, material, equipment, office fixtures, and apparatus, and to

incur such travel and other expense as it may deem necessary for carrying out the purposes of this act.

Sec. 7. That within 60 days after the approval of this act the Children's Bureau shall certify to the Secretary of the Treasury and to each State agency described in section 4 the sum which the Children's Bureau has estimated to be deducted for administering the provisions of this act, and the sum which it has apportioned to each State for the fiscal year ending June 30, 1922, and on or before January 20 next preceding the commencement of each succeeding fiscal year, it shall make similar certifications for such fiscal year.

Sec. 8. That any State desiring to avail itself of the benefits of this act shall, by its agency described in section 4, submit to the Children's Bureau for its approval detailed plans for carrying out the provisions of this act. These plans shall provide solely for the administration of the act in the State; and provision for instruction in the hygiene of maternity and infancy through public health nurses, consultation centers, and other suitable methods: *Provided*, That no plans or laws of the States under this act shall provide for any official or agent or representative entering any home or taking charge of any child over the objection of the parents, or either of them, or the person standing in loco parentis, nor shall any employees of the Children's Bureau by virtue of this act have any right to enter any home or take charge of any child over the objection of the parents, or either of them, or the person standing in loco parentis. If these plans and laws shall be in conformity with the provision of this act and reasonably appropriate and adequate to carry out its purposes, due notice of approval shall be sent to the State agency by the Chief of the Children's Bureau.

Sec. 9. That in order to provide instruction to the residents of the various States on the hygiene of infancy and maternity, the State agency described in section 4 is authorized to arrange with any educational institution approved for these purposes by the United States Commissioner of Education for the provision of extension courses by qualified lecturers: *Provided*, That not more than 25 per cent of the sums granted by the United States to a State under this act may be used for this purpose.

Sec. 10. That the facilities provided by any State agencies cooperating under the provisions of this act shall be available for all residents of the State.

Sec. 11. That the Children's Bureau shall every three months ascertain the amounts expended by the several State agencies described in section 4 in the preceding quarter year. On or before the 1st day of January and quarterly thereafter the Children's Bureau shall certify to the Secretary of the Treasury the amount to which each State is entitled under the provisions of this act. Upon such certification the Secretary of the Treasury shall pay to the State treasurer as custodian the amounts so certified.

Sec. 12. That each State agency cooperating under this act shall make such reports concerning its operation and expenditures as shall be prescribed by the Children's Bureau. The Children's Bureau may withhold the allotment of moneys to any State whenever it shall be determined that such moneys are not being expended for the purposes and under the conditions of this act.

If any allotment is withheld from any State, the State agency of such State may appeal to the President of the United States, and if the President shall not direct such sum to be paid it shall be covered into the Treasury of the United States.

Sec. 13. No portion of any moneys apportioned under this act for the benefit of the States shall be applied, directly or indirectly, to the purchase, erection, preservation, or repair of any building or buildings or equipment, or for the purchase or rental of any buildings or lands.

Sec. 14. That the Children's Bureau shall perform the duties assigned to it by this act under the supervision and direction of the Secretary of Labor, and he shall include in his annual report to Congress a full account of the administration of this act and expenditures of the moneys herein authorized.

Committee amendment: Strike out all after the enacting clause, page 1, line 3, down to and including line 26, on page 8, and insert in lieu thereof the following:

That there is hereby authorized to be appropriated annually, out of any money in the Treasury not otherwise appropriated, the sums specified in section 2 of this act, to be paid to the several States for the purpose of cooperating with them in promoting the welfare and hygiene of maternity and infancy as hereinafter provided.

Sec. 2. For the purpose of carrying out the provisions of this act, there is authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, for the current fiscal year \$480,000, to be equally apportioned among the several States, and for each subsequent year, for the period of five years, \$240,000, to be equally apportioned among the several States in the manner hereinafter provided: *Provided*, That there is hereby authorized to be appropriated for the use of the States, subject to the provisions of this act, for the fiscal year ending June 30, 1922, an additional sum of \$1,000,000, and annually thereafter, for the period of five years, an additional sum not to exceed \$1,000,000: *Provided further*, That the additional appropriations herein authorized shall be apportioned \$5,000 to each State and the balance among the States in the proportion which their population bears to the total population of the United States, not including outlying possessions, according to the last preceding United States census: *And provided further*, That no payment out of the additional appropriation herein authorized shall be made in any year to any State until an equal sum has been appropriated for that year by the legislature of such State for the maintenance of the services and facilities provided for in this act.

So much of the amount apportioned to any State for any fiscal year as remains unpaid to such State at the close thereof shall be available for expenditures in that State until the close of the succeeding fiscal year.

Sec. 3. There is hereby created a Board of Maternity and Infant Hygiene, which shall consist of the Chief of the Children's Bureau, the Surgeon General of the United States Public Health Service, and the United States Commissioner of Education, and which is hereafter designated in this act as the board. The board shall elect its own chairman and perform the duties provided for in this act.

The Children's Bureau of the Department of Labor shall be charged with the administration of this act, except as herein otherwise provided, and the Chief of the Children's Bureau shall be the executive officer. It shall be the duty of the Children's Bureau to make or cause to be made such studies, investigations, and reports as will promote the efficient administration of this act.

Sec. 4. In order to secure the benefits of the appropriations authorized in section 2 of this act, any State shall, through the legis-

lative authority thereof, accept the provisions of this act and designate or authorize the creation of a State agency with which the Children's Bureau shall have all necessary powers to cooperate as herein provided in the administration of the provisions of this act: *Provided*, That in any State having a child welfare or child hygiene division in its State agency of health, the said State agency of health shall administer the provisions of this act through such divisions. If the legislature of any State has not made provision for accepting the provisions of this act the governor of such State may in so far as he is authorized to do so by the laws of such State accept the provisions of this act and designate or create a State agency to cooperate with the Children's Bureau until the adjournment of the first regular session of the legislature in such State following the passage of this act.

Sec. 5. So much, not to exceed 5 per cent, of the additional appropriations authorized for any fiscal year under section 2 of this act, as the Children's Bureau may estimate to be necessary for administering the provisions of this act, as herein provided, shall be deducted for that purpose, to be available until expended.

Sec. 6. Out of the amounts authorized under section 5 of this act the Children's Bureau is authorized to employ such assistants, clerks, and other persons in the District of Columbia and elsewhere, to be taken from the eligible lists of the Civil Service Commission, and to purchase such supplies, material, equipment, office fixtures, and apparatus, and to incur such travel and other expense as it may deem necessary for carrying out the purposes of this act.

Sec. 7. Within 60 days after any appropriation authorized by this act has been made, the Children's Bureau shall make the apportionment herein provided for and shall certify to the Secretary of the Treasury the amount estimated by the bureau to be necessary for administering the provisions of this act, and shall certify to the Secretary of the Treasury and to the treasurers of the various States the amount which has been apportioned to each State for the fiscal year for which such appropriation has been made.

Sec. 8. Any State desiring to receive the benefits of this act shall, by its agency described in section 4, submit to the Children's Bureau detailed plans for carrying out the provisions of this act within such State, which plans shall be subject to the approval of the board: *Provided*, That the plans of the States under this act shall provide that no official, or agent, or representative in carrying out the provisions of this act shall enter any home or take charge of any child over the objection of the parents, or either of them, or the person standing in loco parentis or having custody of such child. If these plans shall be in conformity with the provisions of this act and reasonably appropriate and adequate to carry out its purposes they shall be approved by the board and due notice of such approval shall be sent to the State agency by the chief of the Children's Bureau.

Sec. 9. No official, agent, or representative of the Children's Bureau shall by virtue of this act have any right to enter any home over the objection of the owner thereof, or to take charge of any child over the objection of the parents, or either of them, or of the person standing in loco parentis or having custody of such child. Nothing in this act shall be construed as limiting the power of a parent or guardian or person standing in loco parentis to determine what treatment or correction shall be provided for a child or the agency or agencies to be employed for such purpose.

Sec. 10. Within 60 days after any appropriation authorized by the act has been made, and as often thereafter while such appropriation remains unexpended as changed conditions may warrant, the Children's Bureau shall ascertain the amounts that have been appropriated by the legislatures of the several States accepting the provisions of this act and shall certify to the Secretary of the Treasury the amount to which each State is entitled under the provisions of this act. Such certificate shall state (1) that the State has, through its legislative authority, accepted the provisions of this act and designated or authorized the creation of an agency to cooperate with the Children's Bureau, or that the State has otherwise accepted this act, as provided in section 4 hereof; (2) the fact that the proper agency of the State has submitted to the Children's Bureau detailed plans for carrying out the provisions of this act, and that such plans have been approved by the board; (3) the amount, if any, that has been appropriated by the legislature of the State for the maintenance of the services and facilities of this act, as provided in section 2 hereof; and (4) the amount to which the State is entitled under the provisions of this act. Such certificate, when in conformity with the provisions hereof, shall, until revoked as provided in section 12 hereof, be sufficient authority to the Secretary of the Treasury to make payment to the State in accordance therewith.

Sec. 11. Each State agency cooperating with the Children's Bureau under this act shall make such reports concerning its operations and expenditures as shall be prescribed or requested by the bureau. The Children's Bureau may, with the approval of the board, and shall, upon request of a majority of the board, withhold any further certificate provided for in section 10 hereof whenever it shall be determined as to any State that the agency thereof has not properly expended the money paid to it or the moneys herein required to be appropriated by such State for the purposes and in accordance with the provisions of this act. Such certificate may be withheld until such time or upon such conditions as the Children's Bureau, with the approval of the board, may determine; when so withheld the State agency may appeal to the President of the United States who may either affirm or reverse the action of the bureau with such directions as he shall consider proper: *Provided*, That before any such certificate shall be withheld from any State, the chairman of the board shall give notice in writing to the authority designated to represent the State, stating specifically wherein said State has failed to comply with the provisions of this act.

Sec. 12. No portion of any moneys apportioned under this act for the benefit of the States shall be applied, directly or indirectly, to the purchase, erection, preservation, or repair of any building or buildings or equipment, or for the purchase or rental of any buildings or lands, nor shall any such moneys or moneys required to be appropriated by any State for the purposes and in accordance with the provisions of this act be used for the payment of any maternity or infancy pension, stipend, or gratuity.

Sec. 13. The Children's Bureau shall perform the duties assigned to it by this act under the supervision of the Secretary of Labor, and he shall include in his annual report to Congress a full account of the administration of this act and expenditures of the moneys herein authorized.

Sec. 14. This act shall be construed as intending to secure to the various States control of the administration of this act within their respective States, subject only to the provisions and purposes of this act.

Amend the title so as to read: "For the promotion of the welfare and hygiene of maternity and infancy, and for other purposes."



Mr. WINSLOW. Mr. Chairman—  
The CHAIRMAN. The gentleman from Massachusetts is recognized.

Mr. WINSLOW. Do I understand I am recognized for one hour?

The CHAIRMAN. For one hour.

Mr. GREENE of Vermont. Will the chairman submit to a parliamentary inquiry? Will it be held to be the ruling of the Chair that persons gaining recognition are recognized for an hour?

The CHAIRMAN. It would certainly apply to the chairman of the committee and gentlemen securing recognition in their own right.

Mr. WINSLOW. Mr. Chairman and members of the committee, a bill commonly called a maternity bill was introduced by the gentleman from Iowa [Mr. TOWNER] in the early part of this session. As stated in the report of the committee, the Interstate and Foreign Commerce Committee had long hearings on the Towner bill. Many views were expressed, representing very many opinions as to the purpose, the advisability, and many other considerations which might be drawn out of the text of the bill. In due time and as soon as the committee could properly give attention to the consideration of the bill and the hearings the subject was taken up and for three weeks, about, in executive session we considered this maternity subject as represented by the bill S. 1039. At no time during the discussion of the bill in the committee in executive session did the committee express its views as to whether or not it approved of this kind of legislation. That may seem to you to suggest cowardice on the part of the committee, but such is not the case. The members of the committee know, and probably most of the Members of the House who have been here know, and all the country ought to know, that this has been an exceedingly annoying, perplexing, and discouraging subject. [Laughter.] It appears from the consideration of the matter that those who were the active proponents of it had an idea in their mind, but had given mighty little thought to the method by which that idea could be put into execution. The log rolling, which had been greater than in all the log rivers of this country in the spring season, was directed toward the purpose of a maternity bill whether or no. In my judgment, and I speak for myself in this instance and not as chairman, all through the consideration of this bill those who have opposed and those who have favored the bill have given but mighty little study to what might be legislated in order to bring the best possible results in the line of a maternity bill.

When the Committee on Interstate and Foreign Commerce took up seriously—so seriously it would make you weep if you had lived with us—the consideration of this project, we did not have in mind any proponent or any opponent nor any other thing except to make the best bill out of what we had with the idea of passing our conclusions on to the House to finally determine. [Applause.] Whether or not they want this subject legislated on at all and to see if they choose to approve of our recommendation. We have now made the recommendations and you have the bill. [Laughter.] It is fair to make some explanation, and in speaking of this bill I intend to be fair to everybody in interest, the House, the committee, the opponents, and the proponents. This bill, my friends, comes down to a consideration finally of two general propositions and no more, each one with ramifications. The first one, and the one probably which has raised the most intelligent discussion, has been the question of the advisability of having the Federal Government pick up again or begin, as you choose to put it, the practice of a plan of having the Federal Government contribute to the States in order that the States may carry out their work within their own limits. So the proposition—

Mr. KINDRED. Mr. Chairman, this bill is so vitally important that I make the point of order that there is no quorum present. Mr. Chairman, well, I withdraw it.

The CHAIRMAN. The gentleman withdraws his point of order.

Mr. WINSLOW. Mr. Chairman, I lay before the gentlemen of this House the first consideration, and that is whether or not we desire to go on as affecting this bill or any other bill with the idea of giving to the State by the Federal Government money to assist State undertakings. Then there comes a second consideration in connection with the financial proposition. If we do believe that we should give to States we ought to think very carefully in the consideration of this bill as to whether or not the money provided here is too much or too little.

The next proposition is whether or not we think the character of our proposition of maternity and infancy by the State or by the Government is so pressing, so imperative, and so needed as

to warrant any legislation, and if any legislation, this legislation as it stands or as it may be amended. I take occasion to state that it is my purpose at the proper time to make a motion that the amendment of the committee be taken up as an original bill and be considered section by section. Now, my friends, if the purpose of the bill is meritorious, the question is suggested as to whether or not the Federal Government should take a hand in it, and if so, to what extent should we mix into the operations of the departments of the various States, either in respect of directing their efforts or in the contribution of money. When the bill originally came up two years ago, more or less, and again running through the Senate bill, which, you see, is stricken out in connection with our own proposition, the field was wide open, and it was possible, and we all know what the possibility of a wide open door means in the conduct of a department, for the Children's Bureau to dominate absolutely the method to be pursued by the States.

It was as pretty a little bunch of a concentrated department authority as was ever brought before us, not excepting the Veterans' Bureau, where the director has it all. Under the provisions of that bill as it came to us the Children's Bureau could go into the homes of people, could send out emissaries to discuss any question, psychological or otherwise, it chose to put forth. It was a wide-open door, maybe leading into the homes of this country and doing almost anything in the way of education, according as you interpret the term "education." To put it fairly, the original bill was in such form that it was possible for the Children's Bureau and the Chief of the Children's Bureau, without the control of anybody, to tell every State in this Nation how it had to carry on its health department as affecting maternity and infancy.

The committee saw right away, I believe unanimously, that that must be an error; that nobody probably intended that such a condition should exist. But the possibility was there. So we proceeded in the development of a bill based on a different fundamental theory, and that theory was this: That we would have in our bill, so far as we could provide it in a bill, an arrangement by virtue of which the States individually, through their properly accredited or appointed organizations as described in the bill, should set up its own plan of educating and handling and developing this maternity and infancy proposition. No. 1, the State to initiate its own plan, so that if the State of Oklahoma, on the one hand, or the State of Maine, on the other, and so on, had different viewpoints as to the necessities of their localities in respect to setting up the method of administering such a law, they would be free, without original or predetermined hampering, to represent to the Federal Government what each State thought it ought to have.

Mr. CONNALLY of Texas. Will the gentleman yield?

Mr. WINSLOW. Gladly.

Mr. CONNALLY of Texas. I would like to ask the gentleman what the evidence was which was developed before the committee as to the number of States that now have children's bureaus or maternity organizations such as he has been discussing?

Mr. WINSLOW. I can not give it to you with accuracy. But it is surely a fact that boards of health exist in many States, and in a few, and only a few, children's bureaus do exist which have been carrying on this work, and particularly did we have testimony to the effect that a number of States are carrying it on now, using the established health organization of the Government, the Public Health Service, as their advisors, and from them they are taking the cue in respect of operating their State departments.

Mr. CONNALLY of Texas. Will the gentleman yield further?

Mr. WINSLOW. Yes, indeed. I am here to give information.

Mr. CONNALLY of Texas. What was the testimony disclosed as to whether the methods they are pursuing in the different States are satisfactory or otherwise?

Mr. WINSLOW. To be perfectly frank, calling upon the best of my recollection—and, mind you, it is a recollection—very few States said anything about it one way or another.

Mr. GARRETT of Tennessee. Will the gentleman yield?

Mr. WINSLOW. I will.

Mr. GARRETT of Tennessee. I understood the gentleman from Massachusetts to say that the committee approached the consideration of this measure with a fixed theory in mind that the States should set up their organization, and, if I understood the gentleman correctly, he meant for us to infer from that that the States would be free to set up whatever plan they chose and still receive the appropriations. Is that correct?

Mr. WINSLOW. No; that is not quite correct. I can understand how you may have misunderstood me. It is due to the

fact that I have not gone on with the further statement to connect up the subject I have been talking about, but I will answer you as far as I can and reserve the right to explain later. The bill does not provide for having a State set up an organization to operate, but rather that if they do not set them up they do not get any money from the United States. What the bill provides is that when an organization exists in a State it has a right to prepare its plans and submit its plans to what we call a board, of which I intend to speak if I have the time.

Mr. GARRETT of Tennessee. And before the State does receive anything under this bill those plans must be approved by the board, as I understand?

Mr. WINSLOW. Yes; unless the State authority appeals from an adverse decision of the board to the President of the United States, who has power to be the final adjudicator of the award.

Mr. GARRETT of Tennessee. Then, it must be approved by some authority outside of the State itself?

Mr. WINSLOW. Yes.

In the original proposition, previous to the writing of our amendment, the set-up must be approved by one person, the head of the Children's Bureau. The bill preceding ours provided for the establishment of an advisory board, but there was no obligation whatsoever on the Children's Bureau to follow the suggestions of any advisory board. We have so constructed it as to make a board consisting of the Chief of the Children's Bureau, the Surgeon General of the United States Public Health Service, and the Commissioner of Education, and a majority of that board will pass on the propositions that are submitted by the States. The power of approval or disapproval is not left in the hands of any single person.

Mr. LINTHICUM. If the gentleman will permit, my mind is not quite clear as to that section 3. The first paragraph sets up the board of which the gentleman speaks, to be known as a board of maternity and infant hygiene, and it says that it shall elect its chairman and perform the duties provided in this act. The next paragraph says the Children's Bureau of the Department of Labor shall be charged with the administration of this act. Will the gentleman give us a little light on that paragraph?

Mr. WINSLOW. The Children's Bureau will provide its office facilities for carrying out the provisions of this act, subject to the determination of the board as to some definite particulars. First, the approval or disapproval of the plans submitted by the several States; secondly, the consideration of allotting money to the States, either whole or part of the amounts to which they are entitled. Beyond that the Children's Bureau under this act has the right to make studies, investigations, and report upon such matters as will facilitate the administration of this act, and nothing else. Whatever the bureau does outside of the provisions of this act will be due to some authority vested in it by other legislation.

Mr. CLOUSE. Mr. Chairman, will the gentleman yield?

Mr. WINSLOW. Certainly.

Mr. CLOUSE. I can very well understand from the reading of this bill that it authorizes an appropriation of \$6,200,000 within the next five years, but I would like to know from the gentleman, who is chairman of the committee, whether or not he thinks that the duties imposed upon the Children's Bureau—to wit, to make or cause to be made such studies, investigations, and reports as will promote the efficient administration of this act—would justify the expenditure of \$6,200,000 in the next five years?

Mr. WINSLOW. Will the gentleman allow me to postpone the answer to that for a moment for an obviously good reason?

Mr. CLOUSE. Yes. I merely wanted to know what the gentleman thought of it.

Mr. WINSLOW. Gentlemen of the House, as I have so much matter to cover—and I know there is not a soul in this room who would undertake to put a foot out to trip me up in my undertaking to do it—and as I wish to be as thorough as possible in giving all the information I can, I desire, if it is in order by unanimous consent, to be given an extension of time without reducing what I now have to my credit, so that I may be questioned and have time to make answer.

Mr. KINDRED. Mr. Chairman, will the gentleman yield?

Mr. STAFFORD. Mr. Chairman, I ask unanimous consent that the gentleman's time be extended one hour with that to which he is entitled at the present time.

The CHAIRMAN. The gentleman from Wisconsin prefers the unanimous-consent request, that the time of the gentleman from Massachusetts [Mr. WINSLOW] be extended one hour.

Mr. STAFFORD. In addition to what he is now entitled to.

The CHAIRMAN. Yes; in addition to what he is now entitled to.

Mr. CANNON. Why not make it unlimited until the conclusion?

Mr. WINSLOW. I shall need about 15 minutes, Mr. Chairman, if not interrupted. Whatever time I use after that will be in answer to questions.

Mr. KINDRED. Mr. Chairman, will the gentleman yield?

Mr. WINSLOW. When I am accorded the privilege of so doing; yes, sir.

The CHAIRMAN. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. KINDRED. In order that the gentleman may go on uninterruptedly—

Mr. WINSLOW. Unless the Members desire to question me now I would prefer to proceed.

Mr. CLOUSE. Will the gentleman yield?

Mr. WINSLOW. Yes.

Mr. CLOUSE. The question I wished to propound was this: Without indicating my position upon the merits of the bill but in order that I may know how intelligently to cast my vote, I was just wondering if the gentleman could tell us if there are any duties devolving upon the Children's Bureau or the agencies through which it may operate through the various States other than to make studies, investigations, and reports, and if that is all their duties, does the gentleman think it would justify an expenditure of \$6,200,000 in the next five years?

Mr. WINSLOW. I think the gentleman is a little bit mixed up about that. All that the Children's Bureau in the five-year period will get their hands on will be \$250,000.

Mr. CLOUSE. But the contributions on the part of the States, coupled with the donations by the Government, will aggregate \$6,200,000, will it not?

Mr. WINSLOW. To be expended by the States?

Mr. CLOUSE. Under the supervision of the Children's Bureau.

Mr. WINSLOW. No.

Mr. CLOUSE. But at last the Children's Bureau must approve the State plan; otherwise the Federal Government does not furnish any money, does it?

Mr. WINSLOW. Supposedly not. But the question of awarding or spending money harks back to the first proposition I submitted to the House with respect to one of the features of the bill.

Mr. KINDRED. Mr. Chairman, will the gentleman yield to me?

Mr. WINSLOW. Yes; I yield to the gentleman from New York.

Mr. KINDRED. The gentleman has stated very correctly that it was his impression that a comparatively few States have appeared before the committee to discuss this vitally important matter.

Mr. WINSLOW. As State organizations.

Mr. KINDRED. And the gentleman has referred to what might be called the adequacy of the State board's efforts in the direction of maternity and child welfare. Is it not a fact, which the gentleman, I believe, said he had no complete recollection about, that many of the States which did not appear before your committee have very extensive and adequate activities by their boards of health with respect to even holding clinics and lectures and other teachings in order to foster maternity and children's hygiene?

Mr. WINSLOW. In order to answer the gentleman and be able to proceed, I will say that generally speaking that is quite correct.

Mr. LARSEN of Georgia. Mr. Chairman, will the gentleman yield to me?

Mr. WINSLOW. Yes.

Mr. LARSEN of Georgia. Do the provisions of this bill contemplate that any general State or Government authority shall take the manual custody or control of the child or mother?

Mr. WINSLOW. You mean without objection?

Mr. LARSEN of Georgia. Yes; with or without objection, as shown by the provisions of this bill in sections 8 and 9.

Mr. WINSLOW. It is manifest that no committee could undertake to set up specific rules and regulations under which the board representing the Government and the Children's Bureau should act, but judging from what the States are now doing, I would assume that under this bill and the power given to the States by virtue of this bill the right of States under their own statutes would be preserved as they are, but their powers would not be increased by virtue of this act.

Mr. LARSEN of Georgia. Now, under the provisions of section 8 I will read this:

SEC. 8. Any State desiring to receive the benefits of this act shall, by its agency described in section 4, submit to the Children's Bureau detailed plans for carrying out the provisions of this act within such



State, which plans shall be subject to the approval of the board: *Provided*, That the plans of the States under this act shall provide that no official, or agent, or representative in carrying out the provisions of this act shall enter any home or take charge of any child over the objection of the parents, or either of them, or the person standing in loco parentis or having custody of such child. If these plans shall be in conformity with the provisions of this act and reasonably appropriate and adequate to carry out its purposes they shall be approved by the board and due notice of such approval shall be sent to the State agency by the Chief of the Children's Bureau.

Now, what I want to get at is this: Suppose a parent agrees that the State authorities or the Federal authorities connecting with the State authorities may take over the control and custody of the child. Are the provisions of this law to be understood so as to authorize the Government to take charge of the child and rear it and care for it?

Mr. WINSLOW. That is quite different.

Mr. LARSEN of Georgia. Now, where is the law under the provisions of this section that prohibits that?

Mr. WINSLOW. I will refer the gentleman to section 12. The last words there might cover that in a general way to the gentleman's satisfaction.

Mr. LARSEN of Georgia. What words in that?

Mr. WINSLOW. It provides that no maternity or infancy pension, stipend, or gratuity shall be paid under this act.

Mr. LARSEN of Georgia. Suppose the child is temporarily sick, or the mother is temporarily sick, and the nurse looking after it thinks conditions are not sufficient for its health and accommodation, have you the right under the bill to take the custody of the child?

Mr. WINSLOW. I think the opinion of the committee was that the rights of the State would prevail, and the State agency would use the authority vested in it by its own State laws and take such care of the child, and so forth, as needed.

Mr. LARSEN of Georgia. Suppose one State should decide that it would not do it, and the Federal board under the provisions of the bill thought that it ought to be done and therefore would not approve of the plan adopted and carried out by the State until it came within the provisions of the bill.

Mr. WINSLOW. Then there would be a conflict of judgment.

Mr. LARSEN of Georgia. And which one would govern?

Mr. WINSLOW. Finally the Federal Government would govern, either through the board or the President.

Mr. LARSEN of Georgia. The gentleman thinks the Federal authorities might require the custody of the child.

Mr. WINSLOW. The Government would not occupy such a field. It is only to approve the State's plans. We discussed this question in the committee, and the general opinion was that if the matter came down to that point the State would have the authority to take care of such cases according to its own laws and regardless of its agreement with the Government as to its workings under this act.

Mr. LARSEN of Georgia. Did you make any provisions for that in the bill?

Mr. WINSLOW. No; we do not undertake to provide what the State can do outside of the bill, or to make any standards or regulations.

Mr. LINTHICUM. Will the gentleman yield?

Mr. WINSLOW. Yes.

Mr. LINTHICUM. Does not the latter part of section 8 answer that? The latter part of section 8 provides:

*Provided*, That the plans of the States under this act shall provide that no official, or agent, or representative, in carrying out the provisions of this act, shall enter any home or take charge of any child over the objection of the parents, or either of them, or the person standing in loco parentis or having custody of such child.

Mr. WINSLOW. That is as far as this act goes.

Mr. MILLER. Will the gentleman yield?

Mr. WINSLOW. I will.

Mr. MILLER. Suppose the State, through its own agencies, provides that the State authorities shall have the right to enter a home and take a deformed child and send it to an institution for orthopedic treatment or something like that. How does the chairman harmonize section 8, where it says:

*Provided*, That the plans of the States under this act shall provide that no official, or agent, or representative, in carrying out the provisions of this act, shall enter any home or take charge of any child over the objection of the parents, or either of them, or the person standing in loco parentis or having custody of such child.

Suppose the State did not give that right, can the State share in a distribution of this fund?

Mr. WINSLOW. I do not know why not.

Mr. MILLER. Does the gentleman believe that the provisions of this bill prohibit such action as that?

Mr. WINSLOW. The gentleman says "for orthopedic treatment." This is a bill in relation to maternity, and so forth. If an orthopedic case should come in that class it would come under the bill.

Mr. COOPER of Wisconsin. Will the gentleman yield?

Mr. WINSLOW. I yield to the gentleman.

Mr. COOPER of Wisconsin. I think I can answer the gentleman from Washington by calling attention to the proviso on page 12, which reads:

*Provided*, That the plans of the State under this act shall provide that no official or agent or representative carrying out the provisions of this act shall enter any home or take charge of any child over the objections of the parents, or either of them, or the persons standing in loco parentis or having custody of such child.

Mr. MILLER. If the child welfare organization of the State does permit such a thing, the State can not share in the distribution of this fund.

Mr. WINSLOW. No; I do not understand it that way.

Mr. NEWTON of Minnesota. Will the gentleman yield?

Mr. WINSLOW. Yes.

Mr. NEWTON of Minnesota. That applies to the provision that they shall not have the right to enter and carry out the provisions of this act. If there is a State law which authorizes the officer to enter a home under the provisions of the State law for the purpose of carrying out the provisions of the State law, this provision does not deny to that State the right to share in the funds.

Mr. WINSLOW. I agree with the gentleman.

Mr. TAYLOR of Tennessee. Will the gentleman yield for a question?

Mr. WINSLOW. I will.

Mr. TAYLOR of Tennessee. This bill partakes of the nature of the public roads bill in that the Government is attempting to aid the State in carrying out a certain line of work. In the public roads bill, it is necessary for the State to comply with certain general provisions required by the Federal Government. Does not the gentleman think there ought to be some specific provisions requiring all the States to comply with the general provisions?

Mr. WINSLOW. The committee I think felt that the board would establish what might be needed as to these conditions, better than a committee of Congress, and we were willing to trust to their intelligence and honesty as to obligations to be required on the part of all the States.

Mr. MILLSPAUGH. Will the gentleman yield?

Mr. WINSLOW. I will.

Mr. MILLSPAUGH. Section 12, in the latter part of line 15, it provides—

nor shall any such moneys or moneys required to be appropriated by any State for the purposes and in accordance with the provisions of this act be used for the payment of any maternity or infancy pension, stipend, or gratuity.

Mr. WINSLOW. Yes.

Mr. MILLSPAUGH. Gratuity means a gift without a claim, a donation. Would not that absolutely prohibit any financial assistance in the matter of maternity under the provisions of the bill? It is plainly a gratuity.

Mr. WINSLOW. I would not think so.

Mr. MILLSPAUGH. One other question. If that is the case, then what are the duties of the representatives who are created under this bill? What is their service in maternity or in infancy? What do they do?

Mr. WINSLOW. Does the gentleman mean the State agent or the Federal agent?

Mr. MILLSPAUGH. Either or both. What do they do in the home? What is their purpose in the home? To deliver tracts?

Mr. WINSLOW. I think the gentleman's question is susceptible of a direct reply, but it would take more time than I want to give to it at this time.

Mr. SMITH of Michigan. Is the payment of this money cumulative? That is, if they do not use all of it one year can they use it in the succeeding year?

Mr. WINSLOW. They can for one year.

Mr. SMITH of Michigan. Is there any limit in the amount to be used in any one case?

Mr. WINSLOW. No.

Mr. SMITH of Michigan. They can use it all on one case if necessary?

Mr. WINSLOW. Yes; if one can imagine such a thing.

Mr. GRIFFIN. Mr. Chairman, I hope the gentleman will be permitted to continue his very clear and lucid statement in respect to the purpose of this bill. I am interested to know what the purpose of the bill is and how it is supposed to accomplish that purpose.

Mr. DUNBAR. Mr. Chairman, will the gentleman yield?

Mr. WINSLOW. Yes.

Mr. DUNBAR. There are in this bill appropriations for the fiscal year 1922, \$240,000, to be distributed among the States, \$5,000 to each State. There is also provision made for additional appropriation of \$1,000,000, to be divided among the States.

I have in my hand here an explanatory sheet of section 2 of Senate bill 1039, showing how that million dollars will be divided among the States, but the total of the apportionment is only \$710,000. Where is the discrepancy?

Mr. WINSLOW. I think the gentleman has misconceived the situation inadvertently. I proposed to go over that sheet shortly, but I may as well take it up now. The suggestion has been made that we consider that part of the report on that part of the bill which refers to the appropriation and allotment of money. The bill provides, so far as the financial aspects of it are to be considered, for two forms of payments to the several States. One form is that by virtue of which the payments will be made outright, and the State shall not be required to match the amounts. The other form is that which covers the payment of certain sums on the conditions set forth in the act, provided the States match those appropriations dollar for dollar. We have prepared tables, to be found on page 4 of the report, and a supplementary sheet, which should be in the hands of everyone who is interested, showing what those sums are, how they will be distributed, and the amount which will go to each State in the Union, assuming that it complies with the act and is entitled to the allotment. In the case of unmatched payments you will find that in the year ending June 30, 1922, according to the bill, there is an authorization of the payment of \$480,000 to all the States, \$10,000 to each State. For the five years following June 30, 1922, the amount of \$240,000 only, or \$5,000 to each State, not to be matched. That is a little honorarium passed on to the States to help set up the machinery, grease the wheels, and in a general way get the business in motion, and it serves perhaps as an evidence of the good will of the Government, as a matter of encouragement to take hold of the subject, when perhaps without that little incentive they would not undertake to come under the act and take up the work.

Passing on to the million-dollar-per-year appropriation, we find that by the provisions of the bill there may be appropriated for a year or any part of a year previous to June 30, 1922, \$1,000,000 on a plan laid out for distribution. You then can pass on to the five-year period. During the five-year period, which is a definite period indicated by the committee as long enough for a trial of this cause, the States, if they came under the provisions of the act and became entitled to the allotments, would get \$5,000 a year each, without matching. Thereafter annually they would get certain definite sums—if matched—worked out on a basis of population, and also each State in the Union would be given annually out of the million dollars a flat \$5,000—if matched.

Mr. DUNBAR. Mr. Chairman, do I understand that for each year, beginning with the fiscal year from July 1, 1922, there is but \$1,000,000 authorized to be appropriated by the Government, or \$1,240,000?

Mr. WINSLOW. Beginning with the fiscal year which commences July 1, 1922, and thereon annually for five years, the yearly apportionment would be \$5,000 to each State, not to be matched.

Mr. DUNBAR. I do not understand that.

Mr. WINSLOW. Then afterwards annually, out of the \$710,000 which would remain, when 5 per cent of the million dollars has been allowed to the bureau for its expenses and \$5,000 given to each State as a flat allowance, to be matched, each State would get its share—to be matched—of this \$710,000.

Mr. DUNBAR. What is the total amount of the national appropriation, \$1,000,000 or \$1,240,000 beginning with the fiscal year 1922?

Mr. WINSLOW. July 1?

Mr. DUNBAR. Yes.

Mr. WINSLOW. What is the appropriation for the five years, or the annual appropriation?

Mr. DUNBAR. The annual appropriation, beginning with the fiscal year 1922.

Mr. WINSLOW. There will be given outright to the States \$1,200,000 total for five years.

Mr. DUNBAR. That is annually for five years?

Mr. WINSLOW. No; for five years.

Mr. DUNBAR. I want the total amount annually for each of the five years.

Mr. WINSLOW. There will be \$240,000 given outright annually, and then there will be \$240,000 given to be matched, \$5,000 to a State, and then there will be \$710,000 (to be matched) divided among the States on the basis of population, which will make altogether \$1,240,000, including \$50,000 to the Children's Bureau.

Mr. DUNBAR. That answers my question.

Mr. BARKLEY. Is not the answer that the total amount appropriated for each year beginning with the 1st of next

July is \$1,240,000, figuring the \$240,000 which would be given to the States outright, and then the \$1,000,000 to be divided?

Mr. WINSLOW. That is not correct for one year. The gentleman is confused.

Mr. BARKLEY. Not for this present year, but beginning with the first year of the five.

Mr. WINSLOW. \$240,000 is a gratuity, so to speak.

Mr. BARKLEY. Yes; and then the additional appropriation is \$1,000,000.

Mr. WINSLOW. Yes; but \$50,000 comes out for the Children's Bureau.

Mr. BARKLEY. I understand, but that makes up the total gross appropriation for that year.

Mr. WINSLOW. Yes.

Mr. BARKLEY. Of course, the States will not get all that.

Mr. WINSLOW. Not necessarily; but it is not to exceed that amount.

Mr. VESTAL. Will the gentleman yield?

Mr. WINSLOW. I will.

Mr. VESTAL. I want to see if I am correct on this proposition. I understand the first year the total appropriation will be \$1,480,000. That is for the fiscal year ending June 30, 1922?

Mr. WINSLOW. That is the maximum sum.

Mr. VESTAL. And the \$480,000 is to be given to the States outright; is that correct?

Mr. WINSLOW. That is the maximum amount to be given outright.

Mr. VESTAL. The next year the appropriation will be \$1,240,000, and so on for five years?

Mr. WINSLOW. Not necessarily—

Mr. VESTAL. But that is the maximum?

Mr. WINSLOW. That is the maximum.

Mr. VESTAL. And \$240,000 of the \$1,240,000 will be given to the States outright, and also an additional \$5,000 for each State out of the million? Is that correct?

Mr. WINSLOW. That is correct if the \$5,000 is matched by each State.

Mr. VESTAL. And the 5 per cent on the million, or \$50,000, will go to the Children's Bureau?

Mr. WINSLOW. Right.

Mr. HILL. I would like to ask the chairman if the total appropriation authorized by this bill is not \$7,680,000? That is, for the first year \$480,000 for the States, \$1,000,000 for distribution for each of the five years afterwards, \$240,000, which makes a total of \$1,200,000, and then a million each year, making in all a total appropriation under the bill of \$7,680,000.

Mr. WINSLOW. Not to exceed that.

Mr. HILL. But the bill does authorize that expenditure?

Mr. WINSLOW. Subject to the conditions of the bill.

Mr. HILL. Subject to the conditions of the bill.

Mr. DUNBAR. Will the gentleman yield further?

Mr. WINSLOW. I will.

Mr. DUNBAR. If this act shall become a law, say, January 1, 1922, then there would be appropriated to be expended, or rather an authorization for an appropriation, between January 1, 1922, and July 1, 1922, of \$1,480,000. Is that correct?

Mr. WINSLOW. It is possible; yes, sir.

Mr. VESTAL. Will the gentleman yield for one further question? After the first year the \$240,000 or \$5,000 for each State that is paid to the State does not have to be matched?

Mr. WINSLOW. No—

Mr. VESTAL. Now, the other \$5,000 out of the million, must that be matched by the States?

Mr. WINSLOW. Yes.

Mr. VOLK. May I ask, in the event the State does not choose to come under this plan, to whom will the money be paid?

Mr. WINSLOW. It goes back duly into the Treasury?

Mr. VOLK. Which treasury?

Mr. WINSLOW. The United States.

Mr. FAIRFIELD. If the gentleman will yield, under the provisions of the act can money be appropriated for hospitalization purposes?

Mr. WINSLOW. If you mean directly by the United States, the bill specifically says "no." Now, gentlemen, as there seems to be a little lull in the questions [laughter] I desire to refer briefly to the financial items. The statement printed in the committee report is just as straight an interpretation as you can make. Please read it. If you have any local interest as to the amount each State may receive under the apportionment, you can find it in the tabulated statement which is printed on a one-piece sheet to be found at the Clerk's desk. In introducing the subject I told this committee that the financial question was one of the questions to be carefully considered on two lines—first, the question of giving the States from the Federal Gov-



ernment for these various purposes from time to time, and, second, the consideration of the amount of money which is to be appropriated, whether it be too little or too much.

Mr. LAYTON. Will the gentleman answer an inquiry?

Mr. WINSLOW. If I can.

Mr. LAYTON. In order to get the matter perfectly clear for the country, it means that the Federal Government will tax the people in order to give it back again?

Mr. WINSLOW. Well, I do not quite know what the gentleman means by the Federal Government taxing the people.

Mr. LAYTON. This bill taxes the people. The Government has no money unless it taxes the people to get the \$1,490,000?

Mr. WINSLOW. There is no question but that the people will have to pay for it.

Mr. LAYTON. That is the point.

Mr. WINSLOW. I do not want to get into any expert discussion of taxation; that is all; we had one yesterday. Now, just to make one review of the last point about this financial matter and I shall have finished on that subject. We must determine whether we are going on with a policy of giving to the States for State work within their own borders. If so, whether or not we are giving too much or too little in the amount suggested by the bill. The amount suggested is what was recommended to the committee by the proponents of the bill with the exception that they desired to have \$10,000 given outright every year instead of \$10,000 for one year and \$5,000 for each of the remaining five years. There are two or three other points of interest which I think Members of the House ought to bear in mind.

One is this, that the purpose of the committee is to give every possible reasonable final authority to the States and not to break into doing the States' work. Another one is the provision with respect of the power which representatives of State organizations having to do with the administration of the act and representatives of the Federal Children's Bureau which might be out studying and investigating, with a view to making reports, may have to go into a house and do certain things set up in this bill.

In the discussion of this matter before the committee there were many queries and many suggestions. A great number of them were shots in the air and amounted to but little, but nevertheless the miscellaneous notions of the possibilities under the original proposed act would indicate that it was wise for somebody to undertake to limit the authority of these agents who might be out under the umbrella of this act. And so we undertook to confine the powers of those agents, representing State and Nation, to the strict, literal interpretation of the purpose for which this act is intended. We do not care as a committee to recommend to this House any elasticity whatever which will allow any set of people, State or National in their affiliations, to build up or to institute and develop any social propaganda of ethics of any kind, and we hope we have struck it right. I believe I reflect the view of the committee when I make the offer to accept any amendment which will tend to make that provision if we fail to do so ourselves. There are many points I would have naturally referred to, but they have been brought up through the medium of inquiry.

Mr. BROOKS of Pennsylvania. Will the gentleman yield?

Mr. WINSLOW. I will.

Mr. BROOKS of Pennsylvania. I would like to know whether or not this bill if enacted into law would allow State or Federal agents to go into homes against the desires of the wives, mothers, or daughters of a family and make inquiries or investigations into matters of health along certain lines?

Mr. WINSLOW. I would think so.

Mr. BROOKS of Pennsylvania. You would? Then I think—

Mr. WINSLOW. You mean in the face of objections?

Mr. BROOKS of Pennsylvania. Yes.

Mr. WINSLOW. I would answer no.

Mr. BROOKS of Pennsylvania. Do you think they would assume that power, at any rate?

Mr. WINSLOW. I can not tell any more than I can tell whether anybody would steal an overcoat. [Laughter.]

Mr. FAIRFIELD. Will the gentleman yield?

Mr. WINSLOW. I will.

Mr. FAIRFIELD. Is there any provision in the bill that will grant anything but an educational or advisory assistance?

Mr. WINSLOW. Not so far as the Federal Government is concerned directly. But if the States through their proper agencies set up a plan for the caring of maternity and infancy in any of its stages, we would expect that care and hygiene, which means a lot of things in connection with the public and private health, would come under the functions of the agency.

Mr. FAIRFIELD. Under the State?

Mr. WINSLOW. Under the State.

Mr. FAIRFIELD. Therefore this bill really offers no specific relief in cases of emergency anywhere so far as the General Government is concerned?

Mr. WINSLOW. Only through the agencies as operated by the States.

Mr. FAIRFIELD. In case the States should set up an agency of that kind, no part of the—

Mr. LAYTON. No material relief.

Mr. FAIRFIELD (continuing). No part of the money would be used for affording material relief?

Mr. WINSLOW. That is not so, in my judgment. I think the States can use this money for any legitimate purpose connected with the natural care of maternity and infancy.

Mr. FAIRFIELD. I asked you a moment ago whether the money could be used for hospitalization purposes.

Mr. WINSLOW. By the Federal Government, I understood you to say.

Mr. FAIRFIELD. I meant that the Federal Government does not, except in its administrative capacity, use any of the money. There would be no meaning in the question except as it applied to the State government, and, as I understood the answer, no State could use a dollar of this money to relieve cases of necessity where hospitalization was advised by the attending physician or by the agents of the Government? If I am wrong, I would be glad to be corrected.

Mr. WINSLOW. I regret that you interpreted my probably insufficient remark in that way, but I will state it so that there will be no doubt about it. When the Government approves the plans of a State agency for carrying out the provisions of this act, which means the care of maternity or infancy through all the stages of either or both, if that State agency provides for giving care to mothers and children, and the Government approves it, the money will be available. I can not imagine, for my part, any board that would cut off a State agency from giving any kind of care under the act to those who need it.

Mr. NEWTON of Minnesota. Will the gentleman yield?

Mr. WINSLOW. I will.

Mr. NEWTON of Minnesota. The gentleman from Pennsylvania [Mr. Brooks] propounded a question to the gentleman in reference to the right or authority under the act for an official of the Government to enter a home over the objections of the parent or the person standing in that relation. I merely want to call the attention of the gentleman from Pennsylvania to section 9, which expressly prohibits that.

Mr. WINSLOW. That is so.

Mr. LAYTON. Will the gentleman yield?

Mr. WINSLOW. I yield to the gentleman from Delaware.

Mr. LAYTON. I would like to ask the specific question whether or not under this bill the Surgeon General, at the head of the Public Health Service, and the other two members of the board, could not refuse Federal aid to a State unless the State authorities did actually agree on the plan, which the board here in Washington must approve, to look after the material care of a mother or a child by furnishing food, clothing, housing, and so forth?

Mr. WINSLOW. If such a thing is reasonably possible, I would say that the board could refuse that aid, but as a matter of ordinary horse sense I would not expect they would do it. [Laughter.] And if they do not approve they have an appeal to the President of the United States.

Mr. LAYTON. Mr. Chairman, will the gentleman yield?

Mr. WINSLOW. Certainly.

Mr. LAYTON. If the gentleman will excuse me, we are not dealing very largely with horse sense. [Laughter.]

Mr. REED of West Virginia. Mr. Chairman, will the gentleman yield?

Mr. WINSLOW. Yes.

Mr. REED of West Virginia. I understand that the administration of this act is under the Secretary of Labor.

Mr. WINSLOW. "Under the supervision of the Secretary of Labor," whatever that means.

Mr. REED of West Virginia. Has the President so much spare time that he can attend to this also? Why dump part of the administration upon the President of the United States? Has he a lot of time on his hands that he is not using? Does he want this?

Mr. WINSLOW. He has not advised me by letter that he wants it. [Laughter and applause.]

Mr. FAIRFIELD. Mr. Chairman, will the gentleman yield?

Mr. WINSLOW. Yes.

Mr. FAIRFIELD. I would like to ask the gentleman the interpretation of section 12—

Nor shall any such moneys or moneys required to be appropriated by any State for the purposes and in accordance with the provisions of this act be used for the payment of any maternity or infancy pension, stipend, or gratuity.

I want to know how far that limitation goes on the expenditure of this money.

Mr. WINSLOW. Well, if you will force me into talking on this floor on delicate matters, I am willing to be driven. I am a father and a grandfather—

Mr. FAIRFIELD. I am a grandfather, too—

Mr. WINSLOW. And I can no longer blush at these suggestions; but the facts are that the committee has reason to suspect—and that is as far as I care to go [laughter]—that there might be under the provisions of the act which we discarded an opportunity for starting along some of the methods which have become in vogue in certain European nations, and we do not want to encourage it in this country. [Applause.] The politest way in which we could describe it in a bill of this kind is represented by the language the gentleman has quoted. We have no objection to anybody who chooses to father it introducing an amendment that will clarify that. [Laughter.]

Mr. CLARKE of New York. Mr. Chairman, will the gentleman yield?

Mr. WINSLOW. Yes.

Mr. CLARKE of New York. Among those European nations that the gentleman has mentioned, which one of those foreign nations has developed this idea to the highest power?

Mr. WINSLOW. I am not an expert on that subject, but I would say probably Russia.

Mr. CLOUSE. Mr. Chairman, will the gentleman yield?

Mr. WINSLOW. Yes.

Mr. CLOUSE. Under section 3 of the act a board of maternity and infant hygiene is created?

Mr. WINSLOW. Yes, sir.

Mr. CLOUSE. I wonder if the gentleman can tell us whether or not this position will carry additional salary to the members of that board?

Mr. WINSLOW. There is nothing said about it in the bill.

Mr. CLOUSE. Is it contemplated that their duties would be so enlarged as to justify an additional salary of some \$10,000 or \$15,000 annually?

Mr. WINSLOW. That is not within our jurisdiction. Probably some one would have to thrash that out with the Budget Committee.

Mr. CLOUSE. Is not here the place to thrash it out and place a limitation on it?

Mr. WINSLOW. The limit we would have would be to omit it altogether. [Applause.]

Mr. CLOUSE. I quite agree with the gentleman.

Mr. DENISON. Mr. Chairman, will the gentleman yield?

Mr. WINSLOW. Yes.

Mr. DENISON. In answer to the gentleman's question, there is already a general law that would prevent any official of the Government from drawing two salaries.

Mr. WINSLOW. Hence the omission.

We have been over this in detail. I hope we shall discuss it section by section under the 5-minute rule, and if there are any misconceptions that will break out then or appear, the chairman of the committee, or any member of the Committee on Interstate and Foreign Commerce, will gladly answer any question about any section; and the whole committee knows the bill. [Applause.]

Mr. GRIFFIN and Mr. KINDRED rose.

The CHAIRMAN. Does the gentleman yield?

Mr. WINSLOW. I have not given up the floor.

Mr. GRIFFIN. Mr. Chairman, I was in hopes the gentleman, before concluding his remarks, would explain the apparent discrepancy between section 3 and section 13. In section 3 a board of maternity and infant hygiene is created, with very limited powers, as it would seem, except to pass upon the appropriation of the allotments or quotas to the various States. Then the administration of the act is intrusted to the Chief of the Children's Bureau; and then in section 13 the Chief of the Children's Bureau is put under the control, apparently, of the Secretary of Labor, who is not a member of the board of hygiene. What his connection can have with the proposition it is very hard, at least to me, to discern. Why, for instance, is the Children's Bureau, with which the administration of the act is intrusted, put under the control of the Secretary of Labor?

Mr. WINSLOW. That does look a little freckled, to be sure. [Laughter.] But the committee is bound to submit to those conditions which surround it. The Children's Bureau already is a department working under the Secretary of Labor. That would seem to account for that association. In order to be respectful to the department and its head, the Secretary, we brought his name in there in a parliamentary way, in order to show that he is the supervisor.

I personally would not pay him much money for the time he will probably consume in supervising, but nevertheless under

the Alphonse and Gaston arrangement between the executive and the legislative branches of the Government we felt impelled to do this thing. [Laughter.]

As to the other proposition, the board to which the gentleman has referred as having slight power represents all there really is to this act, viz, the determination of the conditions under which the several States shall operate and the determination of the amount of money they may be entitled to by virtue of their cooperation under the act. The Children's Bureau has the right and the duty to make studies as broad as they choose and report to the Secretary of Labor, and so on, so far as such investigations, and so forth, may help the administration of this act. Beyond that the Children's Bureau furnishes the office force and the executive medium for carrying out whatever detail there may be in connection with the work provided for in the act. Is that clear to the gentleman?

Mr. KINDRED. Mr. Chairman, will the gentleman yield right there?

Mr. WINSLOW. Yes.

Mr. KINDRED. In connection with what the gentleman has just said, does he think the language beginning on line 17 of page 10—

The Children's Bureau of the Department of Labor shall be charged with the administration of this act, except as herein otherwise provided—

Mr. WINSLOW. What is the gentleman's question?

Mr. KINDRED. Page 10, line 17, provides:

The Children's Bureau of the Department of Labor shall be charged with the administration of this act, except as herein otherwise provided, and the Chief of the Children's Bureau shall be the executive officer.

Is there any lack of clarity or consistency between the language the gentleman has just used and these lines?

Mr. WINSLOW. I hope not. The idea is that the Children's Bureau shall carry out what the act provides, with the exception of having the final determination of the plans submitted by the States in the way of approval and the amount of money to be actually allotted to the States.

Mr. KINDRED. It means in the last analysis the Children's Bureau or the Department of Labor shall be the whole show.

Mr. WINSLOW. I have said several times that the idea of the committee is to take full power out of the single control of any bureau, whether the Children's Bureau or otherwise. In order to do it in this instance—the Children's Bureau—we have created a board only one of which has anything to do with the Children's Bureau. The other two are to represent two other organizations which have more or less to do with the public health and the general public education of the country.

Mr. KINDRED. May I call attention to the fact that the administration of the act is given to the Chief of the Children's Bureau?

Mr. WINSLOW. The bureau is to administer the act under the provisions of the act. It is like the administration of a factory by the superintendent or general manager. You have to have some one to do the work, and so as the Children's Bureau is interested in it we left it there.

Mr. TAYLOR of Tennessee. Will the gentleman yield?

Mr. WINSLOW. I will yield to the gentleman.

Mr. TAYLOR of Tennessee. Under the provisions of this bill the Federal Government is empowered to tax the State and cover that money into the Federal Treasury. Now, suppose that the Children's Bureau should not agree to the plan of spending that money proposed by the State organization, and the State organization refused to meet the plans suggested by the Children's Bureau; what is to become of that portion of the money which ought rightfully to go to the State? It has been taken from them.

Mr. WINSLOW. It has not been taken from them in that they never got it.

Mr. TAYLOR of Tennessee. You take it from the State by taxation. The Federal Government has no revenue except what it gets by taxation. When they tax the State they take the money from that State and cover it into the Federal Treasury. If the State refuses to meet the requirements of the Children's Bureau, what becomes of that money?

Mr. WINSLOW. It is like many other things in the way of taxation. In other words, to use a very common but suggestive expression, it goes into the "kitty." [Laughter.]

Mr. HUDSPETH. Will the gentleman yield?

Mr. WINSLOW. Certainly.

Mr. HUDSPETH. Under the provisions of this bill can the Federal Government force the provision of the act upon a State until the legislature of such State meets and accepts it?

Mr. WINSLOW. It can not force it on a State under any circumstances. It provides that if a State legislature does not accept the act and create a proper organization to work it out,



in the absence of a legislative session the governor can make the appointment of an officer or agency to receive and accept this money until the legislature convenes. A member of our committee suggested this morning an amendment which seems to me to be rather important and very much to the point, and that is to make a time allowance for a State where the legislature may not meet in time to get to work fully under the act so that they will have six months after the adjournment of the legislature to effect conditions that will bring them within the act. Mr. Chairman, if now there are no more questions I would like to proceed without further interruption.

Mr. WOODS of Virginia. Will the gentleman yield?

Mr. WINSLOW. Yes.

Mr. WOODS of Virginia. In section 11 you give to the board administering the act the power to pass upon the question whether the State organization has complied with the act or not.

Mr. WINSLOW. Yes.

Mr. WOODS of Virginia. Does not that give considerable of a whip hand over the States and enable the bureau to say you must conduct your health agency in accordance with our plans or we will withdraw the aid?

Mr. WINSLOW. It does permit the exercise of an arbitrary power, but in most instances where the human element is considered we have got to trust to the good sense of somebody in final authority, and we felt that as the Government may be paying money to the States, by the same token the Government ought to have the right in some way to make sure that the State would spend it along the general lines of the act and for the purposes set forth therein. We have placed it in the hands of people, named by title, and it seemed to the committee that no one would ever occupy any one of those places who was not above the average man for honesty and intelligence. We do run that risk, but wherever we delegate power to any human agency we always run the risk of getting a crank to execute it, and then we get out of it the best way we can, and if that time comes we will have to do the same in the case of this proposed legislation. [Laughter and applause.]

Mr. Chairman and gentlemen of the committee, I will say a word as to why the committee has reported out this bill. The proposed legislation has undoubtedly stirred up more sentiment, wisely or unwisely created, than any bill which has been before the Congress in 10 years, or maybe 100 years. The representation originally made in behalf of this proposal was that it was purely for the development of the care of maternity and infancy, and so forth, but before it ever got to our committee, and down to this very morning, it had been redolent with personal sentiment, and its approval and opposition has almost invariably been tainted with a high degree of personal feeling which has not characterized any other bill of which I have ever had knowledge. One side has said that they represent 10,000,000 women. It is not for me to say that they do not, but there have been plenty of others to say that they do not represent anything like that number. Unfortunately the discussion of this bill has not always been on broad lines in my judgment.

I believe in the case of mothers and infants to the limit. I have had to do in my home city with a hospital and have held a prominent position there. I was one of an original subcommittee, long before any woman or man who has been a proponent of this bill ever talked to me about it, which organized a social welfare and hospital auxiliary force. We did this work. We did it because we knew there was need for it, but I have not been able to make some people fussing around here believe apparently that I have enough humanity in me to think that mothers expecting children were worthy of any considerable consideration.

The agitation over the bill has worked back and forth. Members of the committee have been like a tennis ball—batted back and forth. Enthusiasm for and against this bill passeth all understanding.

Every man of the committee has been belabored one way and another for and against the bill until I believe, figuratively speaking, each one has become mentally sore through that treatment, and it may have been a good one—I am not prepared to say that it has not been. We have at all events awakened to an appreciation of the fact that whether we are for it or against it, this subject is really interesting a great many people, who think of any of these things, countrywide.

When I stated in the beginning that the committee has never, so far as I remember, expressed its opinion officially as to the merits of the bill, I stated that regardless of the fact that I feel that the committee did the wise thing to report a bill which they thought would best do the work, and report it unanimously, in order that this House may on its merits, as they see them or otherwise, determine whether or not the bill shall

become a law. The committee through the phraseology of a form in which bills are reported is committed to the expression that they think the bill should pass. Whether that happened by oversight or not, I do not know. I am prepared to subscribe to the idea that it should pass because I think, in view of the fact that this is a subject which appeals to the sentiment and the heart desires of so many of our women, who at home are thinking seriously of this thing, who at home in most instances have no thought of politics in it at all, we ought to put the plan on trial.

I hope I have reflected the committee accurately and fairly. I have no reason to feel that I have not, but in order that there may be no difference of opinion as to my own attitude at this moment on this bill, I say to you, in repetition, that I believe, all things considered, the character of the bill being borne in mind, the limitation of administration, the bill ought to be passed and given trial. [Applause.]

I reserve the remainder of my time.

#### MESSAGE FROM THE SENATE.

The committee informally rose; and Mr. BARBOUR having taken the chair as Speaker pro tempore, a message from the Senate, by Mr. Craven, its Chief Clerk, announced that the Senate had concurred in the amendment of the House of Representatives with an amendment to the bill (S. 843) to amend section 5 of the act approved March 2, 1919, entitled "An act to provide relief in cases of contracts connected with the prosecution of the war, and for other purposes," had insisted upon its amendment to the amendment of the House, had requested a conference with the House thereon, and had appointed Mr. POINDEXTER, Mr. SUTHERLAND, and Mr. WALSH of Montana as the conferees on the part of the Senate.

The message also announced that the Senate had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 7294) supplemental to the national prohibition act.

#### PROTECTION OF MATERNITY AND INFANCY.

The committee resumed its session.

Mr. LAYTON. Mr. Chairman and gentlemen of the committee, before I begin to address the committee on the subject under consideration, I want to congratulate the chairman of the committee upon his very able efforts in presenting the case involved in this measure. He has my absolute admiration, and he has at the same time my absolute sympathy.

I have already spoken upon this subject at such length that I did not think that I would appear upon the floor of the House a second time in order to express anew my views on the question, but I feel impelled to voice my opposition again to this measure, hoping that something I may say may avert the enactment into law of principles which I deem insidious and full of evil consequences to the public.

I shall be as brief as I can, knowing there are many who desire to express themselves upon this bill, and to whom I desire to accord the fullest opportunity for so doing.

I am opposed to this bill—

First. Because it is unnecessary.

Second. Because it is an inexcusable expense.

Third. Because it is plainly socialistic.

Mr. Chairman, I do not purpose to attempt to analyze this bill. I have read every paragraph of it, and I am going to allow the specific elements entering into the bill to be digested, analyzed, and dissected by all of the Members of the House who will have, undoubtedly, abundant opportunity under the 5-minute rule to do so. I intend to approach the consideration of this measure in a general way, affecting as I believe it does the Republic of which we are all members, and in speaking upon the bill I desire to have all of you keep in mind the fact that in discussing the Sheppard-Towner bill I am discussing the Smith-Towner bill, I am discussing the Fess amendment, and I am discussing the whole brood of socialistic propositions which have littered up the very calendar of the Congress for the last three Congresses.

This bill is unnecessary because there is no cumulating demand for its passage by reason of any unusual mortality either in expectant mothers or in newborn children in this country.

Mr. FESS. Mr. Chairman, will the gentleman yield to a question?

Mr. LAYTON. Surely. The gentleman from Ohio is the very gentleman I would like to discuss this question with.

Mr. FESS. Does the gentleman oppose all education, since there is not any education that is not socialistic?

Mr. LAYTON. I do not believe I quite catch the gentleman's question.

Mr. FESS. All education in the United States is socialistic, every bit of it. Does the gentleman mean that he is opposing education because it is socialistic?

Mr. LAYTON. The gentleman has made an assumption which is absolutely incorrect, in my judgment.

Mr. FESS. What is that?

Mr. LAYTON. All education in the United States is not socialistic.

Mr. FESS. The gentleman understands that I mean education which is supported at the public expense, which comprises the great portion of our education.

Mr. LAYTON. But it does not follow, my dear friend from Ohio, that a thing that I would do in my home, or a thing that I would do in my community, or a thing that I would do in my State, good as they are, should be shifted through socialistic processes upon the Federal Government, to take power which I want to retain. [Applause.]

Mr. FESS. Would the gentleman answer my question?

Mr. LAYTON. And if the gentleman will let me proceed, before I get through I shall quote as eminent an authority on education as the gentleman himself, and I think the gentleman will see that the quotation which I take from that authority expresses exactly my views upon the question that he has raised.

Mr. FESS. If the gentleman has objection to partial assistance of the States on educational matters, that is one thing, but when he opposes this measure on the basis that it is socialistic, then, to be consistent, he must oppose all public education, because it is all socialistic.

Mr. LAYTON. Oh, not within the States. That is where the gentleman confuses the issue.

Mr. FESS. Why, certainly.

Mr. GREENE of Vermont. Will the gentleman yield just a moment?

Mr. LAYTON. I will.

Mr. GREENE of Vermont. May I suggest that if education is turned over to the Federal Government and put in the hands of bureaucrats and politicians, it is in great danger of becoming socialistic. [Applause.]

Mr. LAYTON. Correct.

Mr. COOPER of Ohio. Will the gentleman yield for a question?

Mr. LAYTON. I will stop any time to answer a question from the gentleman from Ohio.

Mr. COOPER of Ohio. The gentleman from Delaware has stated this measure is insidious, socialistic, and unnecessary. I would like to ask him if it is his intention to tell the committee in what way it is insidious, socialistic, and unnecessary?

Mr. LAYTON. Absolutely, if the gentleman will allow me, I have taken the trouble to develop an argument and I would like to try to have time to deliver it and let my dear friend from Ohio and everybody else take it for what it is worth. Gentlemen, I have taken a great deal of trouble about this matter and I have tried to boil down some of these sentences until they are as clear as I can make them. I wish you would give a little heed to them for what they are worth, whether much or little. I repeat:

This bill is unnecessary, because there is no accumulating demand for its passage by reason of any unusual mortality either in expectant mothers or in the newborn children. There never was a time since this Government was established when human life was more carefully guarded and conserved than it is now. The science and art of medicine and surgery have kept pace fully with developments in any other pursuit of man.

Every Member of this House knows that there has been a remarkable increase in longevity during the last 30 years. Every well-informed person knows that the medical and surgical remedies for complications arising in the puerperal state have vastly increased. The mortality records of 30 and 40 years ago involving pregnant women have been wonderfully changed. Puerperal septicemia, acetone, and diacetone conditions, including anatomical obstacles to childbirth—practically all of the dangers and perils that surround the puerperal state are largely within the ability of the physicians of the land to combat successfully. Forty years ago a newborn babe without a mother was regarded as having a poor chance for living. Today a child can be reared in splendid health to maturity upon the bottle, provided the milk therein is properly prepared by a graded prescription. The diseases of infancy, such as cholera infantum, ileo-colitis, and other diseases incident to the first three years of life, have been carefully studied, and their pathology more accurately ascertained, which, together with an equal advance in the therapeutics of these diseases, has lessened the infant mortality of the entire country in a wonderful and supremely satisfactory way.

And if I were going to make a remark at this juncture as a physician I would say that, taking it by and large, a child can be raised better to-day on a bottle, because it will not inherit the weaknesses of its mother; neither will it imbibe, as it were, the noxious principals in the milk by reason of fear, anger, ill health, medicine, or anything else that affects the mammary secretions.

All of these discoveries and advancements in the pathology and the therapeutics of infancy have been made by the medical profession by the men and women who have devoted themselves to the study and the practice of the medical profession.

I want to repeat that—that all the wonderful improvements in therapeutics and pathology have been made by the medical profession and not by members of the Children's Bureau here in Washington, who have not anything on earth except a smattering of what they can read in the shape of medical knowledge coming from men and women who have made medicine their life's pursuit and study.

Mr. NEWTON of Minnesota. Will the gentleman yield there?

Mr. LAYTON. With pleasure.

Mr. NEWTON of Minnesota. Does the gentleman know that in the Children's Bureau there are a number of physicians, and physicians of standing?

Mr. LAYTON. Where?

Mr. NEWTON of Minnesota. In the Children's Bureau.

Mr. LAYTON. Here?

Mr. NEWTON of Minnesota. Yes.

Mr. LAYTON. My dear friend, I am going to be a little frank, and if you will listen to me—I hope it will not go beyond the walls of this Chamber, because I feel a little bad about it. Tell me who occupies a position in the Federal Government as a physician at \$2,000 a year?

Mr. NEWTON of Minnesota. Who occupies it?

Mr. LAYTON. Yes.

Mr. NEWTON of Minnesota. There are physicians and physicians of standing. If the gentleman wants an answer, I will give it—

Mr. LAYTON. I will give an answer without you saying it. Go to every community in America and you can not get good physicians, intelligent physicians, you can not get skilled physicians, you can not get the best physicians to take a Government job at \$2,000 a year. [Applause.] And everybody knows it.

Mr. NEWTON of Minnesota. Will the gentleman yield further?

Mr. LAYTON. Yes; I will yield.

Mr. NEWTON of Minnesota. Perhaps the gentleman appreciates this fact that sometimes you can get men and get women of ability and skill who are willing to serve even if the compensation is not what they could get otherwise, and is not that true of the Children's Bureau?

Mr. LAYTON. If you are going to put the efficiency of the Children's Bureau upon some devotee of altruism, maybe you might find one in about 40 or 50 years.

Mr. SANDERS of Indiana. Will the gentleman yield?

Mr. LAYTON. With pleasure.

Mr. SANDERS of Indiana. My understanding is the gentleman also is in favor of abolishing the Public Health Service. Is not that true?

Mr. LAYTON. It depends altogether. My friend is trying to quiz me about a matter I had a conversation with him privately. [Laughter.] Let me tell the gentleman something so he may know it. I do not talk with any man privately, that I do not talk publicly if it is necessary. Now, I will answer the gentleman's question. He asked about the Public Health Service, and I want to be perfectly frank with him. I am opposed to the Public Health Service of the United States as it stands, and I will tell you why. Simply because it is a great big service at a great big expense and is not worth the money that is spent on it.

Now I will amplify, and the gentleman need not have any question to ask me, for as long as he has brought the subject up I shall try to go into it with perfect frankness, and say I am in favor of a quarantine service of the finest kind. That is the first thing. In the next place, I would absolutely abolish the Public Health Service as it stands, and in place of it I would take some of Uncle Sam's money, which we seem to have plenty of, and build the finest biological, bacteriological, and chemical laboratory that money could build. I would equip it with every appliance that money could purchase. I would go out into the world and buy, if necessary, the highest science that can be found. I would go out and get the most distinguished devotees of science in all these three directions I have mentioned. I would bring them over here; I would send to Vienna, Berlin, Edinburgh, London, Paris, Rome, and I would



bring them here, if they could be had, and thus have a corps of the finest delvers, so to speak, into science the world contains, who not only can delve into science but whose hearts and whose souls are engaged in the work, and in this way secure the very highest talent for the purpose of discovering specific remedies for the diseases of man and beast.

And after I had found one remedy that was a specific remedy for any of the things that bring mortality to men, I would not have a whole lot of peripatetic doctors traveling at Government expense and using that knowledge. [Applause.]

Let me say further that there is one boon, at least, in medicine. When I began to practice medicine, at one time in my life, almost breaking my heart to look at them, I saw four dead children in one house at one time from diphtheria. But I have lived long enough as a physician to find what is called the diphtheria antitoxin, and the man who goes out now to attend a case of diphtheria does not have any more fear or any more anxiety than he would have in attending a case of measles.

Mr. SANDERS of Indiana. Will the gentleman yield further?

Mr. LAYTON. Yes. But I want to add this in order to make my remarks complete, and that is in order to use that splendid remedy we do not have to have in my State, and the gentleman is too proud to claim that he has to have in his State, any peripatetic doctors going through and telling us how to use diphtheric antitoxin. We know how to do it ourselves.

Mr. SANDERS of Indiana. In order to set the gentleman right as to whether I am violating any private conversation I will say that I procured my information from the gentleman's speech on the floor of the House. The gentleman is an able speaker. According to the gentleman's theory about all this being socialistic, he would have been opposed to the Public Health Service, which has brought about the control of contagious diseases in this country?

Mr. LAYTON. The control?

Mr. SANDERS of Indiana. Yes.

Mr. LAYTON. Control! Where in the name of heaven had the American people been all this time until you created this Public Health Service? Gentlemen like to talk as if the American people were the most helpless things on earth. How did we ever become the great Nation that we are? My friends, did you ever know any epidemics in the United States any more virulent in the days gone by than they are now? When one broke out in 1918 all over this country, what did the Public Health Service amount to in my State? Not to a hill of beans. [Applause.]

Mr. SANDERS of Indiana. Is it not true that the Public Health Service of the United States and the public health service of the States and the public health service of the municipalities are the ones that have brought good results in reference to the control of contagious diseases? If you will carry that further and say "the public health service of the individual," you might have a round robin.

Mr. FESS. Will the gentleman allow me to interrupt him?

Mr. LAYTON. Frankly, I have but an hour, and I am going to keep this hour, and without being discourteous I will say that I must finish my speech.

Mr. FESS. The gentleman has unlimited time.

Mr. LAYTON. I have but one hour.

Mr. FESS. The gentleman made a very important statement a moment ago that I would like to have him amplify.

Mr. LAYTON. The gentleman can amplify it after I get through. [Applause.]

Mr. FESS. Will not the gentleman yield?

Mr. LAYTON. It is to these physicians that the credit is due, 150,000 in number, and to over 200,000 trained nurses, trained, by the way, under the supervision and the direction of the professors of our medical schools and by the accomplished corps of physicians and surgeons found in every hospital in the land. It is amazing that this House with all of its opportunities for knowledge should disregard these wonderful achievements and practically exalt above the regular physicians, a lot of ill-trained women to go out over the country and teach the mothers what to do. In every place where one of them goes she will find real physicians who have been and are now fully sufficient for the care of their respective communities. I challenge any proponent of this bill to show me a pamphlet issued by the Children's Bureau that contains a germ of new knowledge pertaining to such matters which the bureau or any of its members has discovered. If you pass this bill, the very knowledge that will be disseminated will be the knowledge discovered by the physicians and surgeons of the land. The principles of sanitation and hygiene which this cloud of amateurs are supposed to teach are the primary lessons incident to the profession of medicine and surgery.

The committee of the House has reported a maternity bill which they claim with great complacency has all of its objectionable features removed from it.

But, to my mind, this bill is worse than the one passed by the Senate, and worse still than the one the original proponents of this legislation demanded. If it is true that the mothers of the land are demanding Federal legislation for the preservation of the mother and the child, why do you give them a stone when they call for bread? [Applause.] Why do you send around an army of "advisory committees" to talk over and discuss with the expectant mother her cares of maternity when she needs something else than talk? An overwhelming part of the good that could be done in this direction can be done only by economical means, by giving food, clothing, heat, and shelter to expectant mothers and the newborn babe, and not by feeding them on tracts and pamphlets. [Applause.] A large part of the existing mortality among the expectant mothers and the newborn babes is due to lack of food, to lack of clothing, to lack of fuel, and to lack of housing, and is not due to any lack of knowledge nor care on the part of the physicians of the land. The original proponents of this bill understood this, and they openly advocated an appropriation in money to supply what they knew to be needed. As has been well said, this bill does not provide a cradle, nor a hot-water bottle, nor milk, nor clothing, nor a pound of coal, nor a load of wood, though there is need of these things, nor does it erect a single hospital, but prohibits all of these things which are the very fundamental needs involved. But it does provide for an army of amateur investigators to tell the expectant mother what to do when the expectant mother in a large majority of cases is utterly unable to do the things required or to get the things she needs. This bill provides "for money to incur such travel and other expenses as the Children's Bureau may deem necessary." Instead of the trustworthy family physician always near at hand, these expectant mothers are expected to consult amateur "advisory committees," possibly politically appointed.

I repeat again that this bill is unnecessary because there is no national need for it, no matter how the juggled figures of statisticians may be arrayed before you. The very fact that the longevity of the Nation has increased in such a remarkable degree is proof positive that no such alarming or unusual condition of infant mortality exists. There is not a physician in this House, I do not believe there is a physician in the country, and I challenge any physician in the House, who will say that the means of combating the diseases of infancy have not kept pace pari passu with any other branch of curative medicine or with any other art or science in the land. If this be true, how absurd to load up the already burdened back of the taxpayer with a bill which those who introduce it claim has been robbed of its teeth until only a skeleton remains. Having extracted the albumin and the yolk out of the egg, why not throw the miserable eggshell away? [Applause.]

If the purpose of this bill is justifiable, why not bring in a bill for Federal aid and control over tuberculosis? Where there is one case of death by reason of maternity there are eight times as many by reason of tuberculosis. Nor should we stop here. There are other causes which result in mortality—typhoid fever, malarial fever, diphtheria, pernicious anemia, and so on throughout the whole list of diseases. Why stop with one cause of disease, and that exceedingly small as compared with others? Take the statistics of any city in the Union and compare the mortality of pregnant mothers and of children with the mortality of pneumonia, tuberculosis, and other diseases, and you will see that this is true. The truth is that under the plea of the mother and her child, which appeals to the natural instincts of every man, we are being swept off of our feet by a false sentiment, and led into a morass of injustice, favoritism, and unnecessary taxation. [Applause.]

I oppose this bill as an inexcusable expense at a time when every effort should be made to reduce taxation. I oppose it because the party stood openly pledged in every Representative's district in the last campaign to economy in every way. There is not a Member of this House, certainly not a Republican, who did not base his chief plea for election upon that of economy. Admitting that this bill is good in principle, I contend that its enactment into law could be well delayed in view of the promises by which we obtained our seats in this Chamber, especially as no one can show that a greater exigency exists for the care of an expectant mother or her babe than has existed at any other time in our history.

This bill puts on the backs of the people another ten million to be raised in taxes in the next five years. This is advice I am giving the Republicans of the House for the good of their souls.

Let me quote from a bulletin issued by the Civic Federation of Chicago:

Stop extending Federal aid to local government, or peace-time taxes will exceed taxes due to war.

Federal taxes are higher and more generally burdensome than ever before in our history, due largely to the World War.

From every quarter comes a demand for a lessening of the burden.

In the face of this we find pending in Congress measures designed to add at least one hundred and sixty-nine millions at once to the normal burden of the National Government. Of these, measures carrying more than one hundred and fifteen millions and paving the way for increasing Federal appropriations of at least ten times that amount within the next decade are backed by a Nation-wide propaganda of highly organized and subtly persuasive character.

This hundred and fifteen millions (plus) is not, however, to be expended under the supervision of the United States Government, which is to raise and appropriate the revenue. It is to be distributed to the several States and expended under the supervision of the States, or the local governments within them. Thus no government over which the people have control will be responsible directly to the voters for the expenditure of this large and constantly growing sum. The National Government will not be responsible, because it has nothing to do with the expending. It merely appropriates. State and local government will shoulder no responsibility, because they will be spending money which will not be reflected in the State and local tax bills, for which alone local governments can be held responsible.

This is a condition that strikes at the very foundation of the rights of the State, because the State as a governmental unit is deprived of its liberty. It is a case of taxation without consent. Take my own State as an instance. You who represent a majority can impose your will upon Delaware for a purpose that Delaware is opposed to. You can tax it, and it is helpless to resist. Then to enjoy the supposed benefits of this legislation it must tax itself again dollar for dollar which it receives. Nothing more hypocritical, nothing more destructive of every principle of liberty and independence can be imagined. It is the paternalism of some power which asserts, "You are ignorant. You are unable to think or care for yourselves, so we will drive you for your good." I can not believe that this body is so craven, so lost to all sense of righteousness, all regard for those principles which are the foundation of all we have had and cherished, as to do this thing.

England's experience in this matter should be a warning. The British national "grants in aid" have grown from £244,402 in 1842 to more than £65,000,000 for the fiscal year 1920. Such prominent Englishmen as Sidney Webb and J. Watson Brice describe the present English condition as a chaos which practically no one understands. Gladstone himself opposed the continuance of this paternalism as imposing too great a burden upon labor and industry, and maintained that the grant acted as bribes to extravagance and needless local expenditure. The sentiment of Gov. Frank Louden, of Illinois, is eminently sound and encouraging on the same point. He says:

The Federal Government should appropriate only for those interests which are purely a national concern and clearly within the purpose for which the Federal Union was established.

We exclaim daily on this side of the House the need for economy. But what have we done? What are the people back home saying as to what we have done? There is just one prayer that applies to this House, which should be uttered daily: "We have done those things which we ought not to have done, and we have left undone those things which we ought to have done, and there is no health in us." [Applause.] We pride ourselves on saving a few dollars on Monday, and the very next day pass a bill appropriating millions needlessly. The real needs of the country, the things that concern most deeply the revival of prosperity, such as lower taxes, increased employment, provisions for rapid and adequate transportation and distribution of food and other products, these are largely left to take care of themselves. Let me suggest to the House that national prosperity is the best health measure that we can possibly institute. National prosperity is a prerequisite to national health at all times and under all circumstances. What we should be working for, straining every energy for, is a revival of business, a nation-wide revival of employment. A people employed is a happy people, because they are a healthy people. A people employed is a people with money to buy food and clothes and shelter, which are the substantial things that the expectant mother and children need, and is worth tons of tracts and a million glib talkers sent out by a fatherly government to speak of things concerning which they possess a mere superficial knowledge. I desire to call the attention of the House to the fact that when the Children's Bureau was established—and this is a pertinent item in connection with this discussion—its proponents at that time asserted that the cost would never exceed \$25,000 per annum.

In 1920 the appropriation was over \$270,000, while the estimate for 1921 was \$654,450, and this bill starts off at a million and one-half dollars. What demands will its proponents make in the future if we judge the future by the past? I ask again,

as I have once before, who in this House will say that the proponents of this bill have abandoned their original purposes of paternalism and will not demand in the future, as soon as this bill is enacted and the principle of socialism indorsed by this House, appropriations for food, clothing, shelter, and medical care to all the indigent prospective mothers of the land? What man in this House could logically fail to vote for such a bill if he can vote for this? As a matter of fact, to do this would be far more humane and sensible and would accomplish a far greater and more direct good if you are resolved to embark upon these paternal waters and admit the port of socialism as your prospective haven. And having taken care of all the indigent mothers, why not take care of the indigent fathers? [Applause.] If national beneficence is to become the slogan of the future, why not take care of all who need, and for all they need in any way?

Again, let me suggest that if education in matters affecting maternity and infancy is what is needed by merely literary methods alone, a simple calculation will show that \$100,000 would place a public document on the subject of maternity and infant care written by real physicians in the hands of every one of the 20,000,000 married women in this country. Why spend millions for unscientific advice? Moreover, it must not be forgotten that there is nothing in this bill that will prevent the head of a children's welfare bureau from disseminating and approving all sorts of hectic ideas germinated in the deranged minds of the peoples of distracted foreign lands concerning birth control, the use of contraceptives, sex hygiene, endowment of motherhood, wages for mothers, State support of children, false economics, the economical independence of mothers from husbands, or prenatal feeding for the differentiation of the race after the Darwinian idea of creating distinct species in our citizenship by distinct feeding. [Applause.]

Mr. HAWES. Will the gentleman yield?

Mr. LAYTON. I can not do so. It hurts me not to be able to.

The people's money can be used, as it has been used, to spread all of these pernicious doctrines among the people.

Let me call your attention, also, to a very alluring but deluding proposition in this bill. Apparently it is to last only five years. Can the Members of the House be caught by such bait as this? Put this bill on the statute books, and I say that long before the end of five years there will be a new crop of Representatives beset by a new swarm of pestiferous pleaders who will make it very plain to this new crop of Representatives that their wishes must be regarded and their demands acceded to if they wish to retain their seats in the House. In this connection is there any real, sincere Member of this House who thinks that this measure could get 20 votes for its passage if judgment and conscience alone dictated the vote? We all know, and the country knows, that if this bill is passed what the influence is that will pass it. It will not be passed because of the conviction that the country needs it or that taxpayers want it. At this point, gentlemen of the House, it will be proper and pertinent for me to remind you that there are other women who vote besides the women in the clubs—women who are allied in the closest bonds of interest, of affection, and of sympathy with their fathers, brothers, and husbands—millions of these women who feel and share the burden of their taxation and the hardships that result therefrom. Let me also remind you of the fact that the physicians of this whole country are opposed to this measure and to its ultimate purpose, the nationalization of medicine.

Mr. NEWTON of Minnesota. Will the gentleman yield?

Mr. LAYTON. No; I can not. While you are weighing the chances of your reelection, consider carefully the other voters who will have opinions of their own. While you avoid, as you think, Scylla on one hand, see that you fall not into Charybdis on the other. [Applause.]

In the midst of the glare and glitter of congressional life we are too apt to forget what the people back home are thinking and demanding. Gentlemen, they are weary, unutterably weary, of the burden of taxation. Every day and hour they are crying out in the language of the old watchman upon the tower of Hellas, who, day in and day out, strained his eyes looking for a flash of light from Illium, and ever exclaiming:

I pray the Gods a respite from these toils—this weary keeping at my post the whole year round, wherein upon the Atrides roof, reclined like dog upon mine elbows, I have learned the constellations of the stars of night—the rising and the setting of the stars.

The people want the abolition of bureaus, not the creation of new ones with a new expense. They regard as intolerable and foolish the imposition of new taxes while laboring and staggering under those that now exist. [Applause.]



Before concluding my remarks on this subject I desire to call your attention to the fact of the socialistic or paternalistic propaganda that is going on throughout the country, and which unless checked can not fail to subvert our most cherished institutions. I am not going to indulge in mere declarations. I am going to ask the Members of the House to get Senate bill 2507 of the Sixty-sixth Congress, Senate bill 814 of the Sixty-sixth Congress, Senate bill 526 of the Sixty-seventh Congress, House bill 5724 of the Sixty-sixth Congress, all of which concern a new Federal department of health, and then see what such proposed legislation would result in. It would medicalize the Census Bureau, see Senate bill 2616 of the Sixty-sixth Congress; it would medicalize the newly proposed department of education, see Senate bill 1017 of the Sixty-sixth Congress; it would medicalize the Department of Labor and the Department of the Interior, the Treasury Department, and the Department of Commerce. In addition to these bills, study House bill 12652 and Senate bill 3950 of the Sixty-sixth Congress. Study Senate bill 3259 and House bill 10925 of the Sixty-sixth Congress and see how these bills all tend to the compulsory control of the general public, of adults and children from birth up, through marriage, and until burial, in all matters pertaining to health, housing, living, and industrial condition, domestic and commercial, commercializing physical examination and medical treatment under compulsion.

See how they lead to the compulsory control of schools, school buildings, schools for children of all ages, school-teachers, of all matters of sanitation, health, physical education, and medical treatment in social life and industry. Commercializing physical examination and medical treatment in the entire school system, under compulsion, and nationalizing education for this purpose. See how it leads to the compulsory control of labor conditions, including infants, children of all ages, prospective mothers, mothers with infant children, laboring men, working women, and industry in general, placing labor conditions under medical control, commercializing medicine and physical examinations, and medical treatment throughout the Department of Labor. See how it would lead to medical control of the available supply of medical men and women operating under these bills, if enacted, bringing into the general plan the number and kinds of schools of medicine, regulating and restricting the number of men and women prescribing medical treatment; also the education and control of public as well as private nursing, with inspection and supervision of housing and living conditions, and in industrial and municipal affairs and hospitals, and giving all health authorities the special privilege of free use of the mails usable for medical propaganda to further their plan. See how they lead to food and merchandise control, commercializing medical control of the handling, manufacture, marketing, and using of all fruit products, agriculture, and all others; control of the industries as well as the labor employed, and nationalizing this medical control of food and drug products, including control of all hotels and eating places.

I want to emphasize again at this point that the Congress has on its calendars now bills of this character, put there for a purpose, and that those same bills are backed exactly as this bill is now, by the same proponents, by the same propaganda throughout the whole country.

I beg you before you vote for this bill to study all these bills which I have enumerated, and see for yourself if there is not every evidence of a deep-seated conspiracy to socialize the Government.

I am not the only alarmist in this matter. More and more as the people become acquainted with the legislation proposed in Sheppard-Towner bills, Smith-Towner bills, Fess amendments, and a dozen other propositions which are not only seriously entertained but which are actually crystallized in bills that have gone upon our calendar, they see them to be permeated with a socialistic purpose. Take the Smith-Towner bill which evidently proposes to nationalize education. Am I the only one who raises this alarm cry? Listen to this: I am quoting from an utterance of Arthur T. Hadley, president of Yale University.

With all due respect to my friend from Ohio [Mr. Fess], I assume that Arthur T. Hadley, president of Yale University, is a very competent authority among educators.

It is an excerpt from a letter addressed to Mr. Samuel T. Cappen, president of the American Council of Education, April 7, 1920. This is what he says:

The concentration of educational supervision in a national capital has always worked badly, and there is no reason to suppose that the United States would prove an exception to this general rule. French education when controlled from Paris has tended to ossify, and only as they have given independence to different districts and different parts of the system has there been any progress made. All the great pieces of progress of the last century were done in opposition to the national incubus of a centralized bureau. In Germany the case was

even worse. When I was in Berlin during the winter of 1907-8, I saw a good deal of the inside working; and the degradation of German thought was largely due to the fact that through the establishment, first of Berlin University, and second of other centralized Prussian authorities, the politicians had become able to throttle free thought. I regard the Smith-Towner bill as a long step in the Prussianizing of American education.

[Applause.]

Mr. Chairman, at this point I ask unanimous consent to print the rest of the letter which Prof. Hadley addressed to Mr. CAPPEN. I have quoted only a paragraph from it.

The CHAIRMAN. The gentleman from Delaware asks unanimous consent to extend his remarks by inserting in the RECORD the letter referred to. Is there objection?

There was no objection.

Mr. LAYTON. This is the letter:

I regard the introduction of another Cabinet minister as calculated to weaken rather than strengthen the influence of the Cabinet. In the old days, when our Cabinet consisted of heads of Government departments of the first rank, Cabinet councils meant a great deal, because the Cabinet consisted of men who knew how to govern. The introduction of Departments of Agriculture and of Labor, however good in themselves, weakened the force of the Cabinet council, because men were appointed for other reasons than their training in the science of government. If we compare the cabinets of the day with those of 20 or of 50 years ago I think we all see the difference in this respect, and I think that most people will regard the change as a change for the worse.

Finally, I regard the present as a singularly inopportune time for anything that involves increased national expense at Washington, because everything of this sort tends to increase the high cost of living. There is not time for going into the details of the economic analysis; but every hundred million of money spent by the Federal Government under present tax or loan conditions is mostly taken out of capital and mostly added to personal expenditures. The addition to personal expenditure means an increased money demand for products. The diminished capital means a diminished supply of means of production. Thus the price disturbance, already bad enough, is accentuated at both ends. I am inclined to think that the bad effect of the proposed bill taken by itself, in putting up prices of goods beyond their present high figure, would be greater than anything it would do for teachers' salaries; and if this bill is not taken by itself, but regarded as part of a movement for getting national money for local distribution in a great many directions, the adverse effect is going to be many times bigger than any possible good.

Let me also quote from an editorial of the Ohio State Journal of its issue of January 12, 1919, entitled, "Educational Autocracy":

Centralizing education at Washington is now the scheme that is being pushed vigorously in that quarter. It is the old Germanic method of putting the education of our youth under the direction of a Federal autocracy. It is absurd to center educational effort at Washington. It is done for self-exploitation and individual vanity.

[Applause.]

I want you to dwell on those words.

It is monstrous to think of having our schools directed in any way by the political influence that controls the capital of the country. We should get as far from it as possible. It is inconsistent with every true idea of education. It is a step toward the materialization of education which should be resisted at all hazards. Education is not machinery; it is the heart's devotion at work at the home and in the real life of the youth wherever they are. Educational autocracy at Washington! Shame on the idea!

I quote again from the Cincinnati Enquirer, March 3, 1919. The editorial is headed, "Hands Off Local School Control":

One of the devices of the repudiated Prussian system being absolute power in Germany was the seizure and control of public education. Some brutality was displayed, a thing to be expected when Bismarck and the Hohenzollerns were directing the operations. For decades it has been a Teutonic boast that illiteracy did not exist in the Empire. Yet always it was admitted, grudgingly, to be sure, that there was a lacking essential. Machine-made and machine-driven education was not making the proper kind of men and women. How firmly the feeling of dissatisfaction with the system was fixed is shown by the historic utterance of Von Bethmann-Holweg on February 11, 1911, in the Reichstag: "The fear that we may not be working along the right lines in the education of our youth is the cause of great anxiety to many people in Germany. We shall not solve this problem by shunning it."

Under the guise of nationalizing the public-school system of the United States efforts are being made to introduce, through a congressional enactment, precisely the system that the Prussian autocrats utilized a century ago. It is purposed to direct curriculum and the training of teachers from the banks of the Potomac and to place in the President's Cabinet a secretary of public education. There are proffered to finance the weak States and districts subventions from the Treasury. An end, and a sudden end, should be put to these machinations. It is a cardinal principle that control of education should be kept close to the people. Vast, indeed, was the concession of the family to a State when authority over teaching of the children was surrendered in part. As a compensation the voters were clothed with power to choose the educators and supervise the curriculum, and they have guarded it with commendable jealousy.

To forego this privilege of controlling the throttle and to relinquish it to Federal officials miles away and under political influence is unthinkable.

In other words, Mr. Chairman, in this bill one of the most prominent things is the open, plain bribe that is offered for its passage. How can any man in this House go back home and look his constituents in the face and say to them, "Yes; I voted for this bill. It is going to tax you by a Federal law, and then when we get to enjoying the benefits under it you have got to

tax yourselves again in order to come in under it." I do not think they will like it.

If the proponents of this plan desire only to assist the poverty-stricken schools, as they profess, this can be done without adding to the legislation the dangerous right of declaring how the money shall be spent and for what ends. Federalization of education is a serpent that ought first to be scotched and then slain.

Pardon me if I quote from another editorial from the Cincinnati Enquirer of November 22, 1920. The editorial is entitled "No Caesar's tribute for education":

There persists, despite the skilled and professional opposition to it, the movement for the nationalization of education in the United States. It is in vain that the admitted sorry failures of the plan in Germany and France are urged against it, as well as the invasion of State and individual rights, the establishment of such a supergovernment would entail in free America.

What is now being sought in the United States is the creation of a new Cabinet portfolio, that of education, and the consolidation in the new department of all the educational activities now operating. To this will be added supervisory power over education in the various States, administered, of course, by trained pedagogues whose services would compel commensurately large salaries. Besides there would have to be maintained a large fund for equipment, endowment, and subvention.

At the present time, the Department of the Interior is charged with the administration of such educational matters as the Federal Government is aiding. One of its most useful functions is the gathering of statistics and general information concerning the condition and progress of education. Another is the handling of the funds for the support of agricultural and mechanical departments in endowed colleges. It looks after the Alaskan schools as well and supervises the reindeer industry there.

The assumption of control of education in the States through fixing a general curriculum for the schools and establishing certain standards in pedagogy is entirely a different matter. If freedom of thought is wanted anywhere, it is in the schools. It would be far better if ignorance of letters prevailed than to have the race taught by educational Helots, because the one would keep liberty alive, and the other would invite that most dangerous of all national diseases—intellectual slavery. Proud Russia fell and dragged down dependent Germany with her because of this very disorder of the body politic.

There is just now an outcry against this spread of bureaucracy in this country, and with it there has been given a promise by the incoming administration that it shall be curbed and confined. In view of this fact it is difficult to reconcile with these promises the prospect of the creation of a gigantic educational machine whose initial request for funds is measured by the gigantic figure of \$100,000,000. It is dizzying to contemplate the number of place holders the system would create, and the continuous growth of maintaining it.

Initially, the matter of education is a family function, and the further away from that standard control is taken the worse for the community the venture will be. There is no weakness in the present system now supervised by the State that calls for Federal intervention. Of old it was written:

"Ye shall know the truth, and the truth will make ye free."  
The absolute necessity of life-to-day is freedom to become informed. The boundless universe is none too large for those who speak the truth upon which liberty of conscience and action is founded. Not centralization of more power at Washington is wanted but decentralization of that now existing there. It is well enough to pay Caesar's tribute there, but not a penny should be given for things that might interfere with the God-given right of free and untrammelled education.

I could go on and fill the RECORD with excerpts from the leading journals and from the public addresses of prominent men of practical wisdom from one end of the country to the other. But I will not do so. The reason that I have made these quotations is because every argument employed is just as apposite and cogent when applied to the Sheppard-Towner bill as when applied to the Smith-Towner bill and all of that brood of bills to which I have previously called your attention.

Gentlemen of the House, you can pass this bill, not by your sincere convictions, as I honestly believe, but solely through political considerations. But if you do, remember my warning—that unless this House is in agreement with the gentleman from New York [Mr. LONDON], you will be called upon to face one by one all of these insidious propositions sooner or later, for they are all socialistic beads strung on one string and manipulated by a determined and settled propaganda to socialize the Government—a propaganda which has been going on conspicuously for the last 10 years. In conclusion, let me say that if you favor supplanting representative democracy by socialized democracy, vote for this bill, but do not delude yourselves with the idea that there is no machination nation-wide in its character that is organized for this purpose and which will work while you sleep and compel you to weakly yield to its demands, if the vote on this bill be a sample of your strength.

The CHAIRMAN. The time of the gentleman from Delaware has expired.

Mr. HILL. Mr. Chairman, I ask that the gentleman may be permitted to proceed for an hour by unanimous consent.

Mr. LAYTON. No; I only want two minutes more.

Mr. STAFFORD. Mr. Chairman, I ask unanimous consent that the gentleman may have five minutes more.

The CHAIRMAN. The gentleman from Wisconsin asks unanimous consent that the gentleman from Delaware may proceed for five minutes more. Is there objection?

There was no objection.

Mr. LAYTON. Gentlemen of the House, I must repeat what I have said. I want to repeat it earnestly. I want to repeat it without offense. I want to repeat it, however, from the deepest convictions that I possess. If you pass this bill not by your sincere convictions, as I honestly believe, but solely through political considerations, remember my warning. You will be called upon to face one by one all of these insidious propositions sooner or later.

Now, Mr. Chairman, I shall conclude by asking leave to place in the RECORD a justification for my action in this matter. It is a telegram sent to me by the Secretary of the New Castle Medical Society of Delaware, representing more than half of the physicians of my State, and I will say representing some most able physicians. In fact, they are a fine body of medical men. I want to place this in the RECORD for the reason that it justifies my intrusion upon your time. I wish to read it:

THE NEW CASTLE COUNTY MEDICAL SOCIETY,  
Wilmington, Del., November 17, 1921.

HON. CALEB R. LAYTON,  
Representative from Delaware.

SIR: On November 15, 1921, the New Castle County Medical Society of Delaware took this action in regard to the congressional bill known as the Sheppard-Towner bill, namely: That this society commends you on your declaration against this bill and urges you to vote against it when you have the opportunity.

Respectfully,

ELI NICHOLS, Secretary.

[Prolonged applause.]

The CHAIRMAN. The gentleman from Kentucky [Mr. BARKLEY] is recognized for one hour.

Mr. BARKLEY. Mr. Chairman and gentlemen of the committee, I approach the discussion of this measure as its sympathetic and genuine friend. I desire in the time I shall occupy not only to call attention to some of the virtues which I think the measure possesses, but I desire also to call attention to some of the opposition and to criticisms that have been hurled at this bill by those who have opposed it.

Before I do that I wish to correct what I think was an unintentional injustice done to the Committee on Interstate and Foreign Commerce by our distinguished chairman, the gentleman from Massachusetts [Mr. WINSLOW], at the outset of his remarks, when, as I think, he conveyed the impression that this bill was here upon report from the Committee on Interstate and Foreign Commerce because that committee desired to "pass the buck" to the House and then leave it to the House to determine whether the bill ought to be passed. I think I speak for a majority of the members of the committee when I suggest that the committee did not report this bill to the House as a buck-passing proposition.

In the Sixty-sixth Congress the Committee on Interstate and Foreign Commerce by a unanimous vote, if I am not mistaken, reported a similar bill to the House of Representatives after it had passed the Senate by an overwhelming majority. When this bill was introduced in the House during this session by the gentleman from Iowa [Mr. TOWNER], it was introduced, if I recall aright, in the exact form in which it had been reported by the Committee on Interstate and Foreign Commerce of the House in the last Congress, and that form was very similar to the provisions of the bill as it passed the Senate during the early days of the present session.

I think the attitude of the Committee on Interstate and Foreign Commerce may be more correctly stated as being about this: There has been very violent and consistent and insistent and honest opposition, I will say, on the part of many people outside of the Halls of Congress and by a considerable number on the inside, including members of the committee. If the committee had been called upon to vote yes or no on the proposition of reporting this bill in the House in the form in which it was introduced by the gentleman from Iowa or in the form in which it was passed in the Senate, I think it is fair to say that the committee would have reported it in that form. But on account of the opposition to the bill both outside and inside the committee, on account of the opposition that has been very persistent and in some respects virulent and vicious, especially on the outside of the committee, we have as a committee undertaken to consider all of the objections, and I think the fact that we have stricken out the language of the Senate bill and substituted the language that has been put in by the committee is evidence of the fact that the committee, notwithstanding its willingness, if necessary, to vote the bill out as originally proposed, was willing to meet, so far as it was possible, the objections of



those opposed to the bill; and that is the reason why we reported it in the language which now appears as the House amendment. The committee as a whole has acted in good faith, and there has been no time when a majority of the members were not ready and anxious to bring this measure before the House for favorable action.

Mr. Chairman, I feel that the committee is entitled to that statement, because I do not think the gentleman from Massachusetts [Mr. WINSLOW] desires to leave the House under the impression that we have voted this bill out in order to get rid of it, although that is perhaps the impression that he did leave by the suggestion that he made.

I realize how difficult it is sometimes for men to distinguish between governmental activities that are socialistic and governmental activities that are not socialistic. I suppose we might broadly say that all governmental activities are to some extent socialistic, to the extent that they have, in the very nature of things, to deal with the problems that in some sense appeal to or affect our social welfare. When our forefathers framed the Constitution of the United States they set out certain purposes which were to be accomplished by that great document, which Mr. Gladstone has described as the greatest document that ever fell from the brain of man in any particular period of the history of mankind. Among those things set out as the objects of that document was a provision for the common defense and for the general welfare of the people of the United States. Objections have been raised to this measure upon the ground that it is unconstitutional. I suppose that some gentleman will rise in his place here before the debate is concluded and declare that he is against this particular measure because of its unconstitutionality. I do not desire to impugn the motives of any man who speaks against this bill, nor do I desire to reflect upon his intellectual integrity or his judgment of the constitutionality of this or any other measure, but, it is inconceivable to me how a man can conclude that a measure of this kind is unconstitutional. If it has no other basis, constitutionally, for its legality, it is surely based upon the preamble of the Constitution which gives Congress the power to provide for the general welfare of the people of the United States.

I know of no more legitimate or effective way by which Congress can provide for the general welfare of the people than by making an effort to provide for their health. I do not think that provision should be limited to adults who happen to be fortunate enough to reach the age of maturity, but it ought to apply as well to those who have just been born into the world, who have a right to expect that they will have an equal chance with every other child in the world, not only to be born in health and proper environment, but an equal chance to survive after they have been brought into the world.

Mr. LAYTON. Mr. Chairman, will the gentleman yield to me for a question there?

Mr. BARKLEY. I prefer to wait a little later; then I should be very glad to answer the gentleman if I can. As far as the constitutionality of this measure is concerned, we have many precedents for legislation of this kind. The Constitution provides that the States may have a militia; but during the last 25 or 30 years we have provided that the Federal Government may purchase, by expenditure of its money, raised by Federal taxation, certain things for the encouragement and equipment of a State militia which is under the control of the State governments and authorities. We have provided by legislation from time to time that the proceeds of the sale of certain public lands might be devoted to matters of education by cooperating with the States, and that money has been paid out of the Treasury and is now being paid out of the Treasury for the assistance of some particular educational institutions in the various States. I do not recall that anyone raised the question of constitutionality when those provisions were made. Not only that, but under the Smith-Lever law, which is now in force, under the Smith-Hughes Act, which is now in force, and under other acts—the good roads act, particularly—the United States Government, acting under the provisions and the authority conferred by the Constitution, has appropriated out of the Treasury money for the purpose of cooperating with the States in not only the building of the roads but in the education of their people and in the advancement of their social and intellectual welfare.

Mr. LAYTON. Mr. Chairman, will the gentleman now yield for a question?

Mr. BARKLEY. Yes.

Mr. LAYTON. The point I want to make, and that is my whole attitude—

Mr. BARKLEY. Oh, I know the gentleman's attitude.

Mr. LAYTON. My point is this—

Mr. BARKLEY. I gather from the gentleman's remarks that he is against the bill.

Mr. LAYTON. I am, for this reason, and I am trying to give the gentleman the reasons. Can we not just as readily—and I would like to have a categorical answer—just as easily, under the general-welfare clause of the Constitution, have a bureau in Washington for the foodless, another bureau for the clothesless, another bureau for the houseless, and under that general-welfare clause do anything that the most radical socialist in the world demands?

Mr. BARKLEY. I am inclined to think that under the general-welfare clause Congress could do all of those things without violating the Constitution. Whether it desires to do them is another question, and I am not in the least bit frightened or intimidated by the gentleman's use of the word "socialistic."

Mr. WINGO. Mr. Chairman, will the gentleman yield?

Mr. BARKLEY. Yes; but I shall have to insist upon going on after this.

Mr. WINGO. Can the gentleman from Kentucky follow the genial gentleman from Delaware and make a distinction, so far as socialism is concerned, as between the Congress undertaking to tell the farmer what the texture of his berry baskets shall be and a bill that will undertake to take care of his children and the public welfare.

Mr. BARKLEY. It depends a good deal on whose berry basket is being gored, but there is no difference so far as the socialistic idea is concerned.

Mr. WINGO. There is no difference in theory, both being founded on the public welfare.

Mr. BARKLEY. It has been established by several laws which Congress has enacted, some of which have been passed upon by the Supreme Court of the United States, that Congress has the right under numerous provisions of the Constitution to appropriate money. The Constitution places no limit upon the ability or the power of Congress to appropriate money, otherwise we could not appropriate money for thousands of things which we appropriate for, and we would be limited in many of the activities of our appropriation bills which we enact from year to year. Congress has established the precedent of appropriating money out of the Public Treasury in order to co-operate with the States in advancing the welfare not only of the States as individual States and as component parts of the Nation but as a whole people and the welfare of all the people, and I think there is no question that this bill at least is not subject to the criticism that it is unconstitutional. If that be true, then the question arises, Is it desirable legislation? That leads me to discuss for a few minutes a question of the need for this legislation. I am not one of those who think that the Nation is going to be destroyed or that the stars of heaven are going to fall if this bill should not be enacted into law. The same thing might be said of many forms of legislation which we pass here, but the question which Congress, and the House particularly at this time, ought to consider is whether it is desirable, whether it is needful legislation, whether its enactment will result in the general welfare and advancement of the people of the United States socially, economically, morally, and in every other way.

As I said a while ago, we can not do anything that will not have some effect on the social welfare of the Nation. I want to reply to another suggestion by the gentleman from Delaware that if this bill is passed—and the gentleman from Delaware undertook to convey the impression—that if the bill is passed it is not to be passed because it follows the judgment and conscience of the membership of this House, but we are to pass it because of some lobby that has been able to intimidate and scare us into voting for the bill. So far as I am concerned, I resent that insinuation and reflection upon the membership of the House. I believe that the House of Representatives is just as courageous as the Senate of the United States and just as courageous as any legislature of any other State, and that it is as courageous in its collective capacity as any member in his individual capacity. [Applause.]

Now, is this legislation desirable? Some eight or ten years ago we established in the Department of Labor what is known as the Children's Bureau, and, among other things, some of the duties which were conferred upon that bureau were to investigate and report upon the question of child life and child hygiene and infant mortality in the United States. There has been a question raised from time to time why it was placed in the Department of Labor. It is not necessary to discuss that now; it is in the Department of Labor and it was placed there because the Department of Labor has largely to do with the conditions of labor throughout the country, and the conditions of labor throughout the country have very materially affected the infant as well as the adult mortality of different sections of the

United States. During the investigation by the Children's Bureau startling facts have been revealed in regard to infant mortality and maternal mortality in the United States. There are only about 26 States and the District of Columbia which are in the vital statistics area, where there is a law requiring that there shall be vital statistics as to births and deaths, and therefore it is impossible to obtain statistics and results in 48 States because in only about 25 or 26 of them is there a law requiring statistics of births and deaths.

Mr. GOODYKOONTZ. Will the gentleman yield for a slight interruption?

Mr. BARKLEY. I will.

Mr. GOODYKOONTZ. I want to say that on to-morrow we are going to be down at Newport News to put a new battleship on the ways, the *West Virginia*, and I can not be here to participate. I want to say that I am with the gentleman in this proposition. We are getting tired of this nonsensical talk about spinsters going around the country teaching the mother what to do. We know that the Greeks always tried to develop strong children and strong soldiers and able men. Now, what I want to do at this time is to ask unanimous consent to extend my remarks in the Record on this bill and say a few words to the ladies of the country, the gentleman from Delaware to the contrary notwithstanding.

The CHAIRMAN. The gentleman from West Virginia asks unanimous consent to extend his remarks in the Record on the bill. Is there objection?

There was no objection.

Mr. BARKLEY. I hope the gentleman will not extend his remarks too extensively in the vitals of my speech. [Laughter.] During the investigations made by the bureau facts have been developed which have resulted in the introduction of this bill. It has resulted in a conviction among all those familiar with the subject that something of this sort is necessary. Something must be done to preserve the lives of children and mothers in this Nation. It has developed that more than 300,000 children in the United States die every year under 1 year of age. It is a very startling fact that among the whole number born in the United States every year more than 300,000 of them die under 1 year of age, and 47 per cent of those that die under 1 year of age die under 1 month of age, and that 33½ per cent of all those who die in that year die under 1 week of age. It has been testified to by an eminent medical authority whose word I believe and whose knowledge of this subject I have faith in that the majority of infants that die under 1 month of age die from causes that are connected with prenatal conditions of the mother prior to the birth of the child and at the time of its birth.

Mr. STAFFORD. Will the gentleman yield in that particular?

Mr. BARKLEY. Yes.

Mr. STAFFORD. In the hearings which I read last evening on this subject—and I did not read them all—I was surprised at the statement of one expert that the mortality among infants of one month or less is 7.4 per thousand among American native-born mothers, and only 5.6 among those of foreign-born parents. Will the gentleman inform me—because I did not have time to read the entire hearings—whether it was disclosed the reason of that great discrepancy between American and foreign born mothers?

Mr. BARKLEY. I think that statement was made by Dr. Baker, who is connected with the Health Department of the city of New York, and she said that those figures applied to New York. I do not think they apply to the whole country. The reason they are true of New York is the fact that the foreign-born mothers were more eager to take advantage of the service that is being rendered in the city of New York based on similar provisions to those in this bill, and by reason of their eagerness to use every facility placed at their disposal by the New York health department.

Mr. DENISON. Will the gentleman yield?

Mr. BARKLEY. Yes.

Mr. DENISON. I want to suggest that another explanation is that the foreign-born mothers come from other countries where they are accustomed to the very thing provided for in this bill.

Mr. BARKLEY. That explains the reason why they are more eager to take advantage of it.

Mr. KINDRED. Will the gentleman yield?

Mr. BARKLEY. Yes.

Mr. KINDRED. Is it not a fact that foreign-born mothers have been accustomed to great muscular development and are better prepared for childbirth than are the American women?

Mr. BARKLEY. I am going to yield now, but then I desire to get on. I did not know the gentleman wanted an answer to the question. I thought he was making a statement. That may be true to some extent, but I do not believe that fact alone would explain the difference in the death rate of native and foreign born mothers in New York due to childbirth.

Mr. KINDRED. I will yield gladly to have the gentleman answer.

Mr. BARKLEY. I am not in the position of an expert to pass upon the muscular development of foreign-born people.

Mr. KINDRED. Could the gentleman—and this is the only interruption I want to make—answer in regard to whether they were preventable causes of death of the 300,000 children which it is alleged die as a result of the lack of an agency which will be provided by this bill? How many die through preventable causes and through causes that are not preventable, such as abnormal presentation at birth, for instance?

Mr. BARKLEY. Of course, I can not give the gentleman accurate information in regard to the percentage of that 300,000 whose death could be prevented. That is to some extent speculative. But 47 per cent of them die under one month of age. The testimony before the committee is that the majority, more than 50 per cent of those who die under 1 month, die from causes connected with prenatal conditions which could have been prevented if ignorance and poverty had been relieved in some way or information brought to prospective mothers concerning the rules of hygiene and good health and proper prenatal care.

Mr. KINDRED. In other words, it is inferred they die from preventable causes?

Mr. BARKLEY. It is not inferred that they all die of preventable causes. In the gentleman's own State 13 years ago the department of health of New York established this very work. It has been indorsed by every responsible medical society in the city of New York, and a few years ago when the city administration was threatening to withhold the appropriation for this work there was danger of a monstrous parade before the City Hall to demand that this appropriation be continued. New York City alone appropriates \$900,000 for this very work. That is in the great city of New York, and every medical society in New York indorsed it and requested that it be continued by the government of that city. [Applause.]

Mr. KINDRED. My State does its work so well that we do not need Federal interference in this manner.

Mr. BARKLEY. I am willing to accept the gentleman's statement that if all the States and cities were doing as well as New York City, we would not be here at this time asking Congress to pass this measure, but unfortunately that is not being done. Thirteen years ago when you began this work in New York 144 babies out of every 1,000 born in a year died, and that in the great city of New York. Last year, 13 years after that work was begun, the percentage of deaths had been reduced from 144 per 1,000 to 85 babies out of every 1,000 born in the city of New York. The work had been carried on there so successfully to the great benefit of the people of New York that the birth rate among children who died under 1 year of age had been decreased almost one-half by the results of this work in that great metropolis. [Applause.]

Mr. BANKHEAD. Will the gentleman yield?

Mr. BARKLEY. I will.

Mr. BANKHEAD. Does not the same evidence show that there is the same approximate decrease in the percentage of deaths of mothers?

Mr. BARKLEY. Practically the same decrease in the deaths of mothers.

Mr. LAYTON. As a matter of fact, does not the city of New York owe a great deal of its success by supplying not only medical treatment, drugs, and so forth, but—

Mr. BARKLEY. Well, I am not so sure. They might in the hospitals. They certainly have clinics and visiting nurses that might find some family in destitute circumstances and some expectant mother and provide the physical requirements, but the gentleman from Delaware would not be in favor of this bill if it established a commissary in front of every home where a child was expected to be born?

Mr. LAYTON. No; I would not.

Mr. BARKLEY. It would be impossible for this bill to be amended so as to appeal to the mental proclivities of the gentleman from Delaware. More than one-third of all the children who die in a year under 1 year of age die within less than a week after they are born. In view of this it has been stated by an eminent scientist that the average child born has not as much chance to live a week as the average man who is 90 years of age. Now, in view of this enormous death rate, in



view of the feeling which has come about in all the different countries which have tried it, I ask whether the United States Government is now going to halt or to hesitate or to oppose a great humanitarian measure such as this which is designed to save human life. Are we any less solicitous about the lives of our children than about the lives of our pigs and cows? We appropriate millions each year to save the lives of dumb animals.

Mr. GREENE of Vermont. Will the gentleman yield for me to answer?

Mr. BARKLEY. If the gentleman poses as an expert, I am willing for him to answer it.

Mr. GREENE of Vermont. No. I meant to approach the question with the same respect for the gentleman that I thought he had for me.

Mr. BARKLEY. I have the greatest respect for the gentleman, and I have the greatest respect for his inquiry, but he arose with such alacrity that I thought he might qualify as an expert. I will be delighted to yield to the gentleman. If we can justify our appropriations—and we do justify and indorse them—for the saving of animals, can we not with greater force justify our efforts to save the lives of mothers and their children?

Mr. GREENE of Vermont. I would like to ask the gentleman if we save the pigs for the pigs' sake?

Mr. BARKLEY. No.

Mr. GREENE of Vermont. We save them so that we may have the animals to slaughter for these mothers and children.

Mr. BARKLEY. Yes; and we save them, too, for the reason that we do not desire to lose the economic value of the pigs.

Mr. GREENE of Vermont. It is the same thing.

Mr. BARKLEY. It is hardly the same thing. I am not willing to view the life of a hog from the standpoint of food for expectant mothers or fathers either, so far as that is concerned, and then deny to that mother or her child any assistance in the effort to save their lives. [Applause.]

Mr. GREENE of Vermont. But the gentleman insists on showing how much the Federal Government spends on pigs and other live stock and contrasts it with not spending any money on babies, and this is used on the theory that we have a sentimental relationship toward the pig but we do not have any toward our children. Anybody who looks the thing in the face and applies logic to it knows that we do not save the pig for the pig's sake. It is not any eleemosynary effort on our part to save the pig for the sake of the pig. We save it to eat it.

Mr. BARKLEY. We save the pig not for the pig's sake, of course, but because of the pig's value. We desire to save the baby for the baby's sake. That is the difference. [Applause.]

Mr. LONDON. Will the gentleman yield for a short question?

Mr. BARKLEY. Yes.

Mr. LONDON. The Department of Agriculture spends money out of the Treasury of the United States to teach how to breed cattle, does it not?

Mr. BARKLEY. Yes.

Mr. LONDON. And to impart other valuable information to the agricultural classes of the people. Now, the only thing this bill does is to aid the educational facilities of certain bureaus of the Government; is not that true?

Mr. BARKLEY. Absolutely.

Mr. LONDON. That is all the bill does?

Mr. BARKLEY. The gentleman from Vermont has misconceived my intention or my purpose in suggesting the appropriation for hogs and cattle if he thinks that I for a moment attach any sentimentality to the saving of the lives of dumb animals. It is a cold question of economic values.

Mr. GREENE of Vermont. I did not mean to draw that from the gentleman's speech.

Mr. BARKLEY. The mere fact that we are willing to spend millions of dollars in order to save the lives of animals for their economic value to us as a Nation, or even from the standpoint of food, which may have some sentimental attachment in connection with it, is the very reason why we ought, if necessary, to yield to the sentiments which actuate our hearts in a desire to save the lives of infant children, who have the right to live, who are brought into the world without their consent and knowledge, and who have a right to expect at least that society will give them an even chance with the dumb animals to preserve their lives. [Applause.]

Mr. GREENE of Vermont. The question that the gentleman means to impose is not one of humanitarianism. It is a question of where it is the duty to save the lives of animals that human beings eat. That is the question at issue. So these statistics about poor pigs having an untimely death do not come into reckoning.

Mr. BARKLEY. The thing I am calling attention to is the fact that we have a constitutional right, and I am attempting to exercise the constitutional argument, to appropriate money out of the Treasury in order to save the lives of dumb animals for whatever purpose those lives may be saved, and we have not only the same right, but owe it as a duty, to do that much for the saving of human life, for which all of these activities are supposed to be intended.

Mr. GREENE of Vermont. I will say to the gentleman that having a right also implies some judgment as to when to use it.

Mr. BARKLEY. I think that is a legitimate suggestion.

Mr. GREENE of Vermont. I do not doubt the constitutionality of it.

Mr. BARKLEY. It is in your mind that it is not the duty of the Federal Government to do it, but some local authority?

Mr. GREENE of Vermont. Yes.

Mr. BARKLEY. Do you think the same duty involves upon all of the localities—State, counties, and cities—to perform all these other duties that the Congress has taken over in the appropriation of money to cooperate with the States?

Mr. GREENE of Vermont. I do not think many of them can be used as a precedent. I do not think that two wrongs make a right.

Mr. GRAHAM of Illinois. I may suggest to the gentleman that pigs collectively are a national asset, as mothers and babies collectively are a national asset. Does not he believe the health of the mothers and babies of the country and their conservation is as great a national asset as the conservation of pigs?

Mr. GREENE of Vermont. In starting originally in our scheme of things it was thought that the liberty of the women and children in the homes was the greatest asset we had, because that was the root of national liberty itself. [Applause.]

Mr. BARKLEY. I do not care to take up too much of my time talking about swine. I suggested that as an argument why we ought not to run away from the saving of women and children. As far as the invasion of the home is concerned, as the gentleman has suggested, not only does this bill not permit that, but it prohibits it entirely. In New York City, and even in Boston, and in every other place where this work is being performed, there is no authority to invade the home of any man or woman against their will and consent, and there is no effort made to do it, and in order that we might safeguard the provisions of this bill, and in order that we might meet the opposition of some people who are afraid that we were going to establish a national office force and go over the country and invade the homes of the people against their desire, we have specifically provided against that in the bill.

Mr. GREENE of Vermont. I would like to suggest to the gentleman as an experienced and able legislator, that he knows that no Congress can bind its successor; and once you open the door to a policy and embark upon it and hand it down to other Congresses, they will amplify it.

Mr. BARKLEY. Well, of course, no Congress can bind its successor, but every Congress has a right to assume that its successor will be at least as wise as it is, which may or may not be a compliment to the successor. [Laughter.]

Mr. GOODYKOONTZ. Mr. Chairman, will the gentleman yield?

Mr. BARKLEY. I yield to the gentleman.

Mr. GOODYKOONTZ. I want to observe this fact: I think it is a disgrace that the babies of this country that are to develop into men and women of the future should be compared with that porcine animal, the pig. [Laughter.]

Mr. BARKLEY. The gentleman is correct. But I am sure he does not wish to give the pigs any advantage over the babies.

Mr. BLACK. Will the gentleman yield?

Mr. BARKLEY. Yes.

Mr. BLACK. I wanted to call this fact to the attention of the gentleman in reference to these appropriations. Each year there is paid to the Public Health Service a lump-sum appropriation for the purpose of combating epidemic diseases, just as appropriations are made to the Department of Agriculture for combating the epidemic disease of hog cholera among the hogs, and just as appropriations are made to combat an epidemic disease among cattle, to wit, tuberculosis. Now, when there was a ravage of infantile paralysis in the country, very properly the Public Health Service used that appropriation to combat that disease. Personally, I have always supported an appropriation of that kind to put down epidemic disease among children and adults, just as I do for the Department of Agriculture, but I think it is a very different matter.

Mr. BARKLEY. Then the gentleman agrees with the purpose of this bill in principle, but objects to the agency through which it is to be carried out.

That leads me to suggest this: There was a decided difference of opinion among the various members of the committee, and also among those who appeared before the committee, as to whether this legislation ought to be administered by the Public Health Service or by the Children's Bureau.

The committee came to the conclusion, and I think wisely, that the necessity for this legislation or the desire or need for it at least had been brought about by investigations which have been conducted from time to time all over the country by the Children's Bureau; that the Children's Bureau was created specifically and definitely to deal with the question of infant mortality and maternal mortality, and had developed the facts which made this legislation desirable, and being especially equipped for this work the administration of it should be entrusted to it. I want to say that there is not any branch of the Government for which I have a higher respect than I have for the Public Health Service of the United States. It has more than demonstrated its effectiveness and worth to the people of the United States.

I do not believe that there are very many Members on this floor or very many people in the United States who agree with the proposition laid down by the gentleman from Delaware [Mr. LAYTON], that the Public Health Service ought to be abolished. But when we came to decide which agency of the Government ought to administer this law the committee felt that it ought to be administered by the Children's Bureau, which by its investigations had developed the need of the law and which was better equipped for the purpose than any other branch of the Federal Government. Therefore, in this bill the committee has made the Chief of the Children's Bureau the executive officer in the administration of this law.

Gentlemen have expressed opposition here from time to time, and we have gotten circular letters and other letters from people who have been lobbying here against this bill; and while mention has been made of the enormous lobby advocating this bill, I think it is not more evident and not more insistent than the one that has been haunting our footsteps and the corridors of the Capitol against the bill. But they have a right to be here, just as those who favor the bill have a right to be here, and I have no complaint to make against them, whether they are for the bill or against it.

One of the things originally urged against this bill was that it would establish a system of Government medicine, that we were going to send doctors around the country to perform obstetric services in the homes of the people of the country against their will and whether they wanted them or not, and that we were going to set up a national school of medicine. That was one of the objections to the proposed law and that was one of the reasons, especially it was one of my reasons, for voting to place this work under the Children's Bureau. The Public Health Service is primarily a medical function of the Government. It is presided over by medical men, and its force, which is scattered all over the country, is made up very largely of medical men. If the object had been to place the administration of this law under the Public Health Service, there might have been given some color to the fear of those who dreaded the establishment of a recognized Government school of medicine. That is the thing that we desired to steer clear of, and that is one reason, among others, why it was deemed wise to place this work under the control of the Children's Bureau. It is placed partially in the control of a board of three, one of which is to be the Surgeon General of the Public Health Service, at present Dr. Cumming, for whom I have the utmost respect, not only as to his character but as to his judgment and good faith in the exercise of these duties. The other member of the board is to be the United States Commissioner of Education. This being a matter of the dissemination of knowledge among the people about hygiene and health measures before and after the birth of children and in some degree educational, we felt that as representing the educational forces of the Nation the Commissioner of Education ought to be a member of the board. Of course, the Chief of the Children's Bureau, being the executive officer to administer it, ought also to be a member of that board.

In that way we met the objections of those who have feared that the Government wanted to recognize and establish a particular school of medicine in the United States and send its doctors around to attend patients. There was never any ground for that fear, but some people seemed to be obsessed with it.

Mr. BANKHEAD. Mr. Chairman, will the gentleman yield?  
Mr. BARKLEY. Yes.

Mr. BANKHEAD. The gentleman from Delaware [Mr. LAYTON] asserted that the medical profession as a whole throughout the country was against this bill. I will ask the gentleman from Kentucky if there were any representatives of the medical profession present at the hearings in opposition to this bill as it is now reported to this House?

Mr. BARKLEY. No, sir; there was not. There were only two or three witnesses who appeared in their capacity as physicians to testify against the bill, and they did not represent any medical society or any organized society of medicine, but appeared individually. But I wish to say that in a convention of all the health officers of the United States, representing 48 States, a resolution was passed indorsing the provisions of the original Sheppard-Towner bill, which had been amended to meet some of the objections of those against the bill.

Mr. CONNALLY of Texas. Will the gentleman yield?

Mr. BARKLEY. Yes.

Mr. CONNALLY of Texas. Is the Chief of the Children's Bureau a physician?

Mr. BARKLEY. I do not know about that. The late Chief of the Children's Bureau, Miss Lathrop, was not a physician. I do not know whether the present incumbent is a physician or not, but I am inclined to think she is.

Mr. KINDRED. No.

Mr. HILL. Will the gentleman yield?

Mr. BARKLEY. Yes.

Mr. HILL. Has the committee held any hearings on the bill in its present form?

Mr. BARKLEY. Of course not; the bill in its present form is a bill based on the hearings that we held for two or three weeks.

Mr. HILL. The gentleman stated that no medical man had appeared against the bill in its present form. There has been no opportunity.

Mr. BARKLEY. No medical man appeared against the bill in its original form who represented any medical society. On the contrary, I think a majority of the witnesses who testified in favor of the bill were practicing physicians from various places, and one of these men who appeared in favor of the bill was the distinguished physician of the President of the United States, Brig. Gen. Charles E. Sawyer.

Mr. GARRETT of Tennessee. Will the gentleman yield? I want to ask the gentleman if he spoke as a doctor or as a soldier?

Mr. BARKLEY. I am glad to say that he talked as a doctor.

Mr. HILL. Will the gentleman allow me to read what the chief obstetrician of the Johns Hopkins University said against the bureau?

Mr. BARKLEY. I hope the gentleman will do that in his own time. Dr. Williams indorsed the bill in one statement before the Senate committee. He may have given another statement to the gentleman.

Mr. HILL. Johns Hopkins Hospital is in my district, and I understood that he was against the bill.

Mr. BARKLEY. In spite of that fact I am still in favor of Johns Hopkins University. [Laughter.]

Mr. HILL. I think the gentleman is using what he has called "white horse sense."

Mr. BARKLEY. That ought to appeal to the equestrian gentleman from Maryland.

Mr. BROOKS of Pennsylvania. Will the gentleman yield?

Mr. BARKLEY. I will.

Mr. BROOKS of Pennsylvania. My home town is York, Pa. We have a population of about 60,000. In that town we have a hospital, we have a health board, we have a visiting nurses' association, and everything is done that is possible to take care of the sick in the community. What I want to know is: What would be the practical operation of the bill in a community like that?

Mr. BARKLEY. If the community does not need the service it will not be forced upon it. Some advocates of this bill who come from New York City have testified as to the wonderful work being done there and were frank enough to say that New York City would not benefit in any particular by the passage of this legislation; that they are already doing the work, and all that they could do under the present circumstances; and they will not need it. But they were liberal enough to state that while New York does not need it New York is willing to make such contribution as may be required in order that the work may be done throughout the United States. [Applause.] In all probability if York, Pa., is now equipped as well as any other section may be equipped, under the bill, financially speaking, you may not derive any benefit under the law. I feel sure that the citizens of York, Pa., represented by the amiable gentleman from Pennsylvania, are will-



ing not to count this thing in their own particular local benefit but make such contribution as they can for the advancement of the national welfare regardless of the effect it may have upon them. But that would be for the decision of the State board of Pennsylvania.

Mr. BROOKS of Pennsylvania. The people of York are liberal and patriotic.

Mr. BARKLEY. I am sure of that; if not, they would not be properly represented by the genial gentleman who is now speaking. [Laughter.]

Mr. FESS. Will the gentleman yield?

Mr. BARKLEY. I will.

Mr. FESS. Is it not true that each State has established a hygiene agency, and if York, Pa., demanded it it would be entirely in the judgment of that agency?

Mr. BARKLEY. Yes; and that leads me to say that objection has been made that this sets up a great Federal authority in Washington to tell people how to doctor themselves and how they are to live. There will not be under this bill—and I say it to relieve the fears of anybody who is uneasy and fears that a Government doctor is going to break in their front door in order to administer to the needs of some family—there will not be, in all probability, a single physician sent to a single home in the United States from any authority exercised in Washington. Only 5 per cent of the entire appropriation is to be used in Washington. They must employ all assistants they have and publish all pamphlets and send out all the information they obtain with that 5 per cent, which represents only \$50,000. The actual administration of the law is to be under the State boards of health. In some few States they have already a division of child hygiene. They have to match the Federal appropriation, and with the two sums added together they can perform the duties required under the law. All States have public health departments, but some do not have a division of child hygiene.

In any State that does not have that division they will be required to establish such a division in the department of health or to designate officers already in the department of health of the State under whom the law is to be administered. They must outline certain plans. We have recognized in the amendment here that it is impossible for the Children's Bureau to set up regulations that will apply to every State. Local conditions will have to be consulted in determining what the regulations in every State will be. Therefore, we have not empowered the Children's Bureau nor this board of hygiene and maternity to issue regulations from Washington that are ironclad, rigid, inelastic, for the State boards of health, but we have provided that all these boards shall make their own regulations and submit them to this board for approval, and after approval and the money is turned over to the States, then the State board of health through this agency is to carry out the provisions of this bill under the plans which have been submitted to and approved by the board.

Mr. MILLER. Mr. Chairman, will the gentleman yield?

Mr. BARKLEY. Yes.

Mr. MILLER. My curiosity is aroused by section 8 of the bill. Many of the States have bureaus of infant child welfare, authorizing the State authority to enter the home and take from there children and subject them to hospitalization and treatment. Can a State having such a law, under section 8, participate in the distribution of this appropriation?

Mr. BARKLEY. I think the State regulations will have to comply with this law in so far as they control the money provided for in this bill.

Mr. MILLER. Then this law prohibits that?

Mr. BARKLEY. Yes. That is the intention of it, and I think it does.

Mr. MILLER. Can a State which authorizes its agents to enter the home and remove defective children and subject them to hospitalization irrespective of the desire of the parents have its regulations approved by this board?

Mr. BARKLEY. I am inclined to think that the spirit of this provision is that the State, in order to get the approval of the board for its plan, must provide that forcible entry into the home over the objection of the parents can not be made.

Mr. MILLER. Could it be possible that provision might be made for a distribution of a separate fund apart from that which the State law provides? Under the State law they could enter into the home and take the child, and would do that under funds to be supplied by the State, while the national appropriation provided for in this bill might be utilized for another service.

Mr. BARKLEY. That is a matter for the States to determine. If the State wants to create a separate fund under which it will administer its own laws, I do not think Congress could prevent it, but in so far as it applies to the administration of

this law and the expenditure of money provided by Congress, matched by the States, it can not do the thing prohibited in this law.

Mr. MILLER. Would the gentleman have any objection to an amendment providing that this appropriation shall be subject to expenditure under the general law of the State?

Mr. BARKLEY. I would have to consider that amendment. I would not want to accept it until I know the effect it might have on the general proposition. I think it is covered in a subsequent section, but as far as I am personally concerned I should be glad to consider the gentleman's suggestion. I would not want to speak for the committee.

Mr. GRAHAM of Illinois. Mr. Chairman, will the gentleman yield?

Mr. BARKLEY. Yes.

Mr. GRAHAM of Illinois. The effect of this law does not have the slightest bearing with respect to the State law relative to the control of dependent or delinquent children.

Mr. BARKLEY. Not a thing.

Mr. GRAHAM of Illinois. Those laws will operate just as if this law was not in effect.

Mr. BARKLEY. Yes; and the State may appropriate a million dollars and authorize every officer to invade every home and take diseased or indigent children to some public institution. It would not have any effect upon the administration of this law.

Mr. COCKRAN. Mr. Chairman, will the gentleman yield to me for a question?

Mr. BARKLEY. Yes.

Mr. COCKRAN. I am very reluctant to embarrass the conclusion of this speech, but there is one thing about which I should like to be enlightened. I have waited all of this time to have the gentleman reach it. I wish the gentleman would describe to the committee just what are the measures contemplated by this bill to check infant mortality. I am not speaking of the constitutional measures, but I refer to the actual measures of sanitation and precaution contemplated by this bill to check infant mortality.

Mr. BARKLEY. Of course, that is a matter it may be difficult to answer in full, because the bill, in the nature of things, can not provide the detailed regulations that will be submitted by these various boards of health in the various States. I imagine that in a general way these State boards operating under this law will provide for agencies of the board of health, either medical, nurse, or educational, that may be applied to by people who need this service. They may even establish headquarters or agencies somewhere, or they may have men and women who, operating under the laws of the States, under the jurisdiction of the State boards of health, may be available for advice and information, suggestions with reference to the proper care not only of infants after birth but of mothers prior to their birth, and that is not always a medical matter. That is very largely a sociological matter. It may result in the relief of conditions of ignorance and in some cases of poverty, but that will depend upon the measures to be advocated and adopted by the local agencies; that is, the State boards of health, with their divisions of child hygiene and maternity care, so that it is impossible to cover in any definition all of the activities that these various State agencies may be engaged in.

Whatever may be done to educate or to inform or advise expectant mothers before the birth of the child or afterwards in respect to cleanliness, sanitation, ventilation, and all the multitude of things that go to make a well woman, that are not necessarily medicinal, will be done by these local authorities in the dissemination of information and the giving of advice, and in cases perhaps of the administration of care to people who are in need of this service.

Mr. COCKRAN. Am I then correct in understanding that this is to be educational largely, rather than medical?

Mr. BARKLEY. Very largely so. It is not intended that the Government of the United States shall go into the business of furnishing doctors to wait upon people.

Mr. COOPER of Ohio. Mr. Chairman, will the gentleman yield?

Mr. BARKLEY. Yes.

Mr. COOPER of Ohio. I would like to say to the gentleman from New York [Mr. COCKRAN] that there are social organizations, social centers in his own city, and the people who have charge of that work, charge of the maternity cases and child welfare, appeared before our committee and told us of the tremendous amount of good that this educational work had done in that city, and of the large percentage of lives of women and babies that have been saved through that work.

Mr. BARKLEY. And I will say in that connection, and further replying to my friend from New York, whose suggestions

I am always delighted to have, that it is in the testimony before the committee that in the State of New York these activities are greatly sought after by the people.

The CHAIRMAN. The time of the gentleman has expired.

Mr. BARKLEY. I ask for five additional minutes.

Mr. COCKRAN. I ask unanimous consent that the gentleman's time be extended for 10 minutes.

The CHAIRMAN. The gentleman from New York asks unanimous consent that the time of the gentleman from Kentucky be extended 10 minutes. Is there objection?

Mr. RAYBURN. Mr. Chairman, reserving the right to object, I want to ask the gentleman from Massachusetts what he is going to do about this debate. Are we going along here allowing every person who gets the eye of the Chairman to have an hour? Probably only a dozen Members under that system will get to speak on this bill, whereas we may make an agreement about time. There are a great many Members who would like to say a few words, and under an agreement as to time they would get an opportunity to say something, whereas under this procedure they would be cut off.

Mr. WINSLOW. An effort was made, as the gentleman knows, to arrange for a distribution of time, that Mr. BARKLEY, the ranking Member of the minority end of the committee, should have charge of the time on that side, and the chairman of the committee have charge on this.

Mr. RAYBURN. Not at all under this arrangement.

Mr. WINSLOW. But there was an effort to bring that about, but it was objected to, and after that no more effort was made to have anybody appointed to handle the time, and we went into the Committee of the Whole, subject to the general rules of the House. Now we find ourselves confronted with the situation which the gentleman describes, and the query is whether we shall undertake to make some arrangement which would limit time by the regular parliamentary way.

Mr. RAYBURN. I am not objecting about the limitation of time. I want everybody to speak on this bill who desires to do so.

The CHAIRMAN. Is there objection?

Mr. BARKLEY. I wish the gentleman had waited until I got through instead of suspending me in midair. I am perfectly willing to go on if we reach an agreement—

Mr. RAYBURN. I think we can reach an agreement. Mr. Chairman, I reserved the right to object.

Mr. STAFFORD. We can not make an agreement in the committee.

Mr. SANDERS of Indiana. By unanimous consent we can agree as to debate terminating in committee, and I think as soon as we do that we will be willing to go into the House and divide the time.

Mr. RAYBURN. In other words, if we are going on as we are going, this debate will probably go on for 12 hours, and 12 people only will get an opportunity to speak on this bill. It was noticed that each gentleman who had the floor has used his hour and some more time. There is great interest on this bill, and if this procedure is followed with reference to Members allowed to speak, this debate will go on for a week.

Mr. WINSLOW. What does the gentleman suggest?

Mr. RAYBURN. I suggest that we get some agreement.

Mr. BARKLEY. Mr. Chairman, I withdraw the request to speak any longer. [Applause.]

Mr. RAYBURN. I think this debate should well go on for five more hours, if it is properly allotted.

Mr. CAMPBELL of Kansas. Let me suggest this—

Mr. RAYBURN. I want to state to the gentleman from Kansas this is a real discussion.

Mr. CAMPBELL of Kansas. Yes.

Mr. RAYBURN. There is no popgun stuff here, and it is a measure in which Members of the House have a general interest.

Mr. CAMPBELL of Kansas. May I suggest this—that we run on with general debate to-night as long as you wish and the bill be disposed of to-morrow?

Mr. RAYBURN. There are two or three people who have secured recognition and used three hours.

Mr. CAMPBELL of Kansas. I think we can still have a division of time—

Mr. Sisson. I do not know who has the floor. The time has been divided among several members of the committee. I think we ought to have a real division, so that those against this bill may have some opportunity to have something to say about the bill. Now I have absolutely no objection to the chairman of the committee controlling the time of the committee, but I understand that the committee has reported it unanimously. When Mr. CANNON was Speaker he always asked the committee whether or not it was a unanimous report, and if so

he recognized somebody opposed to the bill because he wanted a real debate. If you should recognize those for and against the bill you will have an equal division and proper division.

Mr. GREENE of Vermont. If we do not have any agreement as to time and every man is recognized for an hour, perhaps five, six, seven, or eight men will have an opportunity to express themselves and the rest of us can sit around and have no chance.

Mr. Sisson. That is true; I think the time ought to be divided between those who are for the bill and those who are against it. Those for the bill have already used two and a half hours to those against it using one.

Mr. MONDELL. Mr. Chairman, may I submit a unanimous-consent request? I doubt if gentlemen will desire to remain here longer than 6 o'clock, and it occurs to me we might continue debate until 6 o'clock with the time in the control of the chairman of the committee, the time to be divided equally between those for and those against the bill, and to-morrow morning, Mr. Chairman, it seems to me that we should when we convene fix a time for the closing of general debate, with the understanding that the time will be properly divided between those for and those against the bill, and that time be so arranged that we have a final vote on the bill to-morrow afternoon.

The CHAIRMAN. The Chair will state that only three gentlemen have been recognized and have spoken so far.

Mr. MONDELL. Before I ask unanimous consent, I will say that before we adjourn to-night I shall ask unanimous consent, when we are in the House, to adjourn until 11 o'clock to-morrow. But now I ask unanimous consent in the committee that the debate may continue for one hour, to be controlled by the chairman of the committee, to be divided equally between those for and against the bill.

The CHAIRMAN. Is there objection?

Mr. WALSH. Reserving the right to object, how can it be divided between those opposed and in favor of the bill when if a man is recognized he is entitled to an hour?

Mr. MONDELL. Well, if we have a unanimous-consent agreement—and that is what I was asking—to continue the debate for one hour this evening, I do not care how it is controlled; I simply suggest it be controlled by the chairman and divided by him between those for and against the bill.

Mr. WALSH. The Chairman of the Committee of the Whole?

Mr. MONDELL. The chairman of the committee reporting the bill.

Mr. WINSLOW. Mr. Chairman—

The CHAIRMAN. Is there objection?

Mr. WINSLOW. Reserving the right to object, I wish to make a statement to the Members about this matter. There is a very great call for time. An opportunity was lost by failure on the part of somebody to take technical advantage of the opportunity to request to handle the time for the opposition. So that went by, and we find ourselves in this predicament.

In consequence of the situation the chairman of the committee, who is supposed to be running this bill, I presume, has passed out certain guaranties to the members of the committee on both sides and of all shades of mind, in good faith, and I do not want that good faith shaken unless it is shaken with the knowledge that they are doing that thing. I have told them, after consulting different people, that we would run on through the evening in order that those who might wish to speak might have the opportunity unless the House decided to the contrary. With that off my mind I do not care what is done.

Mr. MONDELL. Mr. Chairman, so far as I am concerned, I shall be happy to have the House debate this question all night, but every gentleman here familiar with the practice of the House knows full well that after about 6 o'clock some one will insist upon a quorum, and that the balance of the time will be consumed in calls of the House. Now, knowing that, why not arrange for as long a debate as it is possible to secure? And that is what I had in mind.

Mr. WALSH. The gentleman appreciates it takes only a hundred Members for a quorum in the Committee of the Whole?

Mr. MONDELL. Well, Mr. Chairman, I am perfectly willing to withdraw my request and let the debate go on, with a gentleman securing time for an hour and keeping everybody else out, if that is the way the committee desires to go on and continue indefinitely. It seems to me the other way is a more orderly one. We could have an hour of debate this evening, about two hours of general debate to-morrow, and then take up the bill under the five-minute rule. Or if we could meet at 11 o'clock we could have three hours of general debate to-morrow.

Mr. COCKRAN. The gentleman give way for a question?



Mr. MONDELL. I will.

Mr. COCKRAN. Is there any pressing or capital necessity for concluding this bill even to-morrow? Is there any pressing necessity for doing so?

Mr. MONDELL. I think we should conclude it to-morrow.

Mr. COCKRAN. I think the gentleman will concede that there has been no time wasted here.

Mr. MONDELL. I am sure of that.

Mr. COCKRAN. I have no objection to these gentlemen having an hour apiece if they will give them the time. I think the whole question of when the debate shall close might be sent over until to-morrow and be decided according to the enlightenment the House might have at that time.

Mr. MONDELL. I am not asking to have any decision reached as to when the debate shall close. I was simply trying to reach an agreement whereby we might have another hour of debate this evening. I think that is about as long as Members want to stay.

Mr. LARSEN of Georgia. Reserving the right to object, a good speech was interrupted 15 minutes ago in order to fix the time. The gentleman from Kentucky was making a good speech, but was not permitted to conclude. He was denied that privilege. We have spent 15 minutes, and I think as we have spent that much time we had best fix the time now rather than to spoil a day to-morrow in agreeing to the time. I think we had better do that.

Mr. GARRETT of Tennessee. Will the gentleman yield to me for a moment? I would like to say this, that after a conference with the gentleman from Massachusetts [Mr. WINSLOW] a little while ago, and in response to inquiries made by gentlemen upon this side of the Chamber, I said to some of them, who have since left the Hall, that I understood it was the plan to run right along into the evening. I do not know that that would make any material difference with those gentlemen to whom I gave that information, but if that plan is to be changed I felt like a public statement should be made.

Mr. MONDELL. I desire to say again that we shall be very glad, indeed, to have the debate continue indefinitely this evening, but I am rather of the opinion that it will not continue indefinitely, and I am endeavoring to get an agreement for as long a debate as is practicable this evening. However, I am perfectly willing to withdraw my request.

The CHAIRMAN. Does the gentleman from Wyoming withdraw his request?

Mr. MONDELL. No. I submit my request.

The CHAIRMAN. Is there objection?

Mr. VOLK. Reserving the right to object, Mr. Chairman, inasmuch as two hours have been given to those in favor of this proposition, and inasmuch as the committee is unanimously in favor of it, may I not ask that the extra hour be consumed by those in opposition to it?

The CHAIRMAN. The proposition of the gentleman from Wyoming was to allot the time equally. Is there objection?

Mr. WINSLOW. I object.

Mr. GREENE of Vermont. Mr. Chairman, I ask for recognition.

Mr. COOPER of Ohio rose.

Mr. RAYBURN. Mr. Chairman, I unintentionally took the gentleman from Kentucky off his feet, and I am sure no one will object to his proceeding for 10 minutes. I ask unanimous consent that the gentleman from Kentucky [Mr. BARKLEY] be allowed to proceed for 10 minutes.

The CHAIRMAN. The gentleman from Texas asks unanimous consent that the time of the gentleman from Kentucky be extended 10 minutes. Is there objection?

Mr. QUIN. Reserving the right to object, Mr. Speaker, I want to know if the request of the gentleman from Wyoming went through?

The CHAIRMAN. It did not. Objection was made. Is there objection to the request of the gentleman from Texas [Mr. RAYBURN]?

There was no objection.

The CHAIRMAN. The gentleman from Kentucky [Mr. BARKLEY] is recognized for 10 minutes.

Mr. BARKLEY. Mr. Chairman and gentlemen, I hesitate to take any more of the time of the committee, but there was one thing that I desired to call attention to before I concluded, and I was prevented by the number of questions which I was called upon to answer and which, of course, I was glad to answer. When a crossfire is going on, time escapes more rapidly than we realize, and therefore I did not get an opportunity to do it.

I wanted to state that, so far as the consideration of this bill is concerned, there is no politics in it; there is no partisan politics in it; and I think in a certain degree both political

parties are committed to it. While the Republican Party platform last year did not in terms indorse this bill, I think the President, then the candidate of the Republican Party, in his speeches practically indorsed it. He came out in a speech or two in which he favored it, and in his annual message to the Congress, which he delivered in person here on the 12th day of last April, he committed, so far as he could, the party he represents to this proposition, because in the course of his message, after enumerating a lot of measures which he desired enacted, he used this language:

In the realms of education, public health, sanitation, conditions of workers in industry, child welfare, proper improvement and recreation, elimination of social vice, and many other subjects, the Government has already undertaken a considerable range of activities. I assume that the maternity bill, already strongly approved, will be enacted promptly, thus adding to our manifestations of human interest.

So that the President of the United States, so far as he could, has committed his party to the proposition which is now under discussion. So far as the Democratic Party is concerned, it is more specific, because in the platform that was adopted last year in San Francisco we find this language:

We urge cooperation with the States for the protection of child life through infant and maternity care, in the prohibition of child labor, and by adequate appropriations for the Children's Bureau and the Woman's Bureau in the Department of Labor.

So that the Democratic platform of 1920, having in view this very legislation, has committed the Democratic Party, in so far as a political platform can commit a party, to this identical legislation, not in general terms but specifically. So that both parties, I think, are committed to the enactment of this legislation, and, of course, it remains then for individual Members to determine what weight they will give to the authoritative declaration of their parties and the leaders of their parties with respect to legislation of this kind.

There are many things that I would like to discuss in connection with this bill, but they will be considered in the debate later, and we may go into more details and discussion then. In my humble judgment this is a very meritorious measure. It not only appeals to the sentiment of men but to the conscience and heart of humanity. Whatever Congress can do, whatever the Government can do, to alleviate these woeful conditions which the testimony on this measure has developed, ought to be done by the Federal Government, and I draw no fine-spun distinction between the duties of the States and the Nation in legislation of this kind. If it is a proper governmental function, it is proper both for the State and the Nation, and whatever may be for the uplift, the advancement, and the welfare of the whole American people ought to be done by Congress, and without hesitation. [Applause.]

All the activities of the Nation and of all the States with reference to health and sanitation are for the purpose of preserving human life. We appropriate millions of dollars for the support of the public-health activities of this country in order that life may be saved and that the people may enjoy that boon without which nothing is of much value. This measure proposes to do for the mothers and the children of the Nation, through cooperation with and aid to the States, that which will make it easier for them to live and enjoy that life with which God has endowed them. More than 23,000 mothers in the United States die every year in bringing their children into existence. It is not claimed that this law, or any law, can save the lives of all this vast number of noble women. But it will save many thousands of them, because where the service contemplated by this measure has been in operation the death rate of mothers from childbirth has been materially reduced, and we believe it can be done in all the Nation if the proper effort is made. We do not claim that all the lives of the 300,000 children who die every year before they are 1 year old can be saved by this measure. But, basing our belief upon the results achieved where similar measures have been tested in this and other countries, we are confident that it will achieve a success which can not be measured in money but can only be measured in the preservation of hundreds of thousands of lives of children who have a right to life. We can not escape our obligation to them upon any technical grounds. And when this measure has been enacted, as it will be, and the results of its operation are assessed by us and our successors, I believe that even those who now oppose it will give generous and worthy praise to those who conceived the plan and have labored for its fulfillment. [Applause.]

Mr. GREENE of Vermont, Mr. HILL, and Mr. KINDRED rose.

The CHAIRMAN. The Chair will recognize the gentleman from New York [Mr. KINDRED].

Mr. KINDRED. Mr. Chairman, as an opponent of this bill, I ask to be recognized for the period of one hour, with the un-

derstanding that I shall take 10 minutes myself and yield 50 minutes to other gentlemen opposed to the bill.

Mr. GREENE of Vermont. Will the gentleman yield me some time?

Mr. KINDRED. Mr. Chairman and gentlemen of the committee, I desire in the 10 minutes in which I have to speak on this important measure to discuss it most dispassionately and entirely aside from any partisan or even professional prejudice.

In the first place, in regard to the attitude of the physicians of the country with relation to this bill, it is a fact that, in respect to this bill and in respect to all similar bills, busy doctors do not go before committees as a rule. [Applause.]

Gentlemen in perfect good faith stand here and undertake to tell the Members of this body how the medical associations stand on various measures. I know that in speaking for the 2,500 members of my local associations, including physicians, druggists, and dentists, of Kings County and Queens County, N. Y., I am speaking for a very negligible number of the 110,000 physicians of this country; but I know that that organization is solemnly against this measure, and through no selfish reasons whatever. I say I know that organization is solidly against this measure, and through no selfish reason whatever. I believe, gentlemen, that the physician who comes into most intimate contact with the agonizing experiences that accompany childbirth—and I do not wish to give to it any sort of trivial aspect—that he knows some of the practical applications of laws that ought to be enacted to control this condition in regard to maternity and the newly born child. In the first place, we physicians above all desire everything that means more humanity and kindness to everybody. That is the original proposition upon which you must take the physician's argument on this question. To my mind this whole question reduces itself to a question of efficiency. How are we best to secure these measures which will make for the uplift of humanity and stop the large death rate of mothers and children?

In this connection I wish to say, as has been pointed out by the gentleman from Delaware [Mr. LAYTON] in his able and exhaustive speech, that there is no disquieting death rate at the present time. There is nothing about the death rate of mothers and children at present which should alarm us. There are numbers of deaths that are not preventable. In their statistics, which are more or less unreliable, they have not told you that in certain cases, abnormal presentations, death of the infant child is inevitable. The child is dead before it is born. Yet they tell you you can prevent by bureaucratic and interfering and mischievous enactment like the proposed law children of that kind being born dead.

Mr. GRAHAM of Illinois. Will the gentleman yield?

Mr. KINDRED. No; I have only reserved to myself 10 minutes. As to efficiency, that element of the measure—and I am speaking from the standpoint of a practical man and also from the standpoint of the overburdened taxpayer—and I tell you that the States of this Union can more efficiently carry out these measures and control this matter of childbirth than the mongrel measure like the one pending before us. In this connection I am sure, as has been virtually admitted by the gentleman from Massachusetts, the chairman of the committee, in his able and fair presentation of this measure, there will be at all times a great danger of conflict between the Federal and the State law. The gentleman from Kentucky [Mr. BARKLEY], in answer to a question as to what is the practical purpose to be accomplished by this bill in addition to mere education, has said in effect that we were groping and we know not where we are going.

If we know not where we are going and what we are doing in a Federal measure which will be constantly in conflict with State laws, we had better pause now. I say that the States can better accomplish the purposes of this measure. I candidly believe that other States can do what New York has done. It has been said and is in the record of the hearings that the State of New York has a most excellent child's welfare bureau. I want to say in addition to that that the Board of Health of the State of New York—and the other States throughout the Nation can do the same thing—has lately, within 10 years, caused clinics and educational agencies to be instituted throughout the State of New York and brought attention of the humblest woman in the State as to the importance of the question of maternity.

Mr. LAYTON. Will the gentleman yield?

Mr. KINDRED. Yes.

Mr. LAYTON. If I recollect right, the last appropriation for the use of the lady at the head of this service, Dr. Josephine Baker, was something over \$1,000,000. Dr. Baker is a very good physician—

Mr. KINDRED. An eminent and well-qualified person for the position of chief of the child welfare bureau of the city of New York.

Mr. LAYTON. I understand in the last appropriation in the city of New York it was nearly a million dollars for the purposes of child welfare in New York City.

Mr. KINDRED. Child welfare?

Mr. LAYTON. Was that spent on pamphlets and tracts, or was some of it spent for milk and coal?

Mr. KINDRED. I am glad my colleague has called attention to the fundamental situation. You can not secure a healthy baby unless you feed the mother. There are two things in which I do not agree with my distinguished friend from Delaware—one is as to the superiority of the bottle-fed baby over the breast-fed baby, and the other is as to his estimate of the Public Health Service, but in all other respects I indorse every word of his able speech.

Mr. LAYTON. Will the gentleman yield for a question?

Mr. KINDRED. For a brief question.

Mr. LAYTON. My question is rather long, and I guess I will not put it.

Mr. KINDRED. Mr. Chairman, how much time have I consumed?

The CHAIRMAN. The gentleman has used eight minutes.

Mr. TINCHER. Mr. Chairman, will the gentleman yield for a brief question?

Mr. KINDRED. Yes.

Mr. TINCHER. I am interested in the efficiency of Dr. Baker, of New York, testified to by both the physicians of the House. I understand that Dr. Baker is very enthusiastically in favor of this legislation.

Mr. KINDRED. Dr. Baker is regarded as being in favor of this legislation, but a great many idealists who do not search for the deeper conditions are in favor of this legislation. Has Dr. Baker considered the taxpayer in the matter? Has Dr. Baker considered that we shall in the next five years expend over seven million and a half dollars in a mere experiment? I do not object to the paternalism of Government, I do not even object to what my friend Mr. LONDON, of New York, advocates, socialism in the accomplishing of humane and better conditions, if it will work efficiently and has any sense in it, and does not afflict our citizens, as the pending measure will do if it is enacted into law, with increasing burdens of taxation and invade personal liberty, even to the extent of destroying the privacy of the home and family.

The CHAIRMAN. The gentleman has consumed 10 minutes.

Mr. KINDRED. Mr. Chairman, I yield 10 minutes to the gentleman from Texas [Mr. BLACK] and reserve the remainder of my time.

Mr. BLACK. Mr. Chairman, I am opposed to this bill and, following the course which I usually pursue when I am against a bill, I intend to vote against it. I shall not enter upon any discussion as to the merits and value of legislation promoting the welfare and hygiene of maternity and infancy. I shall assume that all will agree that such legislation is desirable on the part of the States and municipalities and is in the highest degree commendable. Several speakers who have made addresses in advocacy of the bill to-day have made mention of what the city of New York is accomplishing along these lines. Very well; I am glad to hear it. The very fact that some 30 or 40 States and some large municipalities have already legislated on this subject and are engaged in activities along these lines is proof that it is desirable as a subject of legislation for States and municipalities. If this is not a subject which can be safely left to their discretion, then I know of none which can be. If the States and municipalities can not be trusted to enact all of the needed legislation and furnish all of the required financial assistance for an activity so intimately connected with the home and the most sacred domestic relation, then it seems to me that we might as well no longer rely upon the States and municipalities to do anything for their people, but will have to trust everything to the jurisdiction of the Federal Government. The care of mother and child, in so far as it is a governmental function at all, is a State and local, not a Federal function. All will agree that every mother and child should receive proper care. So should every mother and child receive suitable nourishment. But it has never been my understanding that it is the duty of the Federal Government to provide either food or care.

Some of the advocates of this measure justify their support of it upon the contention that the bill does not interfere in any way with the control of the States and municipalities over these matters, but merely provides for Federal assistance and cooperation. That was the gist of the able argument of the



gentleman from Kentucky [Mr. BARKLEY]. He claimed that this bill does not interfere or infringe upon the jurisdiction of the States and municipalities, but merely provides for Federal aid and cooperation—in other words, makes a gift from the Federal Government to the States of the several million dollars authorized to be appropriated by the bill.

Waiving aside the objection that this is an entering wedge of Federal legislation concerning subjects relating to our most intimate domestic relations, I desire to notice briefly the argument that the bill should pass because it provides a gift from the Federal Government to the several States. In answer to that argument, let me say in the first place that the Federal Government has no money of its own to give. The only money which it has is that which it gets from the people in the form of taxation, and almost everyone will admit that already we have enough commitments ahead of us for the next few years to engage all of our ingenuity in raising taxes without adding on any more new ones. [Applause.] If I wanted to make sure of the defeat of the Republican Party in the next campaign, I would aid its majority in keeping on creating new Federal activities and voting new appropriations and enlarging taxation. For that policy will surely do the business for them.

Mr. COOPER of Ohio. Mr. Chairman, will the gentleman yield?

Mr. BLACK. I am sorry, but unless I can get an extension of time, I shall have to decline, because it will be impossible to complete my argument, which is only brief but which I would like to finish. Many of these commitments to Government expenses which we already have are imposed by subjects which are clearly matters for the Federal Government to handle, such as the Postal Service, the Army and the Navy, most of the expenditures in the Department of Agriculture, in the Treasury Department, in the Interstate Commerce Commission, and other Government departments. I admit that some Government activities that we already have are not proper subjects for Federal expenditures, but, to say the least, are already committed to them by law, and we must go through with them unless they are repealed. Taking into consideration these Government expenditures which we already have ahead of us, it should be apparent to everyone that Congress should be very careful now about taking on any more new subjects. We already have ahead of us for many years to come the task of raising \$1,000,000,000 per annum to take care of the interest and the sinking fund on the public debt.

It will not be many years before the annual expenditures for pensions and war-risk benefits to soldiers of the Civil War, the Spanish-American War, and the recent World War will approach the \$1,000,000,000 mark. That will make in these two items, alone, an expenditure of approximately \$2,000,000,000 a year. So when gentlemen talk about the United States Government making gifts to the States of money to be used for this and that and the other purpose, laudable and worthy though such purposes may be, they should well bear in mind the old equity maxim, which says: "Be just before you are generous." In my judgment the Federal Government is going to have all it can attend to in meeting the just obligations which it owes, and by that I mean those which clearly fall within its proper sphere of activity, and at the same time avoid oppressive and confiscatory taxation.

The CHAIRMAN. The time of the gentleman from Texas has expired.

Mr. KINDRED. Mr. Chairman, I yield the gentleman five minutes more.

Mr. BLACK. If the United States Treasury was some great reservoir, bursting over with fabulous wealth, it might be perfectly proper to make generous donations of money to be used by the States, not only for this purpose of promoting the welfare and hygiene of maternity and infancy but for other social and humanitarian purposes; but it is not such a reservoir of overflowing wealth. We are already scraping the bottom of the barrel and using the last measure of oil and the Secretary of the Treasury is having to go into the market every few months and sell short-time obligations in order to meet the necessary obligations of the Treasury. Some of these days these short-time obligations must either be paid or refunded into long-term obligations, and it is well that we begin to consider the approach of that day and make preparation for it. So even if I thought this bill were a proper subject of Federal legislation, which I do not, and it was one where the Federal Government is justified in taxing the people and handing the money back to the States again in the manner provided in this bill, I would not vote for it at this particular time.

Speaking for the people in that section of Texas which I have the honor to represent, I can say that I have never known a time when they were less able to have their taxes increased,

either by the Federal Government or by the State and municipal governments, than at the present time. I shall not vote for any measure which will impose an additional tax on the people at this time unless I believe that it is one of great urgency.

I agree that there are certain public health functions which are clearly national in character and which the Federal Government should and does perform. Some gentlemen in this debate have referred with a great flourish and blare of trumpets to the fact that Congress appropriates money to be spent by the Department of Agriculture in stamping out epidemics of hog cholera and tuberculosis among cattle, but nothing for the care of mothers and babies. Why do not these gentlemen be fair and state that Congress does appropriate nearly \$9,000,000 annually for Public Health Service to be spent under the direction of the Surgeon General of the United States Public Health Service. For example, there is \$500,000 of this amount appropriated for the prevention of epidemics:

To enable the President, in case only of threatened or actual epidemic of cholera, typhus fever, yellow fever, smallpox, bubonic plague, Chinese plague, trachoma, influenza, or infantile paralysis, to aid State and local boards in preventing and suppressing the same.

Now, it is clearly the function of the Federal Government to engage in an activity of the above kind, because epidemics have no regard for State lines and must be dealt with in a systematic way, but epidemics are very different from the hygiene of maternity and infancy.

Therefore, I do not regard this Sheppard-Towner bill as presenting any proper subject for Federal regulation. The Republic has existed more than 140 years without legislation of this kind, and our people have gotten along fairly well, and, so far as I am concerned, I am willing to try awhile longer without it. [Applause.]

"The support of the State governments in all their rights, as the most competent administrations for our domestic concerns and the surest bulwarks against antirepublican tendencies" is just as true to-day as when Mr. Jefferson uttered it in his first inaugural address March 4, 1801. It is getting time Democrats were giving some heed to it.

Mr. HAWES. Mr. Chairman—

The CHAIRMAN. The gentleman from Missouri. [Applause.]

Mr. HAWES. Mr. Chairman, in the consideration of this bill the Members of the House should divorce their minds from the original bills introduced two years ago and from the bill introduced in this House.

Senate bill 1039 has been changed by your House committee 88 times. Whole sections have been rewritten, sections stricken out, and a number of new sections added. It is not the same bill. Even its title has been changed. In its revised form I shall vote for it.

Your Committee on Interstate and Foreign Commerce is composed of 18 lawyers and 3 business men of experience. It is no exaggeration to state that there were some provisions in the Senate bill which were not understandable by a single member of this committee, and there were other provisions upon the interpretation of which the committee divided, part believing that a section meant one thing and part believing that it meant entirely another thing.

The proponents of the bill, supported by an intensive propaganda, have advocated a measure which I am quite convinced would not have met with such enthusiastic indorsement if they had given it the same careful consideration as that bestowed by your committee.

The proponents of the bill—its real friends—had in mind in its advocacy but one thing: To stimulate, encourage, and aid the several States in promoting the welfare and hygiene of maternity and infancy by appropriating money for that purpose, and to cause to be made studies and investigations, and report to the various State agencies the result of these studies and investigations.

This revised bill provides for these things, removes national control over State agencies, and confines the object of the act to this specific purpose.

It further limits the whole operation to a period of five years, in which time it is assumed that State agencies will be developed to such a point of efficiency that both the management and the support of such agencies will be reserved for the States without further assistance or stimulation from the National Government.

I think it will be admitted that some few of the publications of the Children's Bureau were unfortunate, or at least subject to criticism, wherever they wandered from the expressed objects of the bill and discussed, or even presented for the consideration of the public, questions relating to the maternity benefits or birth control.

There were no direct bulletins issued specifically advocating these things, but their discussion and consideration caused many people to view with suspicion the real object of this enactment.

As barnacles attach themselves to the bottom of a mighty ship, some unsolicited supporters espoused the cause of this bill. Their unwelcome support brought most of the criticism and nearly all of the strong opposition which has developed.

Unfortunately, we have in our great Republic more than our fair share of cranks, parlor bolsheviks, and theorists, who seem to derive some pleasurable excitement from a discussion of the sacred things of pregnancy, maternity, and infant control. Whether their interest is the result of an abnormality or a moral perversion it undoubtedly exists, and in the name of decency should be condemned by all right-thinking people.

It would seem that common sense should limit the direction and control of these matters to the physician or to mothers or to women of scientific medical education or to those nurses who have been taught by physicians.

#### PROPAGANDA.

Laws by propaganda are becoming a dangerous menace.

Congress desires information above all things. It particularly requires specialized information. It is impossible for the human brain to intelligently consider even a small proportion of the 30,000 bills which usually flood each Congress. Whether this information comes through the mail or is delivered personally, it is welcomed by the conscientious Representative.

But there is another form of so-called information which is not information at all.

A small group of citizens conceive an idea. They finance the idea. They employ attractive men and women to travel from State to State and from city to city to promote this idea. Hurriedly, without investigation, and in nine cases out of ten without even hearing the proposed bill read, with no comprehensive understanding of the enactment, acting merely upon the delightful tale related by the propagandist, a resolution is passed, an indorsement is given, a local committee appointed, and then the attractive gentleman or lady proceeds to the city of Washington, and at the proper time the pounding process begins. Resolutions, telegrams, and letters pour in upon the Congressman, warp his own intellectual judgment, distort his personal view, and curtail his capacity by pounding and pushing him into a position which does not agree with his own intellectual conviction.

In many cases this artificially organized propaganda distorts the public mind and beguiles to its support intelligent men and women, who, upon explanation, become ashamed of their support or opposition to a measure. This has notably happened in this bill.

People have supported it because it had the word "mother" and the word "child" connected with it. They have not considered cost. They have not considered national control of a State function. They have not considered State control of the sacred and intimate things of life. They have not considered the possibilities of an opening, by way of precedent, for the promulgation of theories and doctrines totally antagonistic to the American idea of the rights of the home, the privacy of the individual, and the fundamental fact that motherhood is the fruition of love and not of science.

The propaganda favorable to this bill was met by a propaganda in opposition which is exaggerated, which attributed to the real proponents of the measure ideas and opinions which they did not possess. This opposition read into the bill imaginary things which it did not contain. It built up imaginary horrors for the purpose of knocking them down. Because a very small, insignificant support came from a group of sex neurotics, it falsely charged that theirs was the view of the leaders of the movement. The evidence it produced was not convincing and finally dwindled to mere mischievous assertion, unaccompanied by proof.

This bill, as now presented for your consideration, is not the measure which the propaganda of the proponents indorsed; and it can be stated with equal emphasis that it does not now contain in its provisions those things to which the antagonists of this bill so strenuously objected.

1. National control over the State agency is removed.
2. No expectant mother or child can, without the consent of such mother, or the guardian or custodian of the child, be interfered with in any way.
3. The right of entrance into a private home without permission is prohibited.
4. There is nothing in the bill which would permit the introduction, or even discussion, of maternity benefits, compulsory registration of pregnancy, or birth control.

5. It does not permit the selection of a physician for the patient by any officer or agent of the United States Government.

6. It does not permit the Chief of the Children's Bureau to dictate the plans of States, to control the allotments to States, to select agents for the States, or to dordinate the control in the States.

7. It creates a national board of maternity and infant hygiene, which is composed of the Surgeon General of the United States Public Health Service, the United States Commissioner of Education, and the Chief of the Children's Bureau, and provides that this board shall select its own chairman, and that rules, regulations, and conditions under which the Children's Bureau shall operate shall be controlled by a United States Government medical expert, a United States expert in the matter of education, cooperating with the Chief of the Children's Bureau, who becomes the administrative and executive officer, subject, however, to the rules and decisions of this board.

We have preserved in the law the real objects sought to be attained by the vast majority of the proponents of this bill. We have eliminated those provisions which made it possible to interject objectionable doctrines, socialistic control of the home, and, more important still, we have reserved for the medical profession the actual work which belongs to that science.

#### THE PHYSICIAN.

The scientific physician commences his career and his preparatory studies when about 15 years of age. He prepares the foundation with a college education. He adds to this four or five years in a university of medicine. He supplements this scientific education by work in hospitals.

It usually means that 10 or 12 years of his life are devoted to study or preparation before he receives his first \$3 fee as a doctor.

Ten years in time, 10 years of expense, 10 years of concentrated thought and study entitle him to believe that in all matters pertaining to health, sickness, and disease his opinion and his advice in all matters relating to pregnancy and childbirth should be given first consideration. He believes that 95 per cent of the causes of death and infant mortality are occasioned by sickness and disease, and that death comes from causes for which he alone should prescribe.

The trained nurse is the right arm of the doctor. If properly equipped, she is his trained assistant, working under his direction and as the result of his investigation.

To put aside the scientific training of the physician and to attempt to substitute for it unskilled advice carries danger and might have a tendency to increase, not decrease, the mortality rate.

A laywoman, uneducated in the science of nursing and acting on her own initiative, with lack of experience, can bring death as quickly as disease.

To send an unmarried woman—who is not a physician or a trained nurse—into the sickroom to advise and direct the expectant mother is criminal.

One witness before our committee made the following impressive statement:

People do not die of sociological conditions. They die of actual ailments. Of course, nobody will deny that sociological conditions have an important effect upon the condition of the health of the individual. If a person can not get any food, of course, he will starve to death. In the winter time, if he can not get adequate clothing and shelter, he is likely to suffer from the effects of the cold weather in the form of pneumonia or diminished vitality that causes him to be a prey to infection. Of course, there is a sociological side to the question. But there are only two ways in which you are going to effectively protect the lives and health of the people. In the first place you would if you could get it, give them money enough to buy all they desire. That, of course, is absurd. The question then becomes one of proper public health protection, leaving the individual to work for himself under proper health conditions. You can do that. You can go ahead with those measures which will protect the health of the people. Those are not sociological measures; they are public health measures, medical measures, and every public health measure of any consequence, or every efficient measure that we know for the protection of the public health, is directed by physicians and their aides.

One witness claimed that the cause of maternal and infant mortality was subject to division into three parts: The social, the economic, and the medicinal, all affecting the health of the mother and the child. The social element naturally includes the subject of environment, education, and heredity. The economic relates to the matter of property, the ability to provide proper food, heat in winter, ice in summer, pure air, and pure water. The medicinal relates to diseases, organic and acquired, which can be treated only by the physician.

The relative part which each of these factors bears to the whole was a matter of some dispute, though physicians declared that 95 per cent was medicinal and only 5 per cent social and economic.

This proportion was varied by other witnesses, but I do not think that any witness reduced the proportion of the medicinal as against the social and economic to as low as 50 per cent.



To eliminate the advice and direction of the doctor from any local or national health agency would be indefensible. By placing on the board the Surgeon General of the United States and leaving to the health departments of the various States the local administration of the law, the influence, advice, and direction of the physician, as the law is now amended, is not removed, and the national portion of the act is confined largely to what might be termed the social and economic elements.

The following questions and answers given by the head of one of the great national medical associations gives the physician's viewpoint:

Mr. HAWES. Doctor, the nurse is the assistant to the physician?  
 Dr. KOSMAK. Yes.  
 Mr. HAWES. Primarily trained by the physician?  
 Dr. KOSMAK. Yes.  
 Mr. HAWES. And as new knowledge comes to the medical profession, that is imparted to the trained nurse by the physician?  
 Dr. KOSMAK. Yes.  
 Mr. HAWES. And one of your objections to this bill is that 95 per cent of the effective work done in the interest of protecting maternity and the child is medicinal?  
 Dr. KOSMAK. Yes.  
 Mr. HAWES. So that you object to the 5 per cent controlling the 95 per cent in the matter of administration. Is that your idea?  
 Dr. KOSMAK. I do.  
 Mr. HAWES. I understand, Doctor, that you favor full and ample investigation and proper appropriations by the Federal Government in the matter of investigations, statistics, reports, and advice to be sent to the States?  
 Dr. KOSMAK. Yes, sir.  
 Mr. HAWES. So that your objection to this bill can be analyzed as about three or four objections. First, you believe that it should be directed by a skilled physician?  
 Dr. KOSMAK. Yes.  
 Mr. HAWES. Second, that national control should not dominate local control?  
 Dr. KOSMAK. No; it should not.  
 Mr. HAWES. And probably your third objection is that this bill does not define in any way what the national function will be, but leaves it to some board to be appointed in the future. In other words, Congress does not say how this money shall be spent, but some board which will be created in the future will say how it shall be spent?  
 Dr. KOSMAK. Yes.  
 Mr. HAWES. Not in the volume of money, but in the manner of expenditure?  
 Dr. KOSMAK. Yes.

It must be kept constantly in mind that the law we are discussing is not the law that went before the committee, but the law that came out of it.

#### NATIONAL VERSUS STATE CONTROL.

There seems to be a growing tendency to send all problems for solution to the National Government. This is not done in the European nations. The counties and cities in England, and certainly its Provinces, have all preserved their measure of self-control and local self-government. This is so in Germany, France, and Belgium, and even in Spain. The city and the province has its separate laws and institutions. Each of these nations has a much smaller population and is much more closely knit by blood lines than those of America. And yet, without much thought and little consideration, year after year Congress is called upon to take away from the States their powers and functions and repose these powers in the National Government. For the mere purpose of expediency we break down a great fundamental principle and set the precedent for other legislation.

No profession has suffered more from this attempt at national control than the medical profession. Tied down by restrictions, inhibitions, and regulations, a great, scientific, learned, and indispensable public factor is being deprived of its initiative and freedom of action.

Soon the National Government will be called upon to regulate the clothes we wear, the food we eat, the kind of houses we should live in. It will be invited to perform marriages and grant divorces; and, latest of all, it was to have been invited into the sacred precincts of the home to examine the prospective bride and groom, to record the cases of pregnancy, direct the mother, and control the child.

There are persons so thoroughly un-American in their understanding who think that the barber who trims a man's hair, the tailor who clothes him, the chiropodist who treats his feet, the shoemaker who makes his shoes, all are to be regulated and controlled by some bureau of the United States Government.

The bill, as originally presented, did provide for national direction and control over the State agencies, but this has been entirely eliminated, and it was eliminated with the consent and approval of the leading proponents of this bill.

The first witness called by them was a woman physician, Dr. Baker, of the Public Health Service of New York, who immediately won the approbation of our committee by her broad views and intelligent grasp of this legislation. She said:

When this bill was first introduced in Congress there was a clause in this bill which provided for the organization in each State of a separate committee to work out a program under the general control of the Federal Children's Bureau, and I appeared before the House committee in

opposition to the bill on that ground. I am absolutely opposed to any Federal administrative functions in the State, and if this bill were so amended as to give administrative functions to a Federal department, to come into the States and carry on the work, I think I can promise you I will be down here to appear against it again.

The restrictions placed upon national control which have been inserted by your committee are as follows:

SEC. 4. *Provided*, That in any State having a child welfare or child hygiene division in its State agency of health, said State agency of health shall administer the provisions of this act through such divisions.

Thirty-three States have this State agency and the balance of the States are expected to write them into their laws as legislatures convene.

SEC. 8. *Provided*, That the plans of the States under this act shall provide that no official or agent or representative, in carrying out the provisions of this act, shall enter any home or take charge of any child over the objection of the parents, or either of them, or the person standing in loco parentis or having custody of such child.

SEC. 9. No official, agent, or representative of the Children's Bureau shall, by virtue of this act, have any right to enter any home over the objection of the owner thereof, or to take charge of any child over the objection of the parents, or either of them, or of the person standing in loco parentis or having custody of such child.

Nothing in this act shall be construed as limiting the power of a parent or guardian or person standing in loco parentis to determine what treatment or correction shall be provided for a child or the agency or agencies to be employed for such purpose.

SEC. 14. This act shall be construed as intending to secure to the various States control of the administration of this act within their respective States, subject only to the provisions and purposes of this act.

Each State is left free, in its own way, through its own legislature, to provide for its own State agency.

The provisions of old section 4 of the bill, relating to advisory committees both by the State and local agencies to be under the direction of the Children's Bureau, was eliminated. This section sought to legislate for the States by providing, among other things, that at least half of these advisory committees should consist of women. This was stricken out because it was not considered proper for the head of the Children's Bureau to determine any matter concerning an advisory committee of a State, how many members it should consist of, or what its sex should be. If a State desires to appoint an advisory committee composed exclusively of women or of men, it can do so; or if it desires to make a provision of one-half women and one-half men, it is left free to pursue that plan.

A further and fundamental objection to this provision was the recognition of sex in the creation of public office. That is a matter which should be left either to the discretion of the appointing officer or for the voters of the various States and Nation to determine.

Followed to its logical conclusion, if introduced into one department of the Government, we would soon have the proposition presented of providing a sex for the President, a different sex for the Vice President, and so on through the list of Cabinet officials, determining a matter by law which should be left exclusively to the voters to be determined in exercising their right of suffrage.

Whether the Children's Bureau shall be controlled by female officials or male officials is left to the discretion of the appointing power. In this particular case this discretion has been wisely exercised in the appointment of women, and if I were governor of the State of Missouri and the question of a State advisory board came before me for consideration I should unhesitatingly appoint women to half of the board, as I consider them well qualified in every way to hold such positions.

Section 9 of the old bill, which gave the United States Commissioner of Public Education the right to designate and select certain colleges in each State for the purpose of introducing lectures upon the question of maternity and hygiene, was stricken out entirely because, in the opinion of your committee, the designation of these State agencies should be left to a State and not to a National official.

In each of the States there are a number of educational institutions where this work could be carried on, but the selection of one or all should be left to a State and not to a National officer who is not a resident of the State and may never have crossed its border.

The principle of having a national commissioner, who may have been raised in the State of New Mexico, to dictate the educational policy of, for instance, the State of Missouri, is totally repugnant to anyone at all conversant with the theories upon which our Government was established.

Section 10 was also eliminated as tending to direct or control the agencies of a State.

So it will be observed that both by the process of elimination and the further and emphatic process of express statements, the direction and control over State agencies has been removed.

#### THE COST.

For some unknown reason some of our thoughtless citizens seem to consider that National expenditures for State benefit

come out of some mysterious treasury for which they do not have to pay. It is well for them to understand now that for every dollar of Federal money appropriated for State purposes the people of the State pay their part under some form of national taxation.

The Utopian idea of a national administration of public health worked out in dollars and cents presents an appalling cost which I am sure will convince anyone of its impracticability.

The relative proportion of county and State public health appropriations can be illustrated by the amount of money spent in one State. This State has for its budget on public health, not including local agencies and the vast sums spent by volunteer organizations, \$6,000,000 annually, and it will receive from this Federal allotment only \$40,000, and yet under the original provisions of the bill before amended by our committee the \$40,000 had it in its power to dictate to the \$6,000,000.

Mr. STAFFORD. Will the gentleman yield?

Mr. HAWES. Yes.

Mr. STAFFORD. Is it the theory of the bill that by national appropriations the National Government will stimulate activity in the 15 States that have not undertaken this work, or is it the policy that the 33 States that have undertaken it do not provide sufficient money and must necessarily call upon the National Government for appropriations to carry it out in its proper functioning?

Mr. HAWES. The effort is joint. I understand that Pennsylvania appropriates \$6,000,000 a year for the purpose of public health. That is probably doubled by benevolent associations, so we might say there is \$12,000,000 spent in public health in the State of Pennsylvania, but from the National Government under this act it would only receive approximately \$40,000 a year.

Mr. STAFFORD. Will the gentleman yield further?

Mr. HAWES. Yes.

Mr. STAFFORD. Is it the policy then that Pennsylvania is not appropriating enough and this \$40,000 contributed under this bill will make the requisite amount necessary for the proper functioning in the State of Pennsylvania, or is it just merely a contribution to the State in addition to that which they have at present?

Mr. HAWES. As a financial contribution to the State of Pennsylvania \$40,000 would be ridiculous.

Mr. STAFFORD. Then why contribute it when they are not asking for it?

Mr. HAWES. It is a contribution for the stimulation of educational work on the line of hygiene, economics, and sociology. The State of Pennsylvania might be inspired to increase its agencies, and in smaller States in the West, where they have no agencies of any kind, we offer them a mere promotion fee, if you please, to establish some agency.

Another illustration: If the Children's Bureau ever invades the field of the doctor and the Department of National Health it will find its financial contribution so small that it will be ridiculous. For instance, there are 3,000 counties in the United States, some of them containing over 100,000 inhabitants and covering an acreage of 30 or 40 square miles. To give any public nursing aid to these counties would require the constant employment of at least two trained nurses; that is, provided it was intended to give direct free medical assistance in maternity cases. At the minimum this would require two trained nurses, who would cost \$5 each, or \$10 a day. This would make an annual cost to each county of \$3,650, or for the 3,000 counties an annual expenditure for only two nurses to a county of \$10,950,000. This would not include buildings, physicians, medicines, and a dozen other items which would multiply this sum tenfold.

It becomes apparent that the welfare of maternity and child hygiene is a local and not a national function in its larger aspects.

#### THE NATIONAL WELFARE DEPARTMENT.

President Harding has suggested a wise coordination of all departments of health, hygiene, and sanitation under a department which is to be called the National Welfare Bureau, which bureau will ultimately have a place in the Cabinet. The present Children's Bureau is now under the Secretary of Labor. Enough has been said to show that it is not properly placed. Over 50 per cent of maternity mortality is medicinal, another large per cent is educational, and only that portion which might be determined economic properly belongs to the Department of Labor.

It is therefore much to be desired that the President's program will be carried out, and I believe it will be under the direction of Gen. Sawyer.

Gen. Sawyer's testimony before our committee was illuminating and is well worth careful consideration. He presented a

breadth of view and a practical understanding of what the Children's Bureau ought to do and what it ought not to do, which I quote:

It must get its inspiration from the soul that inspired this measure. As I say to you, my understanding of this bill is that it handles the sociological side. Do I make myself clear? It does not handle the medical side of maternity. It handles the social relations; it handles the natural conditions that stand for the highest type of motherhood, for the best preparatory educational care or, I should say, precept that can be established. This is my understanding. As I said, this bill, its purposes, is to distribute information; and as I interpret the bill it does not mean that it is going to tell Mrs. Smith how she shall treat some disorder that she may have, but it is only to teach Mrs. Smith the things that are well for her to do that she may be in the best physical condition to meet maternity requirements. If Mrs. Smith has a disorder, such as comes to women, that requires medical treatment and medical attention, certainly those in charge of this affair would not attempt to treat that case medically.

If there is any way in which this bill can be interpreted to mean that it gives to the Children's Bureau the power to treat diseases of mothers or children, then I do not understand it.

This is a clear statement of what the objects of this bill should be, and if the bureau of public welfare is projected, then Public Health, Children's Bureau, and all departments will come under the head of this new bureau, and, from the testimony of witnesses who are proponents of this measure, I find there will be no objection; and it may not be too much to say that in presenting this bill your committee had in mind the ultimate depository of this power under the bureau of public welfare.

#### THE BASIC PURPOSE.

The benefits to be derived from this bill were exaggerated by its proponents. Its evils were equally exaggerated by its antagonists.

Judge TOWNER in opening the hearing made this very commendable statement:

Let me say to you, gentlemen, that if there is anything in the bill yet existing that in the slightest degree would, in your judgment, show an indication of autocratic exercise of power, let us have it taken out. It will meet with no objection on the part of the proponents of this bill. It is to aid, to encourage, and to stimulate, not to control.

Accepting the invitation of Judge TOWNER, your committee has been very liberal with its objections and its additions, but has preserved the basic things which the intelligent proponents of the bill had in mind and to which its thoughtful opponents should have no objection.

The first of these is to stimulate and assist State efforts to undertake a broader field of activity in an educational way, promoting the economic and social conditions which will improve the health of the mother and make more safe and agreeable the life of the child.

Second. To cooperate with the States by what might be termed the contribution from the National Treasury of a promotion fund, an advancement, to put on foot a proper State agency.

Third. To call to its councils the head of the great Public Health Service and the head of our national educational system and, with their assistance, to administer through the Children's Bureau a stimulating and sympathetic interest in the welfare and hygiene of maternity and infancy.

Fourth. This interest and education not to be intruded upon, not to be compulsory, not to be directory, but to be given when acceptable, asked for, and approved.

Fifth. The field of medicine is not to be invaded; the physician and the trained nurse to remain supreme in their own domain; nor shall the recipient of this public assistance be directed in the employment of any particular medical advice or help.

If these are not the objects of the bill they are not understood by our committee.

If any of the objectionable doctrines previously discussed should be accepted or engrafted upon this simple and splendid object, I believe we can count upon the influence of the women to cause the removal of such official and to restore to the bureau the American idea of the American treatment of this delicate subject.

Personally, I have the old-fashioned idea of maternity, that marriage is the result of love; that maternity is the result of marriage; that the child's care is dependent upon parental affection; that any attempt, by scientific management or governmental regulation, to change this natural order of life would be to undermine the welfare of the Nation and put love, marriage, and maternity upon that lower animal basis of stock-farm management, where regulations are provided for the stable and the cow barn. [Applause.]

Mr. KINDRED. Mr. Chairman, will the Chair state how much time I have left?

The CHAIRMAN. The gentleman has 36 minutes remaining. Mr. KINDRED. Mr. Chairman, I yield to the gentleman from Vermont [Mr. GREENE] 10 minutes.



Mr. GREENE of Vermont. Mr. Chairman, I am convinced with great earnestness that it is my duty to the people of my State and my duty to the Nation to oppose the passage of this so-called maternity bill and to vote against it.

In doing so I am fully aware that its enactment into law is urged by many high-minded men and women who are persuaded that it is a beneficent measure designed to do much good to humanity. I heartily respect the noble aspirations of these people and only regret that in this particular instance I can not see my own duty in the light of their good intentions.

These people urge the passage of this bill mainly on the ground that it is calculated to relieve suffering and to save life. That these are among the loftiest of motives that can be embraced in human interest nobody can deny. Indeed, it is only to be regretted that many folks are so fervently advocating this measure, so enthusiastically committed to its purpose and policy, that those who dare to obstruct it are not infrequently put under color of the suspicion, absurd as it may seem, that they are stubbornly opposed to such a consecrated cause as this particular relief of suffering and saving of life. And, of course, no man in his right mind can be willing to rest under such an ignominious indictment.

But the answer to it is easy enough, if one will but analyze the subject and the situation and apply a little practical logic to the test. It is not defensible to do a wrong thing in order that good may come thereof. After many trials of one ethical and moral code after another, this wise old world has learned at last that the end does not justify the means. Granted, without argument, that it is urgently desirable to relieve suffering and to save life, the question still remains, Is this an instance when that duty should be performed by the Federal Government at Washington, or is it an obligation that rests upon organized society at home? And what will become of organized society, and how long will it, indeed, remain organized if it shirks off onto the agencies of a distant Government to be done officially and for hire the most sacred duties that devolve upon the home?

I am opposed to this bill for two general reasons:

First, because in my opinion it invokes a wrong theory and principle of civics or governmental policy in that it causes the Federal Government to do for its individual citizens that which they ought to do for themselves, or at least through their own voluntary and nonpolitical associations. It is paternalism, the most subtle and sinister enemy of popular government.

Second, I am opposed to the bill because it is economically unsound in the money obligations it creates between the several States and the Federal Government and in the financial relations of the peoples of the several States to each other and to the Federal Government, and because of the loss of the right to local self-government that ensues to the people of the several States in consequence.

I know well enough that the suggestion that there is paternalism in this measure and that behind it lurks the menace of State socialism will provoke a smile of incredulity on some faces. But anybody here in Washington familiar with the artful propaganda that has been maintained in support of the idea of embarking the Federal Government upon the policy of "the public protection of maternity and infancy," knows how cleverly that propaganda has been made to appeal to some of the warmest sentiments of humanity and how skillfully it has sought to engage the earnest interest of the women of the land thereby. Anybody here in this Capitol familiar with the stages through which this bill passed up to the time that it was reported out to the House in its amended form knows full well what a battle has been waged by the influences that would have given the measure over completely to the forces that in unhesitating avowal are making for the most radical principles of Government control of maternity, infancy, education of youth, and so on through the whole catalogue of Government regulation and Government standardization of the individual citizens of the land, including birth control itself. There is no secret about it.

The committee has stripped the original proposition down to a measure that does, indeed, bear the marks of simplicity, that closely resembles other enterprises upon which the Federal Government has cooperated with the States and now cooperates with them, and bids now for its support in this House on the theory that the bill is harmless, so far as any socialistic tendencies are concerned, and that men may vote for it with a freedom of mind that assures them that they have thereby committed themselves to no more than the text of the bill as it reads to-day.

But men familiar with the history of legislation must know, as indeed they do, that no Congress can bind its successors.

This bill is dangerous because it is the entering wedge for a policy that, once opened and in active operation, can have no other end than that broader and more insidious scheme of

Government regulation and control that was in the minds of those who first proposed such a policy. To-day, happily, the Government does not seek officially to concern itself in any degree with the domestic relations of the care of maternity and infancy. Once this bill becomes a law, no matter how cautiously drawn, no matter how honestly advocated, the camel's nose has got under the tent.

The Government by that token has departed from its former policy and has begun to interest itself in this matter. Every man of experience in public affairs knows that from that day on the forces that have up to this time failed to get full recognition of their theories in this particular bill will never rest from their labors until upon the Government foundation here laid down they will erect an institution in which shall be found every one of their principles and agencies thus far rejected. Year by year, detail by detail, line upon line, precept upon precept, they will seek through amendment of law to work out a statute that realizes their fullest aspirations.

And the agencies and officers authorized even by this simple bill must inevitably, in the very nature of the development of such things, soon become the missionaries that will beset every home in the land with propaganda for the further extension of the law. [Applause.]

The time to stop such a thing is now, when, for the only time, we can prevent its beginning. [Applause.]

Why, for that matter, the very fact that the bill sets a time limit of a few years upon the continuance of any operations under it is a bald confession by its own framers of distrust of the principle and frank admission that it can only be entertained, if entertained at all, as a rigorously circumscribed experiment. [Applause.]

If it is a good thing, why should it not go on forever?

I say again this is the entering wedge, to be followed in season by the grosser thing. The time to kill it is now.

Do you remember the old rhyme born of a fierce struggle in the British Parliament years ago that is very apt just now in its relation to this particular parliamentary situation here?

I hear a lion in the lobby roar;  
Say, Mr. Speaker, shall we shut the door  
And keep him there, or shall we let him in  
To try if we can turn him out again?

[Laughter.]

I know it must seem to some people that perhaps I am a bit old-fashioned in my views about such matters. Many folks are very earnestly and honestly hopeful that advancing social order will inspire Governments everywhere to do a great many benevolent and beneficent things for the good of mankind. And sometimes these people are not a little annoyed when they find men in my place who are not so eager about some of the proposals of this kind and are inclined to class such men with "standpatters," "reactionaries," and such like undesirables. Very likely, however, if many of these same high-minded folks were face to face with the stern responsibility of sifting these propositions one by one, of scrutinizing their details and the theory upon which they are based, of inquiring back into their antecedents to determine their reason for being, and of looking equally far ahead to conjecture their probable outcome—very likely, I say, many of these same people would themselves come to be somewhat conservative about adopting every new proposition that kept springing up in a period of such restless theorizing as that in which we now live. Very likely when they soberly realized that it was no longer academic speculation with them but direct personal responsibility for the thing to be done and all its consequences, they would listen to the voice of St. Paul coming down the ages to them:

Prove all things; hold fast that which is good.

Personally, from my youth up, I have believed myself to be moved by ideas and ideals of a progressive social order. In times past I have engaged in many a battle along that line of ceaseless warfare for social betterment. My heart is with it still. But, however hopeful and ambitious we may be for a progressive and ever more exalted and useful social order, we must not make the fatal mistake of confusing the agencies that are to accomplish it with the agency that the social order itself is to accomplish. Government is the creature of social order, not the parent of it. And government will be just as healthy and just as strong as that social order has proved itself to be, no more, no less.

When society, through its own agencies and forces and inspired by its own exalted sense of self-preservation and self-responsibility, works itself up to higher and higher levels of social order, then society is strong and healthy, as all mortals are who take care of themselves and do for themselves. And the government such a society sets up is strong and healthy,

too, because, being a popular government, it comes out of the ranks of strong and healthy people.

But when society reaches that stage of vain speculation and aimless endeavor that it seeks to shirk off onto government the duties that belong to itself, individually and in the mass, society grows more and more lazy, inefficient, irresponsible, incompetent, helpless, and dependent in proportion as it drops its own burdens. For a while, it is true, government appears to carry the additional load; and then it is discovered, little by little, that society, having little responsibility to bear for itself, is only breeding parasites and dependents and is no longer sending strong recruits from its own ranks into the government. And the government, on the other hand, being no better than the people who make it, sinks to the level of incompetency and helplessness of the very multitude that looks to it for help. [Applause.] Then follows the inevitable process of sloth, decay, corruption, and collapse, and another one of mankind's heroic attempts to work out for himself on this planet an exalted civilization is gathered to its own dust for archaeologists of after ages to explore and a few crumbling monuments for historians to write books about.

I believe this bill is economically unsound.

In the first place, it is one more instance in which we show our disregard for that which grieved the fathers who declared their independence of King George on the charge, among other things, that—

he has erected a multitude of new offices and sent hither swarms of officers to harass our people and eat out our substance.

[Applause.]

And here we are 145 years later still doing the very self-same thing to ourselves!

Here we have once more the familiar story of the Federal Government making a proposition to the States that, if they will raise a certain sum of money for a purpose, the Federal Government will match it with a similar sum—but this must be done under conditions that the Federal Government lays down, and the money must be spent subject to the approval of the Federal authorities.

Mr. NEWTON of Minnesota. Mr. Chairman, will the gentleman yield?

Mr. GREENE of Vermont. I regret that I can not; I regret the seeming discourtesy.

Once in a while, maybe, there is some variation in the terms, as in this instance, but they all amount to the same thing in the end. They all amount to this:

First. The Federal Government has to spend more money and, therefore, as it has no money of its own that it makes for itself and its own uses (contrary to an apparently rather widespread mistaken popular notion), it has to raise more money by taxing the people of the several States. The States are hard put to it now to raise at home the money to pay their own legitimate expenses, and the counties and towns as well. And now the Federal Government is combing the same territory, taxing the same people over and again to raise its own extra money also. Where is it going to end?

Second. The States that are thrifty and up-to-date pay the great bulk of the taxes that go into the Federal Treasury at Washington, only to receive in the general redistribution under the terms of just such bills as this but a very small part of what they put into the common fund. Vermont, it has been said, pays about \$32 into the Federal Treasury for every one she gets back. Whether these figures are accurate or not, they are near enough to it to illustrate the injustice that is done the State. But, under this vicious system, States that are backward or thriftless or unprogressive, or whatever it may be called, are encouraged to rely upon their thrifty sister Commonwealths for the money they ought to raise for themselves by and among their own people, because it is to be spent for their own benefit. And so much is this true that it is no secret here in Washington that this policy is openly advocated by various influences in those States in order that they may profit by it at the expense of their neighbors.

Third. Inasmuch as the Federal Government insists that no money shall be forthcoming or employed except under its own policy and general direction, it follows that the States little by little surrender to the bureaucrats at Washington the control of the work thus to be done within their own borders, and even change their own laws to comply with the regulations that come down from Washington in order to give the freer scope to the Federal administration of what amounts, after all, to their local affairs. Thus, persistently and ceaselessly, the Federal Government is sucking away from the States the powers of local self-government that belong to them of ancient right and

appropriating those powers to itself to be administered by bureaus here in Washington. And that means, in turn, that armies of tax gatherers, agents of the law, inspectors, supervisors, overseers, and swarms of bureaucrats and their clerks descend from the Federal Government down upon the land, spy out the people's business or actually do it for them, and so, even as in the days of much-despised King George, "eat out our substance." Over and again, under this same old delusion of "getting something for nothing," the States have met the Federal proposition and lost just so much more of their original inheritance of the right to manage their own home concerns by doing it. Over and again has American Esau sold his birthright for a mess of pottage. [Applause.]

Where is all this to end? How can we square ourselves with our own knowledge and best judgment based upon that actual knowledge, with our own sense of public duty, and still keep saying to ourselves: "I will vote for just this one. This one shall not count," and still keep on piling up the score? Some day they will be counted, they will all be counted together; then we shall realize the cumulative mischief that the aggregate of all these little things has done; and then it will be too late. In the language of Scripture, these are, indeed, "the little foxes that spoil the vines."

There are presently opposed in the American world of civics two schools of thought. One adheres to the philosophy of the American fathers, that the security of our individual liberties rests in the maintenance of the greatest amount of local and home government that is consistent with national security and responsibility. It rests upon the time-proven fact that a popular government can be no stronger than the homes it comes out of; that the greatest practical amount of local self-government in a Republic like ours is a nursery and school for strong and sturdy citizenship and the reservoir of self-reliant and capable men and women experienced in responsibility from which it can constantly draw its own personnel and thus keep itself healthy and strong. Whereas a paternalistic government in time makes dependents of its people, weakens their moral fiber, causes them to be undisciplined in responsibility, and thus cuts off the supply of strong forces for the maintenance of the government at its very root. The other school is frankly paternalistic in government on the theory that, all men and women being partners in the State, it is the duty of the State to act as guardian of and for them in order to fit them for that partnership and then to fit them generally for the activities and duties of life and to father them through those activities and duties from the cradle to the grave.

It is only a step from the ultimate realizations of a paternalistic government to State socialism. Once paternalism is the established policy of government, through steadily intensifying degrees of State regulation we gradually develop the doctrine of State standardization of men and things. After which we shall be ripe for the open and avowed policy of raising or leveling all men and things to the compulsory State-fixed standard. And then State socialism is upon us at last.

We must choose between those two schools of thought, because we are at the parting of the ways. And just such propositions as this maternity bill itself emphasizes that sober fact.

It is all very well to argue that we have done other things in government that are of the same order as this measure. Two wrongs never did make one right. A bad precedent does not justify another like performance. It is true that our social order has become so complicated in some respects that society can no longer tolerate with safety all the individualism that once obtained of right. It is true that we have made experiments of a paternalistic character, perhaps some of which have become so incorporated into our system now that they are not easily, perhaps not wisely, to be uprooted. But in this particular measure, no matter how we gloss its phrases or simplify its apparent objective, we have opened the door to a train of measures and a line of policy that, once under way, will not in the very nature of things evolutionary come to an end until we have adopted a theory of State regulation and control that would make many friends of this bill gasp if it were called by its true name.

We may try to deceive ourselves now and then by writing sleek phrases into our laws, by miscalling things, perhaps, and by employing apt and alluring rhetorical devices under which the naked truth may masquerade for a time. We may keep on for a while, as we have been doing, setting up one after another the agencies of centralized and bureaucratic National Government, growing more and more paternalistic every day, and still think to lull ourselves into fancied security from the terrors of State socialism.



But it is the effect of these laws, not their titles, that stamps our public policy for what it really is.

And one of these days this country is going to wake up to the sober realization that for a long time back the legislative signboards have been misleading, and that America has actually left the straight and narrow path that the fathers laid out for it, and left it long ago, and is on the broad highway to all the ills of bureaucracy and the corruption that goes with it that those very same fathers fled from Europe to escape.

Back of this unpretentious, simple looking bill to-day are the agencies that for a long time have been persistently and insidiously working to incorporate into our American system of public policy in some degree and form or another, Government supervision of mothers; Government care and maintenance of infants; Government control of education; Government control of training for vocations; Government regulation of employment, the hours, holidays, wages, accident insurance, and all; Government insurance against unemployment; Government old-age pensions; and much more of the same kind and to the same end. Not all these agencies are working for all these things, to be sure, but collectively they serve the same purpose, and they expect never to cease their efforts until they get it.

And this is no mere idle charge. Many friends of this so-called maternity bill to-day would be amazed to see the forces that are eagerly awaiting its passage, ready to welcome it as one great accomplishment that will ultimately lead to more and greater realization of the dreams of the bolshevik and the soviet. Of course, the true American people that are behind this measure indignantly repudiate all community of interest with such forces. And they are honest about it, too. But whether or no they are innocently working to the very same end, just the same.

There are in this land to-day radicals of various degrees, from the mild parlor Socialist to the revolutionary and the red, who are determined to change the constitutional character and policy of the American Government. Some of them hope to do it peaceably and through popular education and the ballot box. The extremists are determined to attempt it by direct action and physical force at the first favorable opportunity. Meantime—and here is the pity of it—every change of policy along this same line now proffered that is introduced into the Government through the activities of often well-meaning but mistaken and misled theorists, whose loyalty to the constitutional principles is above suspicion, by just that much weakens the Government itself and prepares the way for the red. So long as the red is prevented from destroying the Government by his own physical assault, he is gratified enough to see its structure more and more breached and broken down because some part of his doctrines and philosophy are introduced into it by infiltration, and, strangely enough, on the part of its would-be friends at that. And thus the way is prepared to make easier the eventual destruction of government by the red and his physical force.

There was a Pharaoh once who ruled over a people whom at times he feared. It was this Pharaoh who sent forth instructions to the midwives of the land, and they may be read in Exodus 1:15-22. That was a pretty severe and autocratic enforcement of a maternity law, to be sure, and it happened a long time ago, and people think that such things are no longer possible. Of course they are not possible in this generation and in this land, and I do not want to be thought merely absurd in referring to it. And yet these same people might do well to look over into soviet Russia and see what has been done there in our recent day or, if they like, listen right here at home to the voices of those that preach the nationalization of the mother and her child, birth control, and various other similar devices and institutions. Government can do, it does do, mighty drastic things when it once gets under way with them.

I hope still to be a forward-looking man with fond expectations of the new and higher levels that social order will successively reach. I am not unmindful of the new color and the renewed warmth of beneficent concern for the public welfare that will be given to our public policy through the reinforcement of political influences by the great body of women voters and women participants in the activities of the Government, and know that much of lasting good may come of it.

I am not cast down in thought by occasional discouraging developments in our affairs, nor am I now lamenting a hopeless situation or terrifying myself with shadows.

But I can not bring myself to believe that the people of this country, could they be consulted home by home to-day, want this bill or anything like it to become a law of the land. I can not bring myself to believe that the families of America in the millions of homes, once they have analyzed the situation for

themselves coolly and thoughtfully, want to embark this country upon the new policy indicated in this bill, with all the sinister possibilities that lie beyond its present text. I do not believe that the great body of the women, those mothers and daughters, sisters, sweethearts, and wives, that seldom raise their voices in public affairs, actually want this law put upon them and their hearthstones.

I fervently believe that the home, with its sacred domestic obligations, is still the bulwark of American civilization and social order, and I can not bring myself to help in its surrender to eventual control in any degree by politicians and bureaucrats in Washington.

If a great and benevolent work in educating any part of the women and the households of this country in the responsibilities of maternity should be undertaken anywhere at all, then let it be done in the home, by the home, and by the community of homes [applause], sister ministering to sister, neighbor to neighbor, and friend to friend, in whatever concerted action or perhaps organized effort may be necessary, perhaps eventually in some degree officially countenanced by the home State, but always in that sweet sympathetic understanding of united womanhood that has in all time mothered the race.

Let us not, in any event, decree here and now that this most holy function of womanhood and the home shall be placed under any possible menace of hereafter passing under the scrutiny and regulation of that soulless corporation that we call the State and become the mere professional duty of distant strangers, working in a national political bureau for their daily hire.

For my part I do not believe that the women of my plucky little State of Vermont are yet ready to admit that our social order has so far broken down that they must cry out to Washington for help in the care and safeguarding of maternity and infancy in the homes that lie among our old green hills and valleys, where for nearly two centuries the flower of American manhood and womanhood has been bred and reared by their ancestors and themselves. I can not make myself believe that the women of the Commonwealth of Vermont, whose noble pioneer mothers once upon a time went with their sturdy husbands into the wilderness and made a government for themselves, are now willing to confess that they have fallen so far from the high estate of their grand dames that they, in their day, must depend upon that Government for money and counsel in order to continue to rear generations of Green Mountain patriots. [Prolonged applause.]

(During the delivery of the foregoing remarks Mr. GREENE of Vermont was granted 13 minutes' additional time.)

Mr. KINDRED. Mr. Chairman, I yield 10 minutes to the gentleman from Maryland [Mr. HILL].

The CHAIRMAN. The gentleman from Maryland is recognized for 10 minutes.

Mr. YATES. Mr. Chairman, I would like to make an inquiry as to the time the debate shall run this evening?

Mr. KINDRED. I may answer the gentleman's question by saying that I do not intend to allot any more time after the conclusion of the speech of the gentleman from Maryland [Mr. HILL]. I shall have but seven minutes' time, and I shall reserve it.

Mr. HILL. Mr. Chairman and gentlemen of the committee, this bill, although called a maternity bill, does not appropriate one cent for any child or any mother in this country. This bill authorizes the appropriation for expenditure during the next five years of \$7,680,000 for investigation and instruction as to matters relating to maternity.

I have listened with a very great deal of interest to the statement of the chairman of the committee [Mr. WINSLOW], and that statement was such a fair statement of this particular bill that the reasons set forth in that statement are sufficient basis for my intention to vote against this bill. I think that this House should vote against this bill for four reasons. In the first place, the bill appropriates \$7,680,000 out of the Public Treasury, when we, every one of us, are pledged to the strictest national economy.

There is no politics in this bill in the sense of Democratic or Republican politics, but every one of us has been seen by various members of our district. We have been told that if we voted against a bill which was labeled a "maternity bill," that every woman in our district would be against us. But I say to you, gentlemen, that I believe that the rank and file of the mothers and to-be mothers of this country are against this form of bill. [Applause.]

I know that those of us who propose to vote against this bill must defend our vote, and I for one shall welcome the opportunity to defend my vote against this bill, because not only is this bill ultra extravagant, not only is it an entering wedge for enormous millions to be expended in the future, but

It is an absolute departure from the theory upon which the Federal Constitution and the Federal Government were inaugurated. This Nation was formed for general national defense and for definite purposes set forth in the Constitution concerning the general welfare of all the States.

It was perfectly right and it is perfectly right that the State of Maryland should be taxed in order to provide for the general defense of this country, the general post office, or other constitutional matters, but it is not right that the State of Maryland—and it was not the intention of the State of Maryland when it signed the Constitution—should be taxed in order that such taxes might be divided up among the States and divided up for matters not described in the Constitution. It was not the purpose of the State of Maryland in coming into this Union that it should pay into the Federal Treasury sums to be expended for purely individual State matters, because, my friends, if there ever was an issue that is a local issue it is the issue of health and police. The Federal Government by such bills as this is attempting to take away the duties of the States. If we go on at this rate we shall absolutely do away with the powers of the State and local governments and center everything in the Federal Government.

Take an illustration: There is not a gentleman in this House who is not against common, ordinary murder. There is not a gentleman who would not laugh if I said, "Are you against murder?" But, I ask you, have we come to the point where we could pass a law in this House against common murder, such law providing penalties and providing that the Federal Government should take charge of prosecutions for murder in all the States? I submit, gentlemen, such a bill would be on the same principle as this. In other words, we are all against murder; but I do not believe that the radical element in this House, irrespective of their views of the Constitution, have yet come to the point where they are in favor of the Federal Government taking over all the remaining police powers of the States.

Now, let us look for one minute to what this bill does. The State of Maryland contributes 1.508 per cent of the total taxes of this Nation. The State of Alabama contributes 0.340 per cent. The State of Georgia contributes 0.801 per cent of the total taxes of this Nation. This is not a bill for the general welfare. It is a bill for distribution by the Federal Government of money from the Federal coffers. Consider the contribution to the Federal Government made by Alabama, Maryland, and Georgia and look what they, respectively, get out of it under this bill. I only take these States for illustration. I have no objection to Alabama or Georgia getting its just due, but I say from the point of view of Maryland it is unwise for its Representatives to vote for this bill. Under this bill Maryland gets \$14,777, while Alabama will get \$20,837 and Georgia \$24,531. In the same way Mississippi gets \$17,077 and contributes only 0.218 per cent to the Federal Treasury. Do not mistake me, for the purposes for which the Government was organized it makes no difference what each individual State contributes; but this is not for the general welfare; it is not for the common defense; it is simply a distribution of money to the various States to help in what certain cities and villages are doing at the present time, or should be doing, with thorough efficiency. Maryland should spend its money at home.

We can not afford to spend the money now, because both sides of this House are pledged by their national platforms to economy. In the second place, we are not voting in this bill for any definite plan. Under section 8, page 12, we are voting for unknown plans, to be submitted later on by the individual States. I have heard in the House so much about Congress ceding its rights and about letting other agencies do the work that Congress should do that I ask if you could have a greater cession of rights than for Congress to pass a blanket bill by which each of the 48 States shall bring in a separate plan organizing investigations and Chautauqua parties for training the mothers of this Nation.

We are all sincerely for proper measures to protect the American people. There is no politics in this bill, and no attempt to make partisan politics, but at least this bill is of doubtful constitutionality, and I submit as a third objection to it that whether it is technically so or not, it is against the Constitution, which gave the Federal Government definite rights and reserved for the States certain rights. Go back and read the Federalist. I submit to you that if such a proposition had been made to the various States they would not have gone into the Federal Union.

Now, in regard to the last point. This bill provides for the organization of Federal investigators—I do not call them Federal spies—but for Federal investigators to go all over the country, but it does not give the individual mother or the sepa-

rate child a penny. When you vote for this bill you must not vote under that misapprehension. I said to-day that I was particularly interested in this bill because the people of my district were against it. I rely on the individual canvass of mothers more than I do upon certain women who take prominent parts as leaders. I want to say to you that the Johns Hopkins Hospital is situated in my district. From one of its heads, the famous Dr. Howland, in a report to your committee here, you will find the opposition of surgeons which he voices, and I will ask unanimous consent that I may incorporate the letter from Dr. Howland which appears on page 269 of the hearings:

THE JOHNS HOPKINS HOSPITAL.

[Winford H. Smith, M. D., director; William S. Halstead, M. D., surgeon in chief; William S. Thayer, M. D., physician in chief; J. Whitridge Williams, M. D., obstetrician in chief; John Howland, M. D., pediatrician in chief; Adolf Mayer, M. D., psychiatrist in chief; William G. MacCallum, M. D., pathologist.]

JULY 12, 1921.

Hon. SAMUEL E. WINSLOW,

House of Representatives, Washington, D. C.

MY DEAR MR. WINSLOW: Your courteous invitation to appear before the Committee on Interstate and Foreign Commerce of the House of Representatives with reference to the consideration of the Sheppard-Towner bill, H. R. 2366, has been received. I am sorry that illness will prevent me from doing so. May I, however, state briefly my objections to the bill?

In the first place, I am unwilling to believe that such emergency exists as has been claimed regarding maternal care in this country, and I am quite sure from considerable experience with statistics that there is no basis for the statement that the United States stands seventeenth in maternal death rate. Even civilized countries have not sufficiently accurate statistics to enable anyone to make a definite statement such as this.

I do not believe that the way to improve health matters in States, except those that have a distinctly national or interstate application, is by Federal supervision or control. Public-health work depends upon enlightened local interest. It can not be improved by influence directed from a distance.

If such work as the Sheppard-Towner bill provides is to be undertaken, it should be undertaken by the United States Public Health Service and not by a subdepartment of the Department of Labor. Indeed, it appears peculiar to most physicians who are interested in work for the benefit of children that the care of children should be a function of the Department of Labor. The work is now in improper surroundings. To increase and expand the work of the Children's Bureau where it now is only to make matters worse.

Finally and chiefly I am opposed to the bill because I am opposed to the granting of subsidies to States by the Federal Government for work which is purely local in the States. It is to my mind an unsound financial policy and a dangerous step toward the centralization in Washington of matters which properly belong to the States themselves.

Respectfully, yours,

JOHN HOWLAND.

Gentlemen, I do not like to rise here on this question after it has been so fully discussed but for the reasons which I have given I feel that I must vote against this bill. [Applause.]

Mr. COOPER of Ohio. Mr. Chairman, in the first place, I want to say that I, for one, do not agree with the statement made by the gentleman from Delaware [Mr. LAYTON] when he insinuated that every Member of Congress who is going to vote for this measure is moved to do so for political purposes. I want to say that I am moved to vote for this measure from the standpoint of principle, because I believe it is a bill that will do much toward the preservation of the human race. I fully realize that I can not say anything here this afternoon that will change the vote of one Member of this House, but, as a member of the committee that had this bill under consideration, I do at this time for just a few moments want to express my views upon it.

Mr. Chairman and gentlemen of the committee, the bill which we are considering to-day, known as the Sheppard-Towner maternity and infancy bill, has attracted much attention throughout the country, because of what has been said and written about it. Let us consider for a few moments what it does and does not do and the reasons for its enactment into law.

By passing this bill Congress goes on record as indicating an interest in the welfare of the mothers and children of our Nation and in the future generations which in the natural course of events will fall heir to our country. Surely it is of the greatest importance that the children of to-day shall be strong, healthy, sturdy men and women of to-morrow. To call the provisions of this bill radical and revolutionary is absurd unless we would call all progressive, forward-looking legislation radical and revolutionary.

AIDS MOTHERS AND CHILDREN.

The Sheppard-Towner maternity and infancy bill does this, and nothing more than this: It provides that the Federal Government may stimulate, encourage, and aid the several States of the Union in promoting the welfare and hygiene of maternity and infancy if the several States themselves desire to do so.

For many years the Federal Government has aided in the protection and development of crops and live stock. Does any-



one dare say that the protection and development of the human race itself is not infinitely more important? If it is socialistic for the Federal Government to encourage and aid in the protection of maternity and infancy, then it is equally socialistic for the Government to aid in the protection of the cotton crop against the boll weevil and of the farmers' swine against hog cholera. Does anyone argue that cotton and pigs are more important than babies?

Mr. SANDERS of Indiana. Mr. Chairman, will the gentleman yield?

Mr. COOPER of Ohio. I yield to the gentleman from Indiana.

Mr. SANDERS of Indiana. In furnishing money to aid in the propagation of cotton, however, we do not study to see which State furnishes the most money. Those States that have no cotton whatever contribute to the money that goes to help cotton.

Mr. COOPER of Ohio. I am glad the gentleman from Indiana has made that point.

#### SMALL SUM APPROPRIATED.

To those who would claim that our Federal Treasury and our taxpayers can not afford to spend the money which the maternity and infancy bill proposes to appropriate I need only say that many times the amount appropriated in the maternity bill has been expended by the Government each year through the Department of Agriculture for the encouragement and protection of crops and domestic animals; and, furthermore, we have at last established a budget system to control the expenditure of the Federal funds. It is the duty of the Budget Commissioner to determine definitely what the Federal income is going to be for the coming fiscal year and also what the needs of the various Government activities will be, and make recommendation to Congress accordingly. By this method we expect to be able to control economically and equitably the relative financial outlays of the Government for all purposes, including the small amount which it is proposed to appropriate in this bill.

The Sheppard-Towner bill, as it has been reported to the House of Representatives by the Committee on Interstate and Foreign Commerce, of which I have the honor to be a member, appropriates for the fiscal year ending June 30, 1922, the sum of \$480,000, to be distributed in amounts of \$10,000 to each State. For each subsequent year for five years each State will get \$5,000 under the provisions of this bill. In addition provision is made for the expenditure of not more than \$1,000,000 a year for the next five years, to be distributed among the various States according to population whenever these States offer to match each dollar from the Federal Government with a dollar from their own funds. According to this bill, the greatest possible amount that the United States Government can spend for the aid and protection of maternity and infancy during the next five years is \$6,200,000.

#### CHILDREN'S BUREAU ADMINISTERS LAW.

The administration of the law is placed by the bill under the control of the Children's Bureau of the Department of Labor, and a board of maternity and infancy hygiene, consisting of the Chief of the Children's Bureau, the Surgeon General of the United States Public Health Service, and the United States Commissioner of Education, is created to have advisory supervision. The bill provides that all positions in the Government service made necessary by the law shall be filled under the civil-service regulations, and that the cost of supervision by the bureau shall be not more than \$50,000 a year. This amount is included in the total appropriation provided in the bill.

The bill states specifically that no agent, Federal or States, acting under its authority, may enter any home unless it is the desire of the mother or parents that the agent do so. It is also specifically provided that nothing in the bill shall limit the power or control of parents over their children in any way. In other words, there is nothing in the entire bill of a compulsory nature or which forces medical attention upon anyone, despite the misleading statements which have been made by opponents of the measure.

I want to say at this time that there is a propaganda going all over this country which is absolutely misrepresenting the provisions of this bill. In the last two days I have received many letters from the good women of my district protesting against the passage of this bill because they have been informed, by the opponents of this measure that if this bill becomes a law, no child will be permitted to be born in the mother's own home, but that the Federal authorities will take supervision over every maternity case and will bring every expectant mother to a Federal hospital where she may give birth to her child. That is the propaganda that is going all over this country, being sent out by the opponents of this measure.

#### GREAT NEED OF AID.

Let us examine for a moment the reason why those interested believe that this law is desirable and necessary for the welfare and benefit of the mothers and children and of the Nation as a whole. Evidence presented to our committee showed that in a single year in this country 23,000 mothers died in childbirth, that 250,000 infants died under 1 year of age, and that most of these deaths were preventable. It is stated with authority that it is safer to be a mother in 17 important foreign countries than it is in the United States, and that babies have a better chance to live in 10 foreign countries than in our own.

Mr. WALSH. Mr. Chairman, will the gentleman yield?

Mr. COOPER of Ohio. Yes. I yield to the gentleman from Massachusetts.

Mr. WALSH. Will the gentleman give the authority for that statement?

Mr. COOPER of Ohio. That statement was made by some of the very prominent people who appeared before our committee in behalf of this measure.

Mr. WALSH. The gentleman says it was stated with authority.

Mr. COOPER of Ohio. These facts were stated with authority. I can not just remember the people's names, but the hearings will show.

Mr. BARKLEY. The statement was made before the committee, I think, by Dr. Van Ingen, who is connected with Johns Hopkins University, and who I think is at the head of the obstetrical department, if I am not mistaken.

Mr. COOPER of Ohio. And that statement is based upon the report of the Bureau of Census of the United States and of all the available governmental authority.

Mr. GARRETT of Tennessee. Mr. Chairman, will the gentleman yield?

Mr. COOPER of Ohio. Yes.

Mr. GARRETT of Tennessee. The gentleman has stated very clearly and succinctly what the bill does not do. May I ask the gentleman just what will be done under the bill?

Mr. COOPER of Ohio. I am coming to that in a moment, if the gentleman will permit.

Mr. GREENE of Vermont. Mr. Chairman, will the gentleman yield?

Mr. COOPER of Ohio. Yes. I yield to the gentleman from Vermont.

Mr. GREENE of Vermont. Is it not an axiomatic fact in sociology that with increasing civilization and higher levels and standards of civilization the birth rate decreases?

Mr. COOPER of Ohio. I am not an authority upon that.

Mr. GRAHAM of Illinois. Mr. Chairman, will the gentleman yield?

Mr. COOPER of Ohio. Yes.

Mr. GRAHAM of Illinois. I have the information which I think the gentleman desires. The information upon which he made the statement referred to a moment ago was based upon the statements of Dr. Philip Van Ingen, clinical professor of the diseases of children, College of Physicians and Surgeons, Columbia University, New York City; Miss Julia Lathrop, former chief of the Children's Bureau in the Labor Department; Dr. S. Josephine Baker, director of child hygiene division, New York City board of health; and William Travis Howard, dean of the department of vital statistics of Johns Hopkins University.

Mr. WALSH. Mr. Chairman, will the gentleman yield further?

Mr. COOPER of Ohio. Yes.

Mr. WALSH. Will the gentleman inform us what he means by its being safer to be a mother in 17 foreign countries than in the United States? I suppose that includes Russia.

Mr. COOPER of Ohio. I will say to the gentleman from Massachusetts that it means this, that in 17 other countries the number of deaths of mothers during the period of maternity and childbirth is far below the number of deaths from the same cause in our own country.

Mr. WALSH. Proportionately?

Mr. COOPER of Ohio. Yes.

Mr. GREENE of Vermont. May I still further ask the gentleman if he does not associate with that the proposition I put to him a moment ago. It is an undisputed fact in sociology, according to the study of the races of man generally, that with increasing civilization and all that civilization brings the birth rate decreases, and we certainly have a superior civilization on this continent to pretty close to 17 other countries, have we not?

Mr. COOPER of Ohio. I would say this: That in many of these countries where the death rate of mothers at childbirth and the death rate of the children born is less than it is in the United States, they have provided such legislation as we are presenting to the House to-day.

Mr. WALSH. Will the gentleman yield for a further question?

Mr. COOPER of Ohio. I will.

Mr. WALSH. I do not like to interrupt the very interesting statement the gentleman is making.

Mr. COOPER of Ohio. I would be glad to yield.

Mr. WALSH. Is it not a fact that there is not a foreign country, with the possible exception of Germany, that keeps a birth rate and death rate with the accuracy which is done in the United States, with the exception of perhaps some institutions that are maintained abroad?

Mr. COOPER of Ohio. I can not answer that question.

Mr. LONDON. If the gentleman will permit, as a matter of fact we have the rates of birth in only 26 States of the United States.

Mr. GREENE of Vermont. How do they figure the rate of the entire United States, then?

Mr. LONDON. We have no exact data relating to the whole United States, but they take into consideration those States which do maintain records of births.

Mr. GREENE of Vermont. And apply it as an average?

Mr. LONDON. Yes.

Mr. GREENE of Vermont. Would you take the average of New York State as the the average of New England?

Mr. LONDON. The most remarkable thing is that New York bears up well with the other States that do maintain a system of registration of births. The climate is exceptionally good in New York, the soil is good in New York, and it has a number of very intelligent men.

Mr. GREENE of Vermont. In New York City?

Mr. LONDON. Yes.

Mr. TINCHER. Does not the gentleman from Vermont think it would be a good idea to resolve the doubt in favor of the mothers and babies?

Mr. GREENE of Vermont. I do not resolve doubts in that way.

Mr. COOPER of Ohio. I shall only take a few more minutes, and I would like to proceed at this time.

It was pointed out that, due to ignorance, poverty, and other causes, not only in congested centers of population but also in isolated rural localities the loss of life and suffering among mothers and helpless babes has been terrific. It is a startling and disgraceful fact that in this enlightened age and in this rich country more women between the ages of 15 and 45 lose their lives from conditions connected with childbirth than from any other cause except tuberculosis. It is not necessary to go into details regarding present conditions, but it should be stated that wherever this class of welfare work is now being conducted it has resulted to great benefit. Miss Fox, of the American Red Cross, said:

Wherever there is a public-health nurse provided and her presence in town or country becomes known, she is immediately surrounded by women of that territory, begging and imploring her to come to their homes and help them in their problems. The nurses will tell you they are distressed beyond measure because there are so few of them and they have such large territories to cover that they can not possibly at present respond to all the demands made upon them.

#### MISS LATHROP'S VIEWS.

Miss Julia Lathrop, Chief of the Children's Bureau, who has made a study of the situation and conditions, and is recognized as an authority on the subject, said:

The bill is designed to avoid an obnoxious governmental authority. It respects the rights and duties of the State and requires no rigid control of their appropriations. But experience shows that there should be a central source affording to the different States, when they make their plans, the best experience of all of the other States and of the world, and a central body competent to assure taxpayers and the special beneficiaries of the measure that its spirit is effectively carried out and that intelligent use is made of every dollar.

The actual public-health nursing anticipated under the bill would be done by local employees and not by the Federal Government. The percentage of the appropriation that may be spent for administrative purposes by the Federal Government can not exceed 5 per cent, and at least 95 per cent must be allotted to the States.

The bill does not contemplate the creation of new machinery in the States. It is its purpose to have the work done in the States by State child-hygiene or child-welfare divisions, and 35 of the 48 States already have such divisions, most of them under the State boards of health.

I disagree with my good friend from Maryland [Col. HILL] when he said that he believed most of the women of this country were against this bill.

#### WOMEN KNOW THE NEED.

This bill is undoubtedly being enacted in response to the wishes of the newly enfranchised women of the country. It is the first measure to be passed by Congress which women as a whole have specially supported. And it is to their great credit that they should support such a law, because its purpose and object must be near and dear to the heart of all womanhood. For all true women earnestly wish to see the sufferings of

their sisters relieved and want to place their protecting arms around the helpless little children. Women know far, far better than men what women must undergo and what are the real needs of mothers and infants.

And so practically every woman's organization in the country, regardless of party, race, or creed, is enlisted in support of this bill to authorize the United States Government to extend a helping hand to mothers and children.

And I want to ask the gentleman from Maryland [Col. HILL] to listen to what I am going to say now relative to the question as to whether or not the women of our country are supporting this bill. Among those on record in favor of this legislation are the General Federation of Women's clubs, the National Congress of Mothers, the Republican and Democratic Women's National Committees, Daughters of the American Revolution, the National League of Women Voters, the National W. C. T. U., Y. W. C. A., Council of Jewish Women, college women, business women, and working women. Added to their voices comes the indorsements from governors of 34 States of the Union and the resolution of hearty approval adopted by the last Methodist general conference.

Just a word about the opposition. I believe most of it comes from misunderstanding and misrepresentation. A few conservative women have been misled as to the provisions and purposes of the bill. I understand that the Woman's Antisuffrage Association is against the bill, but I am sure all their fears and misgivings are groundless.

The leader of the Woman's Antisuffrage Association, who comes from the same State as our good friend from Maryland [Col. HILL], who appeared before our committee voiced her most vigorous protest against the passage of this bill. For I believe that the enactment of this bill into law will be a decided step toward the better recognition by the Federal Government of the human needs of our people of this generation and those who are to follow.

Mr. WINSLOW. I would like to ask a question of the gentleman from Ohio in his time. Would the gentleman be willing to state again the reference he made as to the indorsement by governors of this bill?

Mr. COOPER of Ohio. I think the chairman of the committee will recall, if the chairman does not I am sure some other members of the committee will, that the testimony was presented before our committee where the governors, and you will find it in the hearings, I am quite sure, in the last session of Congress.

Mr. WINSLOW. In the last session of Congress, but not on this bill?

Mr. COOPER of Ohio. Where the governors of 34 of the States of this Union had indorsed the provisions of this bill, and heartily approved the same.

Mr. WINSLOW. I just wanted to get it right so we will be fairly right. Does not the gentleman mean to refer to the consideration of the bill taken up in the preceding Congress?

Mr. COOPER of Ohio. Well, I do, but the principle is the same. The principle that was involved in the bill which was reported at the last session of the Congress does not differ in any way, shape, or form from this.

Mr. JOHNSON of Mississippi. I would like to ask the gentleman if both bills were not the Sheppard-Towner bill?

Mr. COOPER of Ohio. Yes; and in principle and purpose both bills do not differ in any respect.

Mr. WALSH. Does the gentleman find among the list of indorsers the name of Rose Pastor Stokes and Victor Berger?

Mr. COOPER of Ohio. I do not.

Mr. WALSH. The gentleman will find they have worked for it.

Mr. COOPER of Ohio. So far as I know from my personal knowledge, there has never been at any time any statement made before the committee indicating that Victor Berger or Rose Pastor Stokes have indorsed this bill.

Mr. WALSH. Of course, there are a lot of people in the country die of old age each year. Is the gentleman in favor of the Government stepping in and helping to stimulate the activities of the States in combating the death rate?

Mr. COOPER of Ohio. I want to say to the gentleman from Massachusetts on general principles I am opposed to the Federal Government going into paternalism, but I do not consider this bill in any way, shape, or form paternalistic. I believe it is a step on the part of the Federal Government to aid the mothers and the children of our country, and, after all, these are the ones we have to look forward to if we are going to be a great nation of people and contribute our part to a Christian civilization and in trying to make the world a better place in which to live.

Mr. Chairman, I reserve the balance of my time. [Applause.]



## BILLS PRESENTED TO THE PRESIDENT FOR HIS APPROVAL.

Mr. RICKETTS, from the Committee on Enrolled Bills, reported that this day they had presented to the President of the United States for his approval the following bills:

H. R. 7108. An act authorizing a per capita payment to the Chippewa Indians of Minnesota from their tribal funds held in trust by the United States;

H. R. 8298. An act to amend section 1044 of the Revised Statutes of the United States, relating to limitations in criminal cases;

H. R. 7051. An act to authorize the Secretary of the Interior to execute deeds of reconveyance for certain lands in the city of Mount Pleasant, Isabella County, Mich.;

H. R. 8442. An act to amend an act entitled "An act to authorize the President of the United States to locate, construct, and operate railroads in the Territory of Alaska, and for other purposes," approved March 12, 1914, as amended; and

H. R. 2232. An act in reference to a national military park on the plains of Chalmette, below the city of New Orleans.

## EXTENSION OF REMARKS.

Mr. HILL. Mr. Chairman, I rise to ask unanimous consent to include in my remarks the letter of Dr. Howland to which I referred.

The CHAIRMAN. The gentleman from Maryland asks unanimous consent to include in his remarks the letter to which he refers. Is there objection. [After a pause.] The Chair hears none.

Mr. WINSLOW. Mr. Chairman, I move that the committee do now rise.

Mr. JOHNSON of Mississippi. Will the gentleman withhold that request for a moment?

Mr. WINSLOW. I will.

Mr. JOHNSON of Mississippi. Mr. Chairman, I ask unanimous consent to extend my remarks in the Record by placing therein resolutions passed by the National Women's Council at Philadelphia.

The CHAIRMAN. Does the gentleman from Massachusetts yield for that purpose?

Mr. WINSLOW. Yes; I yield for that purpose.

The CHAIRMAN. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The following are the resolutions referred to:

WOMEN ASSAIL CIGARETTES IN FEMININE LIPS—SOCIETY DAMES AND 60-YEAR-OLD "PILL"-PUFFING "VAMPS" TARGET AT PHILADELPHIA.

PHILADELPHIA, November 17.

Bitter criticism of the sex freedom which permits women to smoke was made at yesterday's meeting of the National Council of Women when their resolution committee submitted a measure asking for more strict enforcement of laws forbidding sale of tobacco to minors.

Another clause in this resolution, later unanimously passed by the council, representing 10,000,000 women of the Nation, asked for the promotion of better dress for women as an influence on their morals and health.

"One sees beautiful young women in hotel dining rooms, nonchalantly lighting cigarettes and as nonchalantly exhaling," Mrs. Frances E. Burns, of St. Louis, Mich., said when the resolution was offered for action.

"It is a most deplorable condition which detracts from womanly appeal, and is in addition injurious to the health. Smoking is not confined to young and single women, but also to prospective mothers, who by their addiction to the tobacco habit injure the health of the unborn child. And many mothers continue smoking after birth of the baby, injuring the child more."

"Enforcement of laws prohibiting sale of tobacco to minors should not be confined to men but extended to women. I am astounded and too full to express my opinion of the fact that a transcontinental railroad recently opened smoking compartments exclusively for the use of women."

Mrs. Burns related how, when she paid a recent visit to Louisville, she was horrified to see young women with cigarettes between their lips driving their automobiles through the streets.

"Even more disgusting than smoking among young women," Dr. K. Walter Barrett, of Alexandria, Va., added, "is to see a 60-year-old vamp smoking and cast languishing glances at some young fellow." At the conclusion of Dr. Barrett's remarks the resolution was passed without a dissenting vote.

Mr. WINSLOW. Mr. Chairman, I move that the committee do now rise.

The motion was agreed to.

Thereupon the committee rose; and Mr. WALSH having resumed the chair as Speaker pro tempore, Mr. HOUSTON, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill S. 1039, and had come to no resolution thereon.

## ORDER OF BUSINESS.

Mr. WINSLOW. Mr. Speaker, if possible I would like to have an arrangement for limiting the time for general debate to-morrow, and for the control of that time. If it would be agreeable, and we could get unanimous consent, I would suggest that we extend the time beyond what has already been

allotted by four hours, half of the time to be controlled by the gentleman from Kentucky [Mr. BARKLEY] and the other half by the Chairman of the Committee on Interstate and Foreign Commerce. And I make the further request that we adjourn until 11 o'clock to-morrow.

The SPEAKER pro tempore. The gentleman from Massachusetts asks unanimous consent that general debate upon the bill S. 1039 be limited to four hours, one-half to be controlled by himself and one-half by the gentleman from Kentucky [Mr. BARKLEY].

Mr. WINSLOW. Four hours in addition to the time already allotted.

The SPEAKER pro tempore. Is there objection?

Mr. JOHNSON of Mississippi. Mr. Speaker, reserving the right to object, I want to ask the chairman if it is his purpose to vote on this bill before 8 o'clock to-morrow evening?

Mr. WINSLOW. I hope so.

The SPEAKER pro tempore. Does the Chair understand that the gentleman from Massachusetts included the 11 o'clock meeting arrangement in his request?

Mr. WINSLOW. Yes.

The SPEAKER pro tempore. The gentleman from Massachusetts asks unanimous consent that general debate on the bill S. 1039 be limited to four hours in addition to the time already allotted, and that when the House adjourns this evening it adjourn to meet at 11 o'clock to-morrow morning. Is there objection?

Mr. LONDON. Mr. Speaker, reserving the right to object, I would like to have the assurance that I shall have at least 20 minutes. So much has been said about my having made converts I want to refute that statement.

Mr. RAKER. Mr. Speaker, will the gentleman from Massachusetts yield for a question? I understand the time is to be allotted to the gentleman from Massachusetts, the chairman of the committee, and the gentleman from Kentucky [Mr. BARKLEY].

Mr. WINSLOW. That was included in the motion.

Mr. RAKER. Is there any way that I can have 15 minutes in favor of this bill from either side?

Mr. WINSLOW. I hope so.

Mr. RAKER. Will the gentleman give me seven minutes and a half—

Mr. WINSLOW. I would not like to make an agreement like that contingent on the request to meet at 11 o'clock to-morrow. It is like trading.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts that the general debate on the bill S. 1039 continue for four hours in addition to the time already allotted, one-half to be controlled by himself and one-half by the gentleman from Kentucky [Mr. BARKLEY], and that when the House adjourns this evening it adjourn to meet at 11 o'clock to-morrow morning? [After a pause.] The Chair hears none.

## ADJOURNMENT.

Mr. WINSLOW. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 52 minutes p. m.) the House, under its previous order, adjourned until Saturday, November 19, 1921, at 11 o'clock a. m.

## CHANGE OF REFERENCE.

Under clause 2 of Rule XXII, committees were discharged from the consideration of the following bills, which were referred as follows:

A bill (H. R. 9110) granting a pension to William N. Hupp; Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

A bill (H. R. 9118) granting an increase of pension to John M. Jeans; Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

## PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. CHANDLER of Oklahoma. A bill (H. R. 9198) to amend section 1 of the act entitled "An act to pension soldiers and sailors of the War with Spain, the Philippine insurrection, and the China relief expedition," approved June 5, 1920; to the Committee on Pensions.

By Mr. RAKER. A bill (H. R. 9199) to defer the time for payment of grazing fees for the use of national forests during the calendar year 1921; to the Committee on Agriculture.

By Mr. KLINE of New York: A bill (H. R. 9200) to authorize the Secretary of the Navy to accept certain land at Rockaway Beach, Long Island, N. Y., for aviation and other naval purposes; to the Committee on Naval Affairs.

By Mr. DENISON: A bill (H. R. 9201) to regulate divorces in the Canal Zone; to the Committee on Interstate and Foreign Commerce.

Also, a bill (H. R. 9202) to amend sections 7, 8, and 9 of the Panama Canal act and for other purposes; to the Committee on Interstate and Foreign Commerce.

#### PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. DOWELL: A bill (H. R. 9203) granting a pension to Lizzie Brown; to the Committee on Invalid Pensions.

By Mr. FORDNEY: A bill (H. R. 9204) granting a pension to Theresa L. Matthewson; to the Committee on Invalid Pensions.

By Mr. KING: A bill (H. R. 9205) granting a pension to Mary E. Sargent; to the Committee on Invalid Pensions.

By Mr. MEAD: A bill (H. R. 9206) granting an increase of pension to Fred A. Stout; to the Committee on Pensions.

By Mr. NEWTON of Missouri: A bill (H. R. 9207) for the relief of Ellen Moore; to the Committee on Claims.

By Mr. PARRISH: A bill (H. R. 9208) granting a pension to Lewis H. Tubbs, jr.; to the Committee on Pensions.

By Mr. SCOTT of Tennessee: A bill (H. R. 9209) granting a pension to Sam Wells; to the Committee on Invalid Pensions.

By Mr. WINGO: A bill (H. R. 9210) granting a pension to Risseller Everhart; to the Committee on Invalid Pensions.

Also, a bill (H. R. 9211) granting a pension to Isaac Pierce; to the Committee on Invalid Pensions.

#### PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

3100. By Mr. CRAMTON: Petition of George Newberry and other residents of the seventh district of Michigan, protesting against the passage of House bill 4388; to the Committee on the District of Columbia.

3101. Also, resolution of the Sebewaing Woman's Club, of Sebewaing, Mich., urging a comprehensive and effective program of disarmament without delay; to the Committee on Foreign Affairs.

3102. By Mr. FULLER: Petition of the International Association of Machinists, opposing section 8 of the reclassification bill; to the Committee on Reform in the Civil Service.

3103. By Mr. GOLDSBOROUGH: Petition of Woman's Home Missionary Society of Cambridge, Md.; Social Service Club of Baltimore, Md.; Susquehanna Council, No. 8, Sons and Daughters of Liberty, Port Deposit, Md.; and Victory Council, No. 10, Sons and Daughters of Liberty, Athel, Md., praying for reduction in armament; to the Committee on Foreign Affairs.

3104. By Mr. KETCHAM: Petition of the Cassopolis Woman's Club, of Cassopolis, Mich., favoring limitation of armaments; to the Committee on Foreign Affairs.

3105. Also, petition of 12 members of the Disciples of Christ, of Glendora, Mich., urging reduction of naval program and some form of international cooperation for prevention of war; to the Committee on Foreign Affairs.

3106. Also, petition of the Colon Country Club, of Colon, Mich., representing 22 members, favoring limitation of armaments; to the Committee on Foreign Affairs.

3107. Also, petition of the Ganges Home Club, of Fennville, Mich., favoring limitation of armaments; to the Committee on Foreign Affairs.

3108. Also, petition of the Church of the Brethren of Woodland, Mich., favoring disarmament; to the Committee on Foreign Affairs.

3109. Also, petition of Methodist Episcopal Church of Hastings, Mich., consisting of 850 members, favoring the reduction of armament by agreement; to the Committee on Foreign Affairs.

3110. Also, petition of First Baptist Church of Sturgis, Mich., consisting of 195 members, favoring the limitation of armament; to the Committee on Foreign Affairs.

3111. Also, petition of Benton Harbor Federation of Women's Clubs, favoring limitation of armaments; to the Committee on Foreign Affairs.

3112. By Mr. KISSEL: Petition of A. I. Namm & Son, Brooklyn, N. Y.; to the Committee on Ways and Means.

3113. Also, petition of American committee on Cuban emergency, New York City; to the Committee on Ways and Means.

3114. By Mr. MacGREGOR: Resolution adopted by the committee of management of the West Side Branch of the Young Men's Christian Association, of Buffalo, N. Y., most heartily indorsing the steps taken at Washington for the universal reduction of armaments; to the Committee on Foreign Affairs.

3115. Also, resolution adopted by the board of directors of the Ellicott Drug Co. heartily indorsing the steps taken at Washington for the universal reduction of armaments; to the Committee on Foreign Affairs.

3116. By Mr. MONTOYA: Petition of residents of Magdalena, N. Mex., asking the United States Government to extend relief and protection to the imperiled people of the Near East; to the Committee on Foreign Affairs.

3117. Also, resolution of the board of directors of the chamber of commerce, Clovis, N. Mex., protesting against section 402, Fordney tariff bill, known as the American valuation plan; to the Committee on Ways and Means.

3118. By Mr. SMITH of Idaho: Resolution adopted by the chamber of commerce, Moscow, Idaho, urging enactment of the French-Capper truth in fabric bill; to the Committee on Interstate and Foreign Commerce.

3119. By Mr. SNYDER: Petition of members of the Congregational Church, Camden, N. Y., and the Methodist Episcopal Church, Hinckley, N. Y., and the Methodist Episcopal Church, Prospect, N. Y., against legalizing the manufacture and sale of 2.75 per cent beer; to the Committee on Ways and Means.

3120. Also, petition of L. R. Steel Service Corporation, of Utica, against the enactment of the so-called maternity bill; to the Committee on Interstate and Foreign Commerce.

3121. By Mr. SPEAKS: Papers to accompany House bill 9177, granting an increase of pension to Harriet Gale; to the Committee on Invalid Pensions.

3122. By Mr. TEMPLE: Petition of American Society of Agronomy, in support of House bill 5230; to the Committee on Interstate and Foreign Commerce.

3123. By Mr. YOUNG: Memorial of the Woman's Christian Temperance Union, of Barton, N. Dak., remonstrating against the ruling of the Treasury Department permitting the sale of beer by druggists; to the Committee on the Judiciary.

3124. Also, petition of the Keeping-Up Club, of Monango, N. Dak., protesting against the imposition of a tax on musical instruments; to the Committee on Ways and Means.

3125. Also, memorial of sundry citizens of Van Hook, N. Dak., remonstrating against the imposition of a sales tax on musical instruments; to the Committee on Ways and Means.

3126. Also, memorial of sundry citizens of the State of North Dakota, remonstrating against the proposed tax on medicine; to the Committee on Ways and Means.

3127. Also, resolution of the Bismarck Commercial Club, of Bismarck, N. Dak., favoring the passage of the so-called French-Capper truth in fabric bill; to the Committee on Interstate and Foreign Commerce.

#### SENATE.

SATURDAY, November 19, 1921.

(Legislative day of Wednesday, November 16, 1921.)

The Senate reassembled at 10 o'clock a. m., on the expiration of the recess.

Mr. CURTIS. Mr. President, I suggest the absence of a quorum.

The VICE PRESIDENT. The Secretary will call the roll.

The reading clerk called the roll, and the following Senators answered to their names:

Ball	King	Page	Sterling
Brandegee	Ladd	Penrose	Trammell
Curtis	McCumber	Phipps	Walsh, Mass.
Dial	McNary	Pomerene	Walsh, Mont.
France	Nelson	Robinson	Williams
Gooding	Norbeck	Sheppard	Willis
Harris	Norris	Smith	
Harrison	Oddie	Smoot	
Heflin	Overman	Spencer	

Mr. CURTIS. I wish to announce the absence of the Senator from Maine [Mr. FERNALD] and the Senator from Washington [Mr. JONES] on official business. I also announce that the Senator from Washington [Mr. POINDEXTER] is detained at a committee meeting.

Mr. ROBINSON. I wish to announce that the Senator from Louisiana [Mr. RANDELL] and the Senator from Tennessee [Mr. MCKELLAR] are absent on business of the Senate.



Mr. CURTIS. I desire to announce that the senior Senator from Illinois [Mr. McCormick] is absent on account of the death of his wife's mother, Mrs. Marcus A. Hanna.

The VICE PRESIDENT. Thirty-three Senators having answered to their names, a quorum is not present. The Secretary will call the roll of absentees.

The reading clerk called the names of the absent Senators, and Mr. TOWNSEND answered to his name when called.

Mr. CARAWAY, Mr. KEYES, Mr. BURSUM, Mr. SIMMONS, Mr. McLEAN, Mr. JOHNSON, Mr. JONES of New Mexico, Mr. KENYON, Mr. ERNST, Mr. FERNALD, Mr. POINDEXTER, Mr. WARREN, Mr. LA FOLLETTE, Mr. NICHOLSON, and Mr. WATSON of Indiana entered the Chamber and answered to their names.

The VICE PRESIDENT. Forty-nine Senators—a quorum—are present.

#### ALLEGED PREFERENCES TO FOREIGN VESSELS.

The VICE PRESIDENT laid before the Senate a communication from the chairman of the Interstate Commerce Commission, transmitting, in response to Senate resolution 169, copies of all agreements on file with the commission between railroads in the United States and steamship lines or companies operating from ports of the United States in the foreign trade, and a statement showing the quantity and kind of traffic received from and delivered to steamship lines engaged in foreign commerce by the railways named during the year ended December 31, 1920, which, with the accompanying papers, was referred to the Committee on Commerce.

#### CIVILIAN AERONAUTICS IN COMMERCE.

The VICE PRESIDENT. The Chair lays before the Senate a resolution adopted by the American Legion relative to civilian aeronautics in interstate and foreign commerce.

Mr. SMITH. I ask that the resolution may be read.

The resolution was read and referred to the Committee on Commerce, as follows:

#### Resolution.

Whereas aeronautics have occupied the attention of the American Legion since its first meeting;

Whereas it is the sense of this convention that national aeronautics are becoming increasingly important to the Nation at large, both by reasons of national defense and transportation; and

Whereas the American Legion has twice before, viz, in its first and second annual conventions, adopted resolutions indorsing a proposed separate department of aeronautics in the National Government; and

Whereas it is now apparent, because of the increased development of civilian aerial transport as apart from the various bureaus of the Federal Government now dealing with aeronautics, that it is incumbent upon the National Government to provide for the regulation of this civilian transport and maintain the proper supervision over civilian aerial activities, chiefly because these civilian aerial activities are by nature an integral unit of the national defense, meaning reserve aviation; and

Whereas it is apparent that the heads of the Federal Government, chiefs of all bureaus dealing with aviation, the civilian organizations and clubs are unanimous in their support of a proposed law, viz, Senate bill No. 2448—introduced in the Senate of the United States August 22, 1921—creating a bureau of civilian aeronautics in the Department of Commerce to encourage and regulate the operation of civilian aircraft in interstate and foreign commerce, and for other purposes: Therefore be it

*Resolved*, That the American Legion, in convention assembled, recommends the early and favorable consideration on the part of both Houses of Congress of the above-mentioned bill; be it further

*Resolved*, That the national legislative committee be instructed to urge such immediate action in Congress as upon investigation it may deem advisable; be it further

*Resolved*, That copies of this resolution be prepared and forwarded to the Clerks of the United States Senate and House of Representatives, respectively, and to the Secretary of Commerce.

#### MICHIGAN SENATORIAL ELECTION.

Mr. CURTIS. May we have the regular order, Mr. President?

The VICE PRESIDENT. The regular order is Senate resolution 172.

The Senate resumed the consideration of the resolution (S. Res. 172) declaring Truman H. Newberry to be a duly elected Senator from the State of Michigan.

Mr. POMERENE. Mr. President, after the very strenuous efforts of the majority to force a night session on the first day this resolution was taken up, with the intention, as I am advised, to force it to a vote during that night if possible, I can not help observing that this morning, when we meet at 10 o'clock in order to help expedite its consideration, we are obliged to wait 46 minutes before a quorum is obtained.

Mr. SMOOT. Mr. President—

Mr. POMERENE. I yield to the Senator.

Mr. SMOOT. I wish to say that I agree with every word the Senator has said. There is no justification for what has occurred this morning. A quorum should have been here in time, and it should have been possible for the Senator from Ohio to go on 40 minutes ago.

Mr. LA FOLLETTE. There was no justification for fixing 10 o'clock as the hour to meet.

Mr. ROBINSON. Mr. President, the Senate will recall, probably, that I predicted that if the Senate recessed to meet at 10 o'clock, there would not be a quorum here, and that we would not get to work before 11 o'clock. It is now 9 minutes to 11.

Mr. POMERENE. Mr. President, when I recall that the title of a sitting Member to his seat is questioned, a title to a seat in which every sitting Member takes a pride, that Senators should refrain from reading the RECORD, refrain from reading the reports, in part, and absent themselves so that they may not hear the arguments, I do know that they are not free from blame.

Mr. CARAWAY. Will the Senator permit an interruption?

Mr. POMERENE. I yield.

Mr. CARAWAY. The Senator from Missouri [Mr. SPENCER], who opened the argument for Senator Newberry, has not yet published his speech in the RECORD so that anyone may read it.

Mr. POMERENE. Mr. President, my remarks have gone into the RECORD, although I have not had the time to revise the transcript. I shall hope to do it at a later day; but I was anxious that Senators who were not here might have the opportunity of reading what I said, and for that reason my remarks have been printed without any revision at all by me.

Mr. President, on yesterday I devoted a large part of the time to a discussion of the evidence contained in the record. I felt impelled to do that in order that Senators and the country might know what we believe to be the facts. I have transgressed a rule which I have set for myself, not to deal in prolonged debate ordinarily, but I felt that the circumstances in this case justified what I did. I expect to conclude shortly.

On yesterday and the day before I discussed Senator Newberry's connection with his campaign. Under the theory upon which this case has been tried by those representing the majority, Senator Newberry had nothing whatsoever to do with his campaign committee; they say that it was a committee of his friends voluntarily organized, and that he had nothing to do with it.

On the part of the minority I think I have shown that Mr. Newberry himself was the first man to suggest his candidacy. I speak from memory, after having read 2,000 pages of this record and the briefs, but I think that except for his own statements there is not an utterance in this record which points out that a single elector of Michigan asked him to be a candidate. Even his closest business associate, the chairman of his committee, was seemingly surprised when Mr. Newberry said to him, "My friends are urging me to be a candidate for the senatorship," and Mr. Templeton replied, "I had not heard of it."

Mr. SPENCER. Mr. President—

The VICE PRESIDENT. Does the Senator yield to the Senator from Missouri?

Mr. POMERENE. I yield.

Mr. SPENCER. I ask the Senator to yield, because I know he does not want to make an error.

Mr. POMERENE. I want to be corrected if I have made any mistake.

Mr. SPENCER. If the Senator will look at the record, page 479, he will find that the then acting governor, as well as Mr. Andrews and a number of others, took up the matter first, and they were the ones who suggested it to Mr. Newberry.

Mr. POMERENE. Who testified to that?

Mr. SPENCER. Mr. Andrews was the man who testified to it, and the Senator will find his testimony on page 479.

Mr. POMERENE. Very well, I stand corrected; but with that correction I submit there was no general call to Mr. Newberry to surrender his position in the Navy or his position in private life.

Mr. President, I think I have shown conclusively that there was not an important step taken by this committee, the organization of which Mr. Newberry supervised and approved, with which he was not familiar.

They were going to New York repeatedly to confer with him. He was writing to them and wiring them constantly making one suggestion after another. He knew of the publicity. He knew of the expenses which would be involved in the campaign. His funds were checked over into his brother's account and then into the campaign committee's accounts. He knew that this campaign could not be conducted without a large expenditure of money, and it all came from Newberry and his brothers and their allied family interests.

He—and when I say "he" I mean Truman H. Newberry—fairly gloated over the fact that one man at least who was competing for this nomination did not have the money with which to conduct the same kind of a campaign that he was conducting. Let me read from one of his letters. I refer to a letter contained in the bill of exceptions, beginning on page 880 and end-

ing on page 881, written by Mr. Newberry to Mr. King, whom he addresses as "My dear Paul." I read one paragraph. It will be remembered that Gov. Osborn was one of the candidates for that nomination. He was known throughout Michigan. He had a large following, but he did not have the money that was necessary to go up against a man like Mr. Newberry, with the extravagant financial backing that he had. In his letter to "My dear Paul" he said:

There is much more information about Osborn's present plight. I will tell you when I see you. The statement that he is short of ammunition is an absolute fact.

The statement that Gov. Osborn, a candidate for the United States Senate, is short of ammunition is an established fact. No danger to the campaign of Mr. Newberry from that source. There is more about it. "I will tell you when I see you."

As bearing upon this, a good deal has been said about the fact that there have been no criminal prosecutions. Oh, this was not a fight which was inspired by the Democrats. Leading Republicans took the initiative, and they took the initiative before the day of the primary when it became apparent that the foulness of this corruption campaign smelled to high heaven. The Republican lieutenant governor of Michigan, Hon. L. D. Dickinson, wrote to Mr. Newberry as follows:

DEAR SIR: Men of all walks of life, who have the best interests of our State at heart, believe the men who are conducting your campaign for United States Senator are conducting one that will bring one of the greatest scandals on our State that Michigan politics ever saw and have asked me to take the lead in attempting to rid our State of this blight.

I note by your statement that you say you do not know of these things.

In giving you the information I will give you the terms that I hear everywhere in the 62 counties in which I have been recently. I have always had the highest regard for you and must believe you will relieve the Republican Party and the State of a campaign that is now being likened to the notorious Lorimer campaign of Illinois a few years ago. The terms "boodle" and "rotten" seem to be general terms that I hear.

Every section of the State shows evidence of an expensive newspaper campaign costing thousands and thousands of dollars. Thousands of men are liberally paid for work at many more thousands of dollars, an expensive suite of offices with a large force sending out hundreds of thousands of letters to influential voters at more thousands of dollars, thousands of autos already engaged for use on primary day at many more thousands; that practically every opponent of the primary system is backing your campaign; and that hundreds of the experts who have figured in or conducted for money the wet campaigns of the past are among the most active of your supporters.

Conservative estimates say everywhere from \$250,000 to \$500,000 is being used. The good people of the State are apparently powerless to give the voters these matters on short notice. In case you get the most votes you must expect to have the placing of your name on the election ballot contested. If by technical reasons you succeed, then you must expect every church and moral organization to work until election night to keep our fair State from the baneful influence that success following such methods would leave for years to come.

Then he goes on to tell what might happen in the way of a contest in the event that he should succeed in getting the election.

Mr. Vandenberg, the editor of the Grand Rapids Herald, wrote to Mr. Newberry on August 8, nearly three weeks before the primary, as follows:

DEAR SIR: I desire to direct your attention to certain phases of the Michigan Republican senatorial campaign which seem to demand very clear and explicit public statement from you well in advance of primary election day.

I direct your attention to these specific charges which have appeared in responsible newspapers. They are charges, furthermore, which find kinship in very general rumor and report. I fully realize that gossip is deadly and a ruthless assassin. But gossip, in this instance, is too widespread to be longer ignored. It charges you and your associates with the expenditure of money running into six figures in the erection of your senatorial organization. Such a situation must be as intolerable for you, if these reports are false, as it is intolerable for the State if the reports are true. Therefore, it is a situation which must be challenged, because if not challenged by you it will have to be challenged by the electorate.

While this letter is purely personal to you, I should be glad to have an answer from you which could be published simultaneously with this letter so that the issue may be made clear.

Mr. Newberry wrote to him:

I heartily concur in your views and suggestions as stated in your letter of August 8 just received.

The date of Mr. Newberry's letter is August 11. He continued:

I have not paid nor am I obligated to pay anything in connection with the senatorial primary nor have I any fiscal information thereof beyond the assurance of the Newberry committee that their accounts will be filed as required by law and all expenditures made only for such purposes as allowed by law. I have forwarded your letter to the committee requesting them to send you a clear, comprehensive, and adequate statement for publication with your letter as you suggest.

I thank you for writing me and appreciate the opportunity thus offered to state the truth.

TRUMAN H. NEWBERRY.

Mr. WALSH of Montana. Mr. President—

Mr. POMERENE. I yield to the Senator from Montana.

Mr. WALSH of Montana. I wish to ask whether the Senator has in that connection the letter thereupon written by Newberry to King?

Mr. POMERENE. I have, and I am going to read it now. On its face Truman Newberry is playing the part of a shrewd gentleman, but now mark the other side of Truman Newberry. In his letter of August 9, 1918, to Paul King, in the same letter in which he refers to Gov. Osborn being out of the race for the nomination—and bear in mind that this man Vandenberg was the editor of former Senator William Alden Smith's paper of Grand Rapids—Newberry said to Paul King:

I am inclosing a copy of my noncommittal reply to the Grand Rapids people—

Now note—

which covers the situation in a rather flimsy manner.

Oh, how honest we are with the public! How saintly when we write a letter for publication! How much like the cheap politician when we write to one of the chief conspirators! Let me read that again:

I am inclosing a copy of my noncommittal reply to the Grand Rapids people, which covers the situation in a rather flimsy manner.

Mr. CARAWAY. Mr. President, has the Senator the letter or has he referred to the letter in which Senator Newberry said, "I have purposely refused to give information"?

Mr. POMERENE. I do not know how to analyze a character of that kind, but of this I am perfectly sure, that it is in entire keeping with his conduct when he refuses to come before the committee of the Senate.

Mr. CARAWAY. Does he not say in that statement that it is noncommittal, that "I do not admit, but I know, and King, of course, knows that I do"?

Mr. POMERENE. Certainly. It is just such a letter as a man would write who had something he wanted to conceal from the public, and it is just such a situation as some Senators do not desire to confront or to know about, and that is why some of them absent themselves from the Senate while this discussion is going on. Now, let me see. Oh, this conspiracy was not hatched on this side of the Chamber. Some of the wicked Republicans in Michigan who did not feel it was quite right to let the Senatorship be bought began to rebel. Is it strange that they could not view the conduct of this campaign from the lofty pedestal on which Mr. Newberry and his committee stood? On page 13 of the petition of Henry Ford, as printed for the use of the Senate, there appears a letter dated August 20, 1918, and addressed to the editor of the Detroit News by Representative Merlin Wiley, of Sault Ste. Marie, Mich. Let me read it:

To the Editor: The campaign conducted on behalf of Mr. Newberry's candidacy for the United States Senate is a disgrace to the State of Michigan. Some one or some persons are incurring bills of tremendous size. They are incurred in behalf of Mr. Newberry's candidacy and they must be paid by some one. Facts that can not be denied, because the knowledge of them is common property, attest the following:

First. A large and pretentious headquarters has been conducted for months in the Ford Building in Detroit, with a clerical force of from 30 to 40. Office rent and competent clerks cost money in Detroit.

Second. A force of Newberry workers of the class who seldom work without pay have been scouring the State for months doing organization work for Mr. Newberry's candidacy. They cost money.

Third. Banquets in county after county have been held, sometimes under the guise of patriotic meetings and sometimes plainly and boldly for Newberry organization work, as was the case of the banquet at Lansing, when the local Newberry organization was perfected, and the banquet of the Newberry workers of St. Clair at Marine City last Friday night. These things cost money, and these are war times and not time for political banquets.

Fourth. A super-expensive advertising campaign is being carried on, handled by a Detroit advertising company, and carrying almost continuous advertising in nearly every one of the 700 papers in the State, both secular and religious. This costs money, and lots of it.

Fifth. It has been stated that a letter inclosing a return postal card, together with printed matter, has been sent to every voter in the State. This costs money.

Sixth. It is stated that the Newberry organization plans to have autos in every voting precinct to bring out the Newberry vote on election day. This will cost still more money.

Seventh. The old-time politicians, the opponents of the primary system, and the "wets" are almost to a man supporting Mr. Newberry.

Eighth. Not a word, not a statement, not a single announcement of what he stands for has Mr. Newberry made. Even his campaign expense statement states that his campaign is being conducted by his friends without his knowledge or participation, and that no expenses have been incurred with his consent or authority.

Those items cost money—more money than has ever been spent in a Michigan campaign, certainly in this generation. They are, in the amount expended, in plain and open violation of the letter and spirit of both the State and Federal laws. If Mr. Newberry should be elected, Michigan will have an election scandal worse than the Lorimer scandal in Illinois or the Stephenson scandal in Wisconsin. If this is to be the policy permitted in Michigan, then none but millionaires or men with millionaire friends who will pay the bills need apply for the office of governor or United States Senator, for only they can pay the price.

It is variously estimated that the entire cost of the Newberry organization and the conduct of Mr. Newberry's candidacy will have cost from one hundred thousand to one-half million of dollars. Certainly, it will cost enough to down the fair name of Michigan for a generation to come. And if Mr. Newberry should be nominated, he can never hope to take his seat. A United States Senate that, as Republican, would not permit William Lorimer to retain his seat and would seriously challenge the right of Senator Stephenson to a seat therein will



never, when Democratic, permit Mr. Newberry, if elected, to be seated after such campaign expenditures.  
It is time for Michigan to wake up and shield her honor by administering a defeat that will forever make impossible the repetition of such methods.

LANSING, MICH., August 20, 1918.

Mr. Wiley was Gov. Osborn's manager.

Mr. President, it was stated with a good deal of force here by the distinguished chairman of the Committee on Privileges and Elections on yesterday that there had been no indictment of Mr. Newberry by the grand jury for a violation of the laws of the sovereign State of Michigan. That may be, but the letter which I have just read is an indictment before the entire electorate of Michigan, and the answer to the indictment is that Mr. Newberry would not testify in the criminal case at Grand Rapids and would not testify before a Senate committee which was appointed to investigate his case. Mr. President, silence under these circumstances is a confession of guilt.

Let me go a step further. Gov. Osborn, after being defeated, was what in political parlance would be called a "good sport." He telegraphed apparently to Mr. Newberry; Mr. Newberry writes him a generous letter; and then Gov. Osborn comes back with a reply which I think more paddles Mr. Newberry than it pets him. The letter, dated September 17, 1918, is found on page 16 of the petition of Mr. Ford, and is as follows:

SEPTEMBER 17, 1918.

MY DEAR COMMANDER: I have read your letter. Thank you for your sentiments. I shall support you. Already I have straightened out entanglements that would have been hurtful to your success. I am not interested in you personally a particle. The entire matter is so far beyond personal consideration and transcends individual proportions to an extent that only public welfare may be thought of. You can be elected; no doubt you will be. My idea is that the thing for you to do is to honestly confess that you broke the law and that you knew all about the campaign, but that you did not realize the enormity of your offense.

That was good advice.

In such a position you would be intrenched in honesty, I fully believe. And an indulgent people would forgive you and fight for you, because of the past services they think you have given and what they have been told you are giving now. In addition, this action would make for your name an honorable place in the history of Michigan. Otherwise the future will curse you.

The plea can not be honestly made that you spent money in excess because you were fighting Ford, because you had begun your reckless campaign long before Ford was mentioned and had already transgressed the law. Nor can you plead "you did not know." That would prove you to be both an ass and a liar, which I choose to think you are not. I am for you only to save the Nation and the State from the curse of Fordism.

Mr. SPENCER. Mr. President, I did not quite hear that. Will the Senator read it again?

Mr. POMERENE. I think the Senator did hear it, but I will read it again.

Mr. SPENCER. I have been waiting for two weeks to hear the Senator complete the reading of that letter. It was not done when the Senator read it the other day.

Mr. POMERENE. I quoted from it the other day, and I should like to have the Senator read the Record.

Mr. SPENCER. Will the Senator read the concluding sentence so that it may be heard on this side of the Chamber?

Mr. POMERENE. There are but few Senators over there, but I will be very glad to read it again, and I will come right up to the Senator's desk and read it if he wants that done. There is not anything to be gained before the American people by trying to muddy the waters here by making certain accusations against Mr. Ford when he does not appear in this contest. We have held that he is not entitled to the seat. I will read it for the enlightenment of the Senator, but, in view of the fact that the Republicans who are trying to "jam" this case through the Senate are not now in their seats, I hope that the Senator from Missouri, in the interest of truth, will read my speech to his Republican colleagues in the cloakroom or wherever else he can find them.

Mr. SPENCER. Mr. President—

Mr. POMERENE. I will read.

Mr. SPENCER. The Senator will be fair, I know, and say that there are precisely seven Democrats upon the Democratic side of the house, and there are a corresponding number, seven Republicans, on the Republican side of the house.

Mr. POMERENE. I will be frank to say that there are not as many Senators on this side as I should like to see here, but they have not been trying to "jam" this case through the Senate as have Senators on the other side, and they have been in their seats a very large portion of the time.

Mr. OVERMAN. I suggest the absence of a quorum. Let us get both Democrats and Republicans here.

The PRESIDING OFFICER (Mr. ODDIE in the chair). The Secretary will call the roll.

Mr. SPENCER. I suggest that there has been no business transacted since the last roll call. If, however, the Senator from Ohio desires a quorum, I will withdraw the point of order.

Mr. POMERENE. I have not raised the question. I do desire a quorum, but I know that those who have made up their minds that they are going to continue Mr. Newberry in his seat will not stay here to hear what I have to say; they do not want to hear.

Mr. OVERMAN. Since the Senator managing this case objects to it and makes the point that no business has been transacted, it looks as if he does not want a quorum, and therefore I shall not insist upon it.

Mr. POMERENE. Mr. President, let me continue the reading of this letter:

I am for you only to save the Nation and the State from the curse of Fordism. A vote for Ford is a vote for the Kaiser right now, as I view the case.

Yours, truly,

CHASE S. OSBORN.

Mr. CARAWAY. What reply did Senator Newberry make to that letter?

Mr. POMERENE. I do not think that ever came before the committee. If Mr. Newberry had come before the committee, I think then I would have been able to answer the very question of the Senator.

Mr. CARAWAY. Then, as far as this record shows, he never replied to that letter any more than he came before the committee to explain his lack of information?

Mr. POMERENE. Oh, it is about the same thing. Like the Pharisee on the street—

God, I thank Thee that I am not as other men are, \* \* \* or even as this publican.

Mr. President, Mr. Ford has been accused of extreme pacifism. If what has been reported in the papers about what he may have said at certain times is true—and I have heard these statements uttered and denied—I could not approve some of those things. I think they were most unfortunate if they were said; but, Mr. President, I have had some experience in criminal practice. There never was an indictment against any defendant in any case which did not involve some accusation against the prosecuting witness; and when these accusations are not made until the defendant gets into the clutches of the law I think fairness suggests that we should accept them with a few grains of allowance particularly when made against the prosecuting witness, and particularly when they go to his right to a seat.

Mr. President, all the cuttlefish that darken the waters are not found in the ocean's depths.

Mr. President, in my judgment we have proved that this was Newberry's committee; that this committee and Newberry were in a conspiracy to get that nomination; that they were determined to get it, at whatever cost; that by their conduct they have blackened the fair reputation of the sovereign State of Michigan; and permit me to say now, before taking my seat, that it is not alone the Senator from Michigan who is on trial before the Senate. The Senate is on trial before the American people.

Mr. President, perhaps the highest honor in the world to which any man can aspire is to become the President of the United States. Perhaps the next highest honor in the gift of our Government is to be Chief Justice of the great Supreme Court of the United States. Except these two offices, there is no place within the gift of the people of any one of the 48 States which surpasses in dignity the position which you and I now occupy because our States have thus favored us. There is only one way by which the honor of the Senate can be preserved, and that is that those who seek a seat here shall not do it by trying to evade the provisions of the law of the Federal Government or of the several States.

Mr. President, it so happens that there can be only two Senators from each sovereign State at one time—only two. When the voters of a State go to their wardrobe and take from it the senatorial toga and drape it around the shoulders of one of their favorite sons, he is indeed honored; but when some rich man who aspires to that honor builds out of gold dollars a stairway leading into that wardrobe and takes from it the senatorial toga, whether it is done by himself or by his millionaire friends, the toga is no longer a robe of honor; it is a dirty rag that disgraces him who wears it.

Mr. President, I thank the Senators for their kindness in thus listening to me.

Mr. HARRISON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Senator from Mississippi suggests the absence of a quorum. The Secretary will call the roll.

The roll was called, and the following Senators answered to their names:

Ball	Harris	McNary	Spencer
Broussard	Harrison	Nicholson	Townsend
Bursum	Heflin	Norbeck	Trammell
Caraway	Jones, N. Mex.	Norris	Walsh, Mass.
Culberson	Kendrick	Oddie	Walsh, Mont.
Curtis	Kenyon	Overman	Warren
Dial	Keyes	Page	Watson, Ga.
Elkins	King	Pittman	Watson, Ind.
Ernst	Ladd	Pomerene	Willis
France	La Follette	Robinson	
Gerry	McKellar	Sheppard	
Gooding	McLean	Smith	

Mr. CURTIS. I desire to announce that the Senator from Washington [Mr. POINDEXTER] and the Senator from Maine [Mr. FERNALD] are detained in a committee meeting.

Mr. TRAMMELL. I desire to announce the absence of my colleague [Mr. FLETCHER] on account of official business.

The PRESIDING OFFICER. Forty-five Senators have answered to their names. A quorum is not present. The Secretary will call the names of the absentees.

The reading clerk called the names of the absent Senators, and Mr. STANLEY and Mr. SWANSON answered to their names when called.

Mr. SHORTRIDGE and Mr. SMOOT entered the Chamber and answered to their names.

The PRESIDING OFFICER. Forty-nine Senators having answered to their names, a quorum is present.

Mr. WALSH of Montana obtained the floor.

Mr. KING. Will the Senator from Montana yield to me for a moment or two?

Mr. WALSH of Montana. I yield to the Senator from Utah.

Mr. KING. Mr. President, the Senator from Ohio [Mr. POMERENE] has just concluded an able presentation of the facts as disclosed by the record in what is called the "Newberry" case, and has also discussed with ability the law relating thereto. During the discussion but few Senators upon the Republican side have been in the Chamber. The absence of a quorum has just been suggested, and upon the call of the Senate a number of Senators responding to their names came into the Chamber and promptly departed. It has been understood that the able Senator from Montana [Mr. WALSH], who is a lawyer of ability and a Senator of high repute, was to follow the Senator from Ohio if no other Senator desired to speak in support of the sitting Member. And it was also understood that the Senator from Montana would discuss the facts relating to the pending matter and also present his view of the law touching the same. Notwithstanding the call of the Senate, there is but a handful of Senators upon the majority side of the Chamber, and upon this side the number is somewhat in excess.

Mr. SPENCER. Will the Senator allow me to interrupt him to say that if he thinks his count agrees with mine, he would find that there are 15 Republicans and 14 Democrats in this Chamber at the present time.

Mr. KING. I shall not stop to question the accuracy or debate the inaccuracy of the figures submitted by my friend. I am afraid he has formed the habit of inaccuracy in weighing the testimony in the case before us, that he is carrying the same spirit of inaccuracy into his count in the Senate.

Mr. SHORTRIDGE. I hope in the count the Senator will not include the Senator from South Dakota [Mr. NORBECK] and my poor self as being of Democratic persuasion.

Mr. McKELLAR. If the Senator from Utah will yield, I have just counted, and there are 17 Democrats and 15 Republicans present.

Mr. KING. I should think the Senator from California would regard it as a very great compliment to be allowed to sit upon the Democratic side and, of course, it would be a much greater compliment and an honor of which he and his posterity might be proud if he were, indeed, a Democrat.

Mr. SHORTRIDGE. Mr. President, I have been oppressed with a sense of obligation in being permitted to sit over here in the "Cherokee Strip." It is true my mind has been perturbed at times lest some of the "Indians" would resort to the bow and arrow, but I do deeply appreciate my surroundings. I would be relieved much, however, if I could escape from the plethora of words and not be disturbed by what has seemed to be a paucity of ideas. If those on this side—not including the learned, thoughtful, and amiable Senator from Utah—would address themselves as advocates, sitting in a tribunal, to the facts and the law, I would be edified and instructed; but, if my friend will permit me to add, the absence of Republican Senators does not argue that they are disinterested or indifferent. The speech made by the learned Senator from Ohio will be preserved in the Record for all time. Republicans are able to read, and it is really easier to read some-

times than it is pleasant to listen and hear. If the Senator from Utah desires to address the Senate—because he has many of the arts of the advocate and an intimate acquaintance with oratory—I shall listen; I shall remain here, and not suffer, but be greatly delighted.

Mr. McKELLAR. If the Senator from Utah will yield to me to make just one remark, the Senator from California says he is sure our Republican friends will read the Record. What we are troubled about is that they may read the Record after they have voted, and will not have the advantage of having the facts before them when they vote.

Mr. KING. Mr. President, the Senator from California doubtless intended to speak in a complimentary way concerning myself, although there may be some shafts in his remarks. I have no controversy with my eloquent friend from California. I submit, though, with all due respect, that he is somewhat unjust when he speaks of the "paucity of ideas and the plethora of words" which have characterized the debate upon the Newberry case. As is well known, but two speeches have been made upon this question. The Senator from Missouri [Mr. SPENCER] spoke for a number of hours with great force and eloquence and with characteristic ability in presenting his views of the case. He argued in support of the majority report filed in the Senate and attempted to defend the right of the sitting Member [Mr. NEWBERRY] to his seat in the Senate. Upon this side of the Chamber the Senator from Ohio [Mr. POMERENE] has occupied the floor for a part of three days. He has, however, been subjected to frequent interruptions and has been compelled by reason of the questions propounded to make a more extended review of the testimony than perhaps he otherwise would have made. His address was most illuminating; and anyone who may read it will contend that there was no superfluity of words. He has reviewed in an admirable and forceful way the testimony covering substantially 2,000 pages, and has also discussed the law relating to elections and covering the question before us.

But, Mr. President, I did not seek the floor for the purpose of making an address. I arose only for the purpose of challenging attention to the fact that notwithstanding we have before us one of the most important questions that has come to the Senate in years, but few Senators are giving attention to the discussion and I fear a less number are examining the very voluminous record in the case. The question involved in this contest is not a mere personal one, nor is it a mere economic or political one. If the matter under consideration involved only the rights of an individual, of course it would be important; but where the rights of the public are involved, and indeed the very foundations of our form of government are concerned, then the matter assumes an entirely different aspect and reaches a height of transcendent importance.

As I view the case, the matter before us goes to the very foundations of the Republic. It is directly related to the preservation of our Government and of the institutions under which we live. The question is not merely whether Truman H. Newberry shall sit in the Senate of the United States; that question, I concede, is important to him, but it sinks into insignificance when measured by other questions inseparably connected therewith. A representative democracy can only endure so long as not only the form but the spirit of the Government shall be preserved. Rather it is more important the spirit shall influence and control than mere adherence to form be sought.

The will of the people in our Republic is supreme. It is not their will if it is a coerced or a purchased will. There must be a free and intelligent expression upon the part of the people in connection with elections and questions submitted for their determination. If the electorate of a State and of the Nation become debased or corrupt or so flaccid and enemic as to possess no interest in the fate of their country, then our form of government will perish from the earth.

Citizenship implies heavy responsibility. Monarchies and benevolent despotisms may exist and give to those living under them a reasonable degree of liberty and opportunity for culture and development, but a republic can only endure and serve the beneficent purpose for which it is established when the people within its borders are intelligent, patriotic, honest, and inspired by high ideals and noble aspirations. A republican form of government may be degraded into a tyrannous and reactionary government. Factions and groups actuated by sectional and class consciousness may destroy the government founded upon principles of liberty. Wealth may corrupt and corrode the conscience of the people so that their government will be perverted and in the end overthrown.

With practically universal suffrage in the United States, it is important that the electorate be uncorrupted not only by incorruptible, that wealth and vested interests and sinister



forces shall not by bribery or other corrupt methods interfere with the full and free exercise by the people of their sovereign powers. Many persons possessing great wealth seek political positions and utilize their wealth to secure them.

In the case before us it is charged that the electorate of a great State was debauched, and that large sums of money were expended to corrupt the electorate and to secure the nomination of the sitting Member from that State. The issue, it will therefore be perceived, is one which vitally affects not only the sitting Member but a sovereign State; and not only one sovereign State but all States of the Union and the National Government itself. If elections may be controlled by the illegal use of money or by promises of positions, if the conscience of the people may be narcotized by the deadening influence of wealth and its concomitants, then the integrity of the Government itself is attacked and its perpetuity menaced.

So, a great question is before the Senate. The Senate are the judges of the facts and the law. I submit that a matter fraught with such grave consequences should command the most serious attention of every Senator. We are sitting as a solemn court passing upon a vital matter—one which, as I have stated, affects not only the rights of an individual and the honor of the Senate but the very foundations of our republican institutions.

Under our judicial system we bring into the jury box 12 men. It has been said that the whole purpose of government is to establish a tribunal which will fairly and justly determine controversies and the rights of individuals. If an important controversy involving personal property receives the protection and consideration which our States and Nation provide, obviously the matter before us now should command the highest qualities of devotion and service and all of our faculties for its adjudication. How can we pass upon these important questions without the most scrupulous and minute examination of all the facts in the case? How can we apply the law to the facts without a consistent investigation of the legal principles involved? I submit with all deference to Senators that with these responsibilities resting upon us no Senator should absent himself from the Chamber during the discussion of the issues before us. As honest and impartial judges we should read the record, ascertain the facts, acquaint ourselves with the law, seek its application to the facts, and then decide the issue as our conscience and our judgment and our sense of duty under the solemn oaths which we have taken demand.

Mr. WALSH of Montana. Mr. President, in view of the startling revelations of this record as disclosed by the splendid argument and address of the Senator from Ohio [Mr. POMERENE], I offer the following as a substitute for the resolution offered by the Senator from Missouri [Mr. SPENCER].

The PRESIDING OFFICER. The substitute will be read.

The ASSISTANT SECRETARY. As a substitute for the resolution offered by the Senator from Missouri [Mr. SPENCER], the Senator from Montana offers the following:

*Resolved*, That Henry Ford, contesting the election of Truman H. Newberry as United States Senator from the State of Michigan for the term commencing March 4, 1919, not having received a majority of the votes cast at the election, is not entitled to a seat in this body.

*Resolved further*, That on account of acts in gross and flagrant violation of the law of the State of Michigan on the part of the said Truman H. Newberry, his agents, and supporters, intended to encompass his election, he is not entitled to a seat in this body.

Mr. WALSH of Montana. Mr. President, in the orderly conduct of a controversy of this character, and in view of the splendid review of the testimony taken before the committee as presented to the Senate by the Senator from Ohio [Mr. POMERENE], it would be quite appropriate that the debate be continued by some one who is supporting the claims of Mr. Newberry to a seat in this body. I should be glad to yield to any of the Senators who care to say anything in his behalf or in answer to the argument of the Senator from Ohio. [Applause.] No one, Mr. President, appearing to be able to say anything or caring to say anything at this time, I address myself to the subject before the Senate.

When the judgment in the case brought against Truman H. Newberry and his associates, in the campaign for election to a seat in the United States Senate, eventually came before the Supreme Court of the United States and was determined by that body an effort was made, industriously, to inculcate in the public mind that the decision of the Supreme Court had disposed of the whole controversy, and particularly the contest before this body, and his apologists and supporters here have endeavored to give to the public the same view of the matter. The majority report almost at its outset recites the trial at Grand Rapids and the reversal of the judgment eventually by the Supreme Court. I read:

An investigation of both the primary and the general election has been made with a detail and perseverance and to an extent almost inconceivable. In the Federal court of the United States at Grand

Rapids, Mich., at the instance of the Department of Justice of the United States, Truman H. Newberry and 134 other men were, in the fall of 1919, indicted on a charge of conspiring to have Truman H. Newberry pay and expend, or cause to be paid and expended, more than \$3,750, the charge itself being a charge of conspiracy in violation of section 8 of the act of Congress approved June 25, 1910 (ch. 392, 36 Stat., 822-824), as amended by act of Congress of August 19, 1911 (ch. 33, 37 Stat., 25-29).

As a result of this trial Truman H. Newberry and 16 others were convicted of conspiracy. On appeal to the Supreme Court of the United States the conviction was set aside, and the case was reversed.

The record of this trial at Grand Rapids shows that every detail of expenditure, of conduct, and of plan in the campaign, and every activity in behalf of Mr. Truman H. Newberry in connection with both the primary and the general election was most minutely inquired into and carefully examined.

The inference to be drawn is that the whole matter having thus been carefully inquired into and a judgment rendered, which was eventually reversed by the Supreme Court, the matter is finally determined.

Now, it may be that the strictures made upon this side of the Chamber because of the absence of Republican Senators while this discussion is progressing are due, to some extent at least, to a belief current among them that the whole contest was thus disposed of and that this is an effort upon the part of Senators on this side in some way or other to overcome the adjudication of the Supreme Court.

Really, Mr. President, one can hardly imagine that there is very much basis for that belief, although I am willing to indulge it. It seems altogether likely, regretful as it may be, that this cause is going to be determined not upon the merits of the controversy at all but in accordance with the political predilections of the Members of this body, and the continued and persistent absence from the Chamber of Members of the majority discloses a purpose upon their part not to learn the truth, lest the truth might make them free from the thralldom of devotion to party.

My esteemed friend the junior Senator from California [Mr. SHORTRIDGE] has said that though they are absent the exhaustive discussion of the subject by the distinguished Senator from Ohio is found in the Record, and Senators can read his argument. Doubtless they can, Mr. President. I am reminded that when the controversy between Lord Northcliffe and Lloyd-George was at its height the former petulantly said of Lloyd-George that it was rumored around Paris that he could read, but that he never did. Undoubtedly Senators can read in the Record the arguments of the Senator from Ohio, but in all reasonable probability they will not.

Mr. SPENCER. Mr. President—

Mr. WALSH of Montana. I yield to the Senator from Missouri.

Mr. SPENCER. I wonder if it would be interesting to the Senator to note that there are just 12 Democratic Senators besides himself now present and that there are fully as many, if not more Republican Senators on the floor.

Mr. HEFLIN. There are 15 Democrats and 9 Republicans.

Mr. SPENCER. I think there are 11 Republicans and 13 Democrats present.

Mr. WALSH of Montana. Mr. President, I wish to inquire exactly what force, what significance, what importance, is to be attached at the outset here to the decision of the Supreme Court of the United States. I wish Senators to bear in mind exactly what the charge was upon which these people were tried in Grand Rapids, and I call attention to the statute upon which they were tried, there being a very widespread error in regard to its scope and effect. It is generally believed that statute simply prohibits the contribution by a candidate of a sum in excess of \$10,000, or any other sum limited by State statute, in this particular case limited by the statute of the State of Michigan to \$3,750. But that is not all of the statute, because it condemns the expenditure by the candidate of more than that amount, as well as contributions. Reading from the opinion of Mr. Justice Pitney:

It limits the amount of money that may be given, contributed, expended, used, or promised, or caused to be given, contributed, expended, used, or promised, by a candidate for Representative in Congress or for Senator of the United States in procuring his nomination and election.

The indictment in the case charged that the defendant not only contributed but expended, used, and so forth, these various items.

When the case went to the Supreme Court, it was disposed of thus: The illegal expenditures there referred to, as here, were expenditures made in connection with the primary election. The charge was made that illegal expenditures were made in connection with the general election also, but one of the charges was that expenditures were made in connection with the primary election. The Supreme Court, by a majority, held that the statute of the United States, so far as it referred to ex-

penditures made at the primary election, was unconstitutional and void, and that therefore no prosecution could be founded upon the charge of illegal expenditures made at the primaries; that is to say, that it was no crime against the laws of the United States.

Bear in mind, they did not determine that it was not a crime against the laws of the State of Michigan, which is the subject which we are going to inquire into in this contest. The court held, five justices concurring, that the statute was unconstitutional so far as it related to contributions of expenditures in connection with the primary campaign. That is all that those judges decided.

Mr. Justice Pitney filed a separate opinion, in which he contested the contention that the statute was unconstitutional. In that opinion Mr. Justice Clark and Mr. Justice Brandeis concurred, as did Mr. Justice White, who filed a separate opinion. But in the opinion of Mr. Justice White, he said that, conceding that the statute was constitutional, the court was entirely justified in submitting to the jury the question as to whether Truman H. Newberry conspired with other parties to contribute and expend more than \$3,750 in the conduct of the campaign.

Bear in mind he said there was evidence enough, conceding the statute to be constitutional, to submit that question to the jury; in other words, there was testimony to establish that Truman H. Newberry was guilty of contributing to and expending more than \$3,750. The five justices who held that the statute was unconstitutional gave no expression upon that subject at all; but it is a well-established rule of law, that could be supported by reference to abundant authorities, that a court will never hold a statute to be unconstitutional until it is actually faced by that question and can not get away from it; in other words, if these five members of the court believed that there was no testimony in the record upon which the jury could legitimately find that Truman H. Newberry was guilty as charged, they never would have reached the question of the constitutionality of this statute. So we are bound to believe that these five justices concurred with Mr. Justice Pitney that, conceding the statute to have been constitutional, a case had been made that ought to have been submitted to the jury.

Moreover, Mr. Chief Justice White concurs in the judgment expressed by Mr. Justice Pitney and the other two associate justices to whom I have referred, that the statute is a constitutional one. He also confronted the question of the constitutionality of the statute, and under the established rule he could not reach that conclusion unless he also had arrived at the determination that a case had been made to be submitted to the jury. So, Mr. President, as I interpret this decision, every member of the court held that there was enough evidence in the case, if the statute had been a constitutional one, upon which Mr. Newberry could have been convicted; or, in other words, they practically held that if he was being tried under a valid State statute for contributing to or aiding in the expenditure of more than \$3,750 a case was made out upon which the jury would be warranted in finding him guilty.

That is the state of the record so far as the Supreme Court of the United States is concerned. I again call attention to the fact that the court did not undertake to determine at all whether or not Mr. Newberry had violated the State statute; they were simply concerned with the question of the Federal statute. We, Mr. President, are to direct our inquiry to the question not as to whether he violated a Federal statute, except so far as to determine whether he contributed more or assisted in the expenditure of more than \$3,750; our attention is to be directed, except in that one particular, to the question of how far he violated the statutes of the State of Michigan or how far the statutes of that State were violated in order to encompass his election.

The Senate will bear in mind that the Constitution provides that "Each House shall be the judge of the elections, returns, and qualifications of its own Members"; and section 4 of Article I provides that "The times, places, and manner of holding elections for Senators and Representatives shall be prescribed in each State by the legislature thereof," except where Congress may make or alter those regulations; in other words, any man claiming a seat in this body must claim it by virtue of an election conducted in accordance with the laws of the State from which he comes. That is the basis of his title. So, Mr. President, it concerns us not so much in this matter to determine whether Truman H. Newberry violated the law of Congress as to determine whether he violated the law or the laws of the State of Michigan.

Over and over again we are told that he had nothing to do with the campaign; that it was conducted by a voluntary committee of his friends and associates in that State. The brief filed before the committee in his behalf says, at page 19, that

his campaign was voluntarily conducted by friends in Michigan.

Mr. President, I intend to devote some time to the consideration of that question. I intend to demonstrate upon this record to the satisfaction of any man with an open mind that there was not any committee of his friends and business associates in the State of Michigan, but that the campaign was conducted by an organization called the Newberry senatorial committee—the agents of Truman H. Newberry and of no one else.

Senators understand what is meant by a committee. A committee is a body with delegated power from some other body. Thus we have our committees which are charged with certain duties; they are our agents; they are, in a way, doing our work by our authority. So, Mr. President, in the ordinary political organization the voters of a particular party in some precinct get together; they are the source of power; they appoint a precinct committee which is charged with certain duties. The precinct committees get together and constitute what is ordinarily known as a county committee. The county committees and other State committeemen assemble; they constitute the State committee; and the State committee ordinarily carries on a State campaign. So it is with a national organization. Similarly, Mr. President, when a man desires to procure the nomination for a public office either his friends and admirers and supporters voluntarily come together, or he calls them together, and they confer about the matter and appoint a committee, delegating to that committee the power to carry on the campaign. That committee would ordinarily go out and solicit funds with which to conduct the campaign. The candidate himself might be in a remote portion of the country; he might be totally ignorant of the entire affair; and it is intended here, Mr. President, to convey the idea that some such process as that occurred in connection with the campaign of Mr. Newberry. Thus, the majority report distinctly says:

Truman H. Newberry was absent from the State of Michigan continuously during the entire campaign and until long after the election had been held. He took no part whatever either in the financial or other features of the primary campaign or its direction or control. Nor did he take any part in the general election.

I propose now, Mr. President, to consider the composition of that so-called Newberry senatorial committee for the purpose of finding out what its origin was, who created it, whom that committee represented, and by whom it was authorized to do the acts which it did. The record gives us no catalogue whatever of the members of that committee; we do not know who they are; but one, Allan Templeton, was chairman of the committee. Upon the letterheads of the committee are listed certain gentlemen said to be members of the committee. I propose to follow the matter down and find out from the record who were the members of the committee, and by whom they were constituted as such, and in doing so I propose to read from the record so that there will be no controversy about the matter at all. I say that because my discussion of this feature of the case, as perhaps will be the case generally, will be somewhat tedious.

Mr. Templeton was chairman of that committee, so called. How he came to be connected with the matter is disclosed in his testimony at page 414 of the record from which I read:

MR. TEMPLETON. . . . If I may explain, I will try to do so briefly. I had been going to New York every few weeks to see Mr. Newberry in connection with our business. We were the two largest stockholders, and we were doing a great deal of Government work at that time, and it was customary for me to go at least once a week to New York. On one of my visits he said to me—

THE ACTING CHAIRMAN. When was this?

MR. TEMPLETON. I can not remember the date. It was along in the winter or the early spring.

THE ACTING CHAIRMAN. Of 1917 and 1918?

MR. TEMPLETON. I presume so.

SENATOR POMERENE. The winter or spring before the primary?

MR. TEMPLETON. Yes, sir. He said to me, "A number of my friends have asked me to run for the United States Senate." That was the first I had heard of it. I said, "Well, that is nice if you want it." He said, "If I should decide to go I hope you will interest yourself in my candidacy." I said, "I do not know anything about politics. I would not know what to do. If you decide to run and there is anything that I can do to assist you I would be glad to do it, as a business associate and a friend." He said if he decided to run he hoped I would help, and I said, "In what way am I to be of assistance?" He said he was very anxious that if he should run to have a business man's campaign, and that perhaps I would be willing to have a business man's committee in Detroit. I said if that was all there was to it, I saw no objection. That ended the conversation.

What did Mr. Templeton next know about it? The next thing he knew about it he was chairman of the Newberry senatorial committee, and he has not any kind of an idea as to how he happened to be chairman. I read from his testimony at page 413 of the record:

MR. ALFRED LUCKING. How did you come to get into the committee? Who got you into it?

MR. TEMPLETON. I think Mr. King made me general chairman.



Senators will bear in mind that I am going to take Mr. King up directly, and I am going to trace him just exactly in the same way as to how he came to be interested in this campaign and acted in it—

I never knew how it happened. The first I knew of it I saw my name in the letter book.

Mr. ALFRED LUCKING. Did you not have something to do with getting him in?

Mr. TEMPLETON. I think I suggested that he would be a good man for the job.

Mr. ALFRED LUCKING. Did you not see him in connection with it?

Mr. TEMPLETON. I saw him once in connection with it.

Mr. ALFRED LUCKING. With whom?

Mr. TEMPLETON. With Mr. Cody?

Mr. ALFRED LUCKING. Fred Cody, of New York?

Mr. TEMPLETON. Yes, sir.

Mr. ALFRED LUCKING. Who suggested to you that Paul King would be a good man?

Mr. TEMPLETON. I think Mr. Cody.

Mr. ALFRED LUCKING. You personally did not know Mr. King before that, did you?

Mr. TEMPLETON. I had met him two or three times when he was receiver for the Pere Marquette.

Mr. ALFRED LUCKING. Had you had anything to do with him in a political way at all?

Mr. TEMPLETON. Not at all.

Mr. ALFRED LUCKING. Who arranged the meeting with Mr. King, Mr. Cody, and yourself?

Mr. TEMPLETON. As I recall it, Mr. Cody did.

Mr. ALFRED LUCKING. Where was the meeting?

Mr. TEMPLETON. At the Statler Hotel.

Bear in mind, Mr. President, that Templeton never contributed a dollar to this campaign. He says, and that is practically corroborated by the record, except for some immaterial matters, that he was a mere figurehead.

Now, let us find out who King was, and whom he represented; what body of citizens gathered together and deputed King to do the things which he did.

Page 662 of the bill of exceptions contains the story of King, as to how he came to get into this work. I read it. It is somewhat lengthy.

I was first approached in connection with the Newberry senatorial campaign in February, 1918, just as we were closing up the work of the charter commission. I can not remember the exact date; it seems to me it was some time after the 20th of the month, in the twenties. One afternoon just before the adjournment of the commission, ex-State Senator George Scott, of Detroit, called me one side and said that some friends of his wished to meet me that evening at the Hotel Statler, and asked me if I would be good enough to go to the hotel to meet them; I told him I would. I went to the Hotel Statler that evening. I think Mr. Scott and the respondent Fred Cody were there. The respondent Templeton came in while we were there, as I remember it. I think Mr. Templeton was at that time the president of the Detroit Board of Commerce. We had dinner in Mr. Cody's room. I can not remember just the dialogue or the conversation, but it was substantially that the friends of the then Commander Truman H. Newberry were considering taking up the work of a campaign in his behalf for the United States Senate. I had had previous experience in handling a campaign. I had been secretary and one of the managers of the so-called Townsend senatorial committee in Michigan in the year beginning in October, 1909, and extending through to the primary in 1910. I had also been secretary of the Republican State central committee in 1910. We visited at some length, possibly a couple of hours. It was stated that if this candidacy should be launched that it would be promoted by business associates and friends of Mr. Newberry. At that time I had no acquaintanceship with Commander Newberry; I think I had met him. I did not on that occasion give these gentlemen any answer to their suggestion that I undertake the management of the Newberry campaign. I stated to them that I had just entered upon the practice of law in Detroit. I think I told them that back in 1909, when I opened my law office in Lansing, I had promised myself and family that I would not take any further active part in politics. Then followed the Townsend campaign. At the earnest solicitation of Congressman Townsend, I embarked upon his campaign, and that was followed by the secretaryship of the State central committee and the clerkship of the house of representatives, so that my law office really did not get started in Lansing, and I was determined not to have that happen again, and so told these gentlemen that the Townsend campaign had been a very strenuous campaign, that I had really impaired my health, and I had no inclination or desire to get into another State-wide campaign of any kind. I had been through a State-wide campaign just the year before as director of the first Red Cross war fund drive, which, while short, had been also strenuous, and yet they urged me to take the place if they should have a committee and go ahead.

Bear in mind, they urged him to take the place "if they should have a committee and go ahead."

They wanted me to take an active part in it out of my acquaintance and familiarity with conditions in Michigan. I finally said, "Well, I will talk it over with my wife." I had promised her I would never go into another campaign, and would talk it over with my business associate, Mr. McKee, and I think I said I would mention the matter to Arthur T. Tuttle, the United States district judge who for years had been my warm personal friend, and to Judge Clyde I. Webster, now of the Wayne circuit bench, and see what my family and business associate and friends thought about it. I afterwards discussed the matter with my family and with my partner and with my friends, Judge Webster and Judge Tuttle. After that discussion there was one other matter that I was not sure about. I had been secretary of the State central committee and had a considerable active part in the Bay City convention of 1912.

Because of the difference of opinion that had arisen at the Bay City convention, I expressed a desire to confer with the commander himself before I would give an answer to the suggestion that I would manage this campaign. I wanted to know before I started out on any such enterprise how he personally felt toward myself. I did not know. I

had not seen the commander since the episode at the Bay City convention. As a result, I went to New York to see him. When I got to New York I saw Commander Newberry and had a short conference with him at his apartment in the Hotel Gotham. Later he went to the Biltmore. Mr. Fred Cody, the commander, and I were present at the conference. Mr. Newberry met us at the door and shook hands and he said, "Well, young man, I have not seen you since the day over in Bay City when you made me sit on the church steps across the street from the Armory." I said, "Well that is quite a while ago; I had forgotten about it myself"—something of that kind. The conference, if you might call it that, was very brief. He was about to leave for the hospital to see Col. Roosevelt, who was ill. We discussed generalities, political conditions generally in Michigan, and Mr. Cody said that some of Commander Newberry's friends were anxious that he should be a candidate for United States Senate and that the matter had been mentioned to me, and that I was considering whether or not I would take an active part in the campaign, but that I wanted to know what Commander Newberry's personal feeling was toward myself individually before I decided the matter. I think there was some general conversation about the expenses of the campaign at that time. I think Commander Newberry made a general inquiry as to what would be the expenses of a State-wide campaign, and I said that in the Townsend campaign that it had cost Senator Townsend's friends approximately \$20,000 to meet the expenses of that campaign, but on account of changed conditions in Michigan and throughout the State, that it would cost his friends probably considerably more than that, possibly \$50,000 to conduct the kind of a campaign, the publicity campaign that would have to be conducted if it were to be successful; that Mr. Townsend had been very active in Michigan politics; had been a Congressman for a number of years; that he was very well known, while Commander Newberry had been a Cabinet officer, he was not so well known in Michigan, and it would entail a greater degree of publicity and would probably for that reason cost more; that I did not know how much a campaign would cost, nobody could tell that; that if his friends decided to go ahead with his candidacy, it would probably cost at least that much. From that time on money or expenses were never discussed with Commander Newberry at any other time. I did not on that occasion tell either the commander or Mr. Cody while I was there at New York whether or not I would take the management. I returned to Detroit and talked the matter over further with my wife, and spoke to Mr. McKee about it, and asked if he had any objection. He said he had not. Finally, after a day or two—I do not remember how long it was—I told Mr. Templeton that I would accept the position of State executive chairman or manager of Mr. Newberry's committee of friends.

You will observe that of the three who met—Scott, Templeton, and Cody—it was Cody who proposed that King become active in the campaign.

Mr. SPENCER. Mr. President, will the Senator yield for a question?

Mr. WALSH of Montana. Yes.

Mr. SPENCER. I gather from what the Senator has said that he is under the impression that Mr. Templeton, the chairman, had no substantial part at all in the campaign.

Mr. WALSH of Montana. Why, Mr. President, I understand the Senator. I told just exactly what the situation was. Mr. Templeton himself said that he was a mere figurehead. The fact about the matter is that the record discloses that he was about the headquarters of the so-called Newberry senatorial committee on a number of occasions.

Mr. SPENCER. The testimony shows, on page 328, that he was in the headquarters a part of each day or every other day, and that while he did not have as active connection with the campaign as Mr. King, by any means, he was keeping in close touch with it. The Senator perhaps will see that in the record.

Mr. WALSH of Montana. Yes; he says he was in the campaign headquarters from time to time. I gave the Senate his own testimony that he was a mere figurehead.

Who was Cody, who proposed that King become the manager of this campaign? The brief to which I have heretofore adverted, filed with the committee on behalf of Mr. Newberry, at page 29, says:

It does appear that through some past favor rendered by Commander Newberry to Mr. Cody, Mr. Cody at times acted as a voluntary messenger boy.

He was an errand boy. That is the contention on behalf of Mr. Newberry.

Mr. Cody was an employee of the American Book Co. The American Book Co. is run by Victor Barnes, president thereof, and a brother of Mrs. Truman Newberry. The Newberry estate and the Newberrys are large stockholders in the American Book Co. His business, according to his own statement, was to place the books of the American Book Co. in the schools by seeking contracts and making other arrangements with State authorities, and with county authorities, and with school district authorities, and so on. It may or may not be significant, but the American Book Co. has been involved in scandals in connection with this kind of work in a number of States, as perhaps Senators will be able to testify from their own knowledge. However, the business of Cody was to place, as he says, the books of the American Book Co. in various places. I read, in support of this, from the record at page 374, Mr. Victor Barnes being on the stand:

Mr. ALFRED LUCKING. Do you know Fred Cody?

Mr. BARNES. Yes, sir.

Mr. ALFRED LUCKING. How long have you known him?

Mr. BARNES. I do not know. I can not recall.



Mr. ALFRED LUCKING. Has he been in the employment of your company?

Mr. BARNES. Yes, sir.

Mr. ALFRED LUCKING. He has been in your employment. In what way—regularly or on a salary, or for jobs that he does?

Mr. MURFIN. I object to this inquiry. The fact appears that he is in the employ of Mr. Barnes's company.

The ACTING CHAIRMAN. Let him answer the question.

Mr. BARNES. I am not thoroughly familiar with that part of my business, as I am the head of the manufacturing branch.

Mr. ALFRED LUCKING. What is that part?

Mr. BARNES. Mr. Cody has done agency work for the firm.

Mr. ALFRED LUCKING. How many years?

Mr. BARNES. For a number of years, I think.

Mr. ALFRED LUCKING. What is the character of his agency work?

Mr. MURFIN. I object to that. It is totally immaterial to any issue involved here.

The ACTING CHAIRMAN. Let him answer the question.

Mr. BARNES. Mr. Cody is what in our business is a salesman. They are referred to as agents. I know that he is in the employ of the American Book Co., but the details of it I do not know. I never had anything to do with that end of the business.

Mr. ALFRED LUCKING. He has been engaged in promoting the sales of your books before different school boards and in State institutions all over the country, has he not?

Mr. BARNES. I do not know to what extent. I say, I have nothing to do with and know nothing of the direction of those agents. I do not know what Mr. Cody does.

Mr. ALFRED LUCKING. You are vice president?

Mr. BARNES. I am a vice president in charge of manufacturing.

Mr. ALFRED LUCKING. Do you know him personally?

Mr. BARNES. I do. I have met him.

Mr. ALFRED LUCKING. You have met him a great many times, have you not?

Mr. BARNES. Probably so.

Mr. SPENCER. Mr. President, will the Senator read the next question and answer?

Mr. WALSH of Montana. Yes.

Mr. ALFRED LUCKING. Did he talk with you about this?

Mr. BARNES. No. So far as I recall, I did not see Mr. Cody during that entire time. I was not in my office and he was not in Washington that I saw.

Mr. President, let us see exactly the character of the errand-boy's services which were being performed by Mr. Cody in the matter of this campaign. Mr. Jay G. Hayden was the Washington correspondent of the Detroit News, a man of wide experience as a newspaper man and in the political activities in the State of Michigan. Mr. Cody came down here to Washington in the fall of 1917 for the purpose of securing Mr. Hayden to take the place which was eventually taken by Mr. King. I read from the bill of exceptions at page 58 the testimony of Mr. Hayden:

I was located at Lansing in connection with reporting the session of 1911, the special session of 1912, and the session of 1913. I know the defendants, Truman H. Newberry, Paul King, Allan Templeton, and Frederick Cody. I have known Mr. Cody for seven or eight years. In December, 1917, when I was located at Washington as correspondent of the Detroit News, I had seen Mr. Newberry several times; I do not know that I ever had met him before that time. During the same month, just before Christmas, I had a conversation with Mr. Cody in the press gallery of the United States Senate. Mr. Cody said that he came representing Truman H. Newberry. He said that Mr. Newberry was considering becoming a candidate for United States Senator. He said that he had told Mr. Newberry that I was the man that he should secure as campaign manager. He said Mr. Newberry told him that he did not know me, but that he would like to have him come and talk with George Miller, and if George Miller agreed with him to go and see him. Mr. Miller was at that time the Washington correspondent of the Detroit News and I was his associate in the office. Mr. Cody said that he had been to see Mr. Miller, and that Mr. Miller had agreed that if they could get me I would be a good man for the job. I told him that I did not want the job; that I had been offered campaign jobs before, and that I did not think they were worth much; that for a newspaper man they filled a very short period of time; that particularly for a political reporter he got identified with one faction in politics, and it always hurt him with every other faction afterwards when he tried to return to the newspaper-reporting game, and further than that, just at that time the United States was at war and we were entering upon some of the greatest events that had ever been reported by a newspaper reporter in the history of the world, and I was not particularly anxious to leave the newspaper business just then. He said that he thought it might be arranged so that I would be taken care of after the campaign was over, if I wanted it that way. We talked at some length about the possibilities of Mr. Newberry as a candidate. He mentioned to me that they had been in communication with certain men in Michigan. I can not remember whether he said they had been to New York, or that he had talked with them in Michigan, or they had written or what, but I remember the four names that were mentioned—Mr. Burt Cady, Mr. Clark, Mr. Peterman, of Calumet, who is Gov. Sleeper's banking partner at Bad Axe, and Mr. Roger Andrews, of Menominee. He said that those gentlemen were all for Mr. Newberry and had urged him to become a candidate for Senator; that they had also had some talk with Gov. Sleeper, but that there was some doubt as to whether Gov. Sleeper was going to support Mr. Newberry. Mr. Cody at some time in the conversation mentioned the sum of \$500 a month as compensation that might be paid me. In this same conversation he said that he thought the matter of compensation could be satisfactorily arranged if I saw fit to take the job. Mr. Cody came up about 2 o'clock in the afternoon and he stayed until he just had time to catch his train, shortly after 4 o'clock. I don't know that Mr. Cody said anything specifically about money in the campaign during the conversation. He mentioned the fact that Mr. Newberry was very wealthy. He stated Mr. Newberry wanted me to come to New York to see him. I told him that I didn't have time to go to New York; that we were very busy in Washington, and I said to him, "Mr. Newberry probably will be in Washington some of these days in connection with his Navy job. I would be glad to talk with him." He said that Mr. Newberry wanted to advise with me respecting the campaign, whether I took the job or not; that they were not going to take no for an answer, and that I would hear from him again.

After that, on the last Friday of 1917, Mr. Cody called me on the telephone. He said that Mr. Newberry was tied up in his Navy job in New York and it was absolutely impossible for him to come to Washington, and that he was very anxious to see me, and asked me if I could not come over the following afternoon, Saturday afternoon, and see Mr. Newberry on Sunday. I finally told him I would come. He said he would reserve a room for me at the Biltmore Hotel. I left Saturday afternoon and got into New York at 1 o'clock on Sunday morning and went to the Biltmore Hotel, where a room had been reserved for me. Mr. Cody came to the hotel 10 or 11 o'clock the next morning. I met him in the lobby. Afterwards we went up to my room, where we had a conversation. Mr. Cody said that they were still very anxious that I take the position of campaign manager.

This was the errand boy, Senators will remember, about whom we were told.

We talked at some length again about the campaign in a general way. I can not distinguish at this time very clearly the exact conversations that occurred in Washington and New York with Mr. Cody. I can not recollect anything particular. Mr. Cody said several times that he thought the matter of compensation could be arranged. I can not remember that there was anything more said about the question of money in the campaign. After this conversation at the Biltmore Hotel we went out to Mr. Cody's residence to dinner. After that we drove to the Gotham Hotel, where Mr. Newberry had his residence. There we saw Mr. Newberry. A conversation ensued in his apartment, in the course of which Mr. Newberry said that he had been urged to run for United States Senator. He said that I had been suggested to him as a man who should be associated with the campaign. He said he realized that the position for the mere term of the campaign was not very desirable, but that he expected that Theodore Roosevelt would be a candidate for President in 1920, and that he wanted to take a greater interest in politics than he had in the past for a period to and including that campaign, and that he needed a political secretary to look after his interests. I told him, as I had told Mr. Cody, that I could not consider the proposition. Then Mr. Newberry said that in any event he was anxious that I apprise him with respect to the campaign. I told him that I was not in a position to advise him as to whether or not he should run for United States Senator, but that so far as I had any information on the Michigan situation, I would be very glad to give it to him. He talked about various phases of the campaign. I remember, for one thing, that I called his attention to the fact that all the candidates for leading State offices in recent years had been nominated on the Republican ticket by less than 60,000 votes, and that the Republican registration of the city of Detroit was a great deal more than that number. I said that there was no question but that a Detroit candidate could be elected Senator almost from Detroit support alone, if he could only get that support from Detroit; that no man had ever had the united support of the Detroit people that I knew of, and I suggested to him that if I was going to run for Senator, the first thing I would do would be to try to get the united support of all of the various factions in Detroit. He asked me how that could be done, and I told him he should see the various political leaders.

Bear in mind that this was the man who is said to have had no part in the campaign at all.

I mentioned particularly Mayor Marx as the head of the city Republican organization, and Milton Oakman, who was at that time county clerk and the head of the county Republican organization, and I mentioned these two men as the two most potent political factors in the Republican Party in Detroit. I mentioned a great many other men in the course of the conversation. I said to Mr. Newberry that one of the great obstacles to his candidacy would be the fact that he was little known in the State of Michigan. I remarked to him that I doubted if a thousand people in the State had ever seen him. I said that the only way that I could see that that could be overcome would be by a personal campaign. He said that was utterly out of the question; that he could not make a personal campaign; that he was tied up on his Navy job. We had quite an extended discussion of that phase of the matter, Mr. Cody saying that he thought the fact that Mr. Newberry was in New York in the Government service would serve to overcome any disadvantage he might have from not being in the State. I said to Mr. Newberry, "If you permit me to offer one word of personal advice, do not attempt to make a barrel campaign in Michigan. In the first place, I think it is against the law; in the second place, I think it is against the spirit of the times." It had been my observation in politics that most of the money which is spent in campaigns is wasted; that a man who sells his vote very rarely delivers. Mr. Newberry said he agreed with that entirely; that if he could not get the senatorship without a large expenditure of money he did not want it. He mentioned specifically the Mitchell campaign in New York and the Herrick campaign in Ohio as two campaigns in which he said large sums of money had been spent and, he thought, most of it wasted.

Mr. Cody said he did not expect to take an active part in the campaign in Michigan; that he, of course, would be connected with the campaign, but working from New York. I left Mr. Newberry's residence to catch the 4 or 4:30 train for Washington; something like that. After that time I was never spoken to about the management of the campaign by either Mr. Cody or Newberry—that is, no request was made to me to manage the campaign. Mr. Cody told me that if I took this position, they wanted a man to go to Detroit and establish headquarters and take charge of the campaign in Michigan.

Bear in mind, "they wanted a man."

Mr. Cody said they wanted to pay my expenses. He had engaged a room at the Biltmore Hotel, and, as I remember it, paid for it. He also arranged with the porter to get me a ticket for the return journey, and I think he gave me in cash the amount of the fare over.

During the conversation at the Gotham, either Mr. Newberry, or Mr. Cody in Mr. Newberry's presence, said that he had communicated with Messrs. Cady, Clark, Peterman, and Andrews, and some circumstances of the negotiation they had had with these men and with Gov. Sleeper were repeated. I can not say whether it was in Washington or in New York that Mr. Cody stated that Mr. Newberry was very wealthy; he related to me the important interests Mr. Newberry had, and he said Mrs. Newberry was with her husband. He said Mrs. Newberry was the daughter of Mr. Barnes who had been the head of the Barnes School Book Co. which had been consolidated into the American School Book Co., and that Mrs. Newberry and her brother controlled the American School Book Co. I do not think there was anything further in that connection.



Let us trace a little further the activities of this messenger boy. He went out to Michigan shortly after that and was present at a meeting at Port Huron, the details of which are reported in the record, as appears from the testimony of Mr. Andrews, beginning on page 478, as follows:

Mr. ALFRED LUCKING. Mr. Andrews, did you have some connection with the senatorial primary contest in 1918?

Mr. ANDREWS. I did.

Mr. ALFRED LUCKING. Who got you to interest yourself in that?

Mr. ANDREWS. I think the matter was first called to my attention by either Gov. Sleeper or Mr. Cady, of Port Huron, early in 1917.

Senator WOLCOTT. That is not the man who has been referred to here as Cady, is it?

Mr. MURFIN. No. Mr. Cady is the State chairman.

Mr. ANDREWS. He was a member of the governor's staff, and the governor came up there, I think, in August.

Senator POMERENE. Who was the governor?

Mr. ANDREWS. Mr. Sleeper. There was some trouble in Gogebic County with Socialists, and some of the members of the staff went up there with the State militia. My recollection is that that was the first time it was called to my attention.

Mr. ALFRED LUCKING. Mr. Newberry was not a candidate at that time?

Mr. ANDREWS. No; but his name was discussed.

Mr. ALFRED LUCKING. I mean who got you to interest yourself in Mr. Newberry's candidacy?

Mr. ANDREWS. I think possibly I got myself. The first talk was on this trip up to the upper peninsula, which is almost a State of its own, and in conferring about the coming candidacy for senatorial contests I became interested in the candidacy of Senator Newberry.

Mr. ALFRED LUCKING. Now, Mr. Andrews, you went either to Chicago or Detroit or New York with these people in connection with this candidacy, did you not?

Mr. ANDREWS. Later on; yes, sir.

Mr. ALFRED LUCKING. When was that?

Mr. ANDREWS. I first went to a meeting at Port Huron.

Mr. ALFRED LUCKING. Who was present at that meeting?

Mr. ANDREWS. The governor and members of his staff, with the exception of Col. Fred Green.

Mr. ALFRED LUCKING. They were not any of them out for Newberry at that time?

Mr. ANDREWS. They were all out for Newberry, except the governor.

Mr. ALFRED LUCKING. All out for Newberry?

Mr. ANDREWS. They were all favorable to Newberry. I do not know whether they were out for him.

The ACTING CHAIRMAN. What date was that?

Mr. ANDREWS. Early in October.

The ACTING CHAIRMAN. 1917?

Mr. ANDREWS. Yes, sir.

Mr. ALFRED LUCKING. Mr. Newberry was not publicly mentioned as a candidate at that time at all, was he?

Mr. ANDREWS. I do not know, sir.

Mr. ALFRED LUCKING. You do not know?

Mr. ANDREWS. No, sir.

Senator POMERENE. What date was that?

Mr. ANDREWS. I think it was October 3, 1917.

Mr. ALFRED LUCKING. When was the first time that any person got you to go in for Newberry personally, not to discuss generally whom you would have for Senator, but for Newberry?

Mr. ANDREWS. Well, I think the date of this Port Huron meeting. The governor had already tendered Mr. Newberry his support, the report was, and the members of his staff were favorable at that time to the candidacy of Senator Newberry.

Mr. ALFRED LUCKING. In October, 1917?

Mr. ANDREWS. Yes; October 3, I think it was.

Mr. ALFRED LUCKING. When did you first meet Fred Cady in respect to this candidacy?

Mr. ANDREWS. At that meeting.

Mr. ALFRED LUCKING. He was at that meeting?

Mr. ANDREWS. Yes.

Mr. ALFRED LUCKING. That is the gentleman from New York, Fred Cady.

Mr. ANDREWS. Yes.

Mr. ALFRED LUCKING. Did he organize that meeting?

Mr. ANDREWS. No; he did not. He was not at the first part of the meeting. The governor bucked on the proposition, so Mr. Cady was not called in until after the governor had left.

Mr. ALFRED LUCKING. Where was Cady then?

Mr. ANDREWS. I do not know.

Mr. ALFRED LUCKING. How long did the meeting last?

Mr. ANDREWS. Probably 15 minutes; maybe longer.

Mr. ALFRED LUCKING. When was he called in?

Mr. ANDREWS. After the governor had left.

Mr. ALFRED LUCKING. The same day?

Mr. ANDREWS. Yes.

Mr. ALFRED LUCKING. Cady was waiting there in Port Huron, then?

Mr. ANDREWS. Yes.

Senator WOLCOTT. That was in October, 1917?

Mr. ANDREWS. Yes, sir.

Mr. ALFRED LUCKING. You kept Cady outside to see what the governor would say first? Is that the idea?

Mr. ANDREWS. I did not keep him anywhere.

Mr. ALFRED LUCKING. I mean the meeting kept him outside to see what the governor would say about it?

Mr. ANDREWS. The matter was discussed as to who the friends of the governor would favor for Senator, on the presumption that the governor had already declared himself in favor of Commander Newberry. At that meeting the governor stated that he thought best to keep out of the contest, and on that account Mr. Cady, who had, I understood, invited Mr. Cady there, did not call him in.

That was October, 1917. On the following page we find Mr. Cady again active in this matter. I read:

Mr. ALFRED LUCKING. When did you next meet Mr. Cady about the matter?

Mr. ANDREWS. I think—

It will be borne in mind that it was in the month of December he was endeavoring to get Hayden to act as manager of the campaign.

Mr. ANDREWS. I think it was in December or January. I am not sure.

Mr. ALFRED LUCKING. Whereabouts?

Mr. ANDREWS. Either in Chicago or Detroit.

Mr. ALFRED LUCKING. Who arranged that meeting?

Mr. ANDREWS. I do not know. There was correspondence going forward with Cady and Cady and myself.

Mr. ALFRED LUCKING. Was Cady present?

Mr. ANDREWS. I think not.

Mr. ALFRED LUCKING. Was Cady present?

Mr. ANDREWS. Yes.

Mr. ALFRED LUCKING. Did he telegraph you to meet him in Chicago or Detroit, as the case might be?

Mr. ANDREWS. It seems to me that the meeting was in Detroit. I am not clear on that.

Mr. ALFRED LUCKING. You have no recollection of Mr. Cady being there?

Mr. ANDREWS. Mr. Cady? No.

Mr. ALFRED LUCKING. Nobody but Mr. Cady and you?

Mr. ANDREWS. That is all.

Mr. ALFRED LUCKING. You two?

Mr. ANDREWS. Yes.

Mr. ALFRED LUCKING. That was relating to the candidacy of Mr. Newberry, was it?

Mr. ANDREWS. We discussed the candidacy of Mr. Newberry.

Mr. ALFRED LUCKING. Devising ways and means?

Mr. ANDREWS. No; I would not say that.

Mr. ALFRED LUCKING. I do not mean raising money, but putting you forward as a candidate.

Mr. ANDREWS. I presume that was what we discussed.

Mr. ALFRED LUCKING. Had he at that time declared himself as a candidate at all?

Mr. ANDREWS. Not to my knowledge.

Mr. ALFRED LUCKING. Did you have a meeting at Chicago before he announced himself as a candidate?

Mr. ANDREWS. Well, I had been in correspondence with Senator Newberry; in fact, I wrote Senator Newberry after the Port Huron meeting and explained what I thought was a fiasco with reference to the governor and gave him the best opinion I could of what his friends thought in the Upper Peninsula.

Senator POMERENE. I missed that statement.

Mr. ANDREWS. I wrote Senator Newberry a letter giving him the best information I had with reference to the situation in the Upper Peninsula, which is removed from the Lower Peninsula. We had to go through three States to get to Detroit.

The ACTING CHAIRMAN. The date of the letter is what we want.

Mr. MURFIN. Have you a copy of the letter?

Mr. ANDREWS. Yes, sir.

Mr. MURFIN. Let the committee have it.

The ACTING CHAIRMAN. If either side wants it; if not, we will just take the date of it.

Mr. ANDREWS. The date is November 17, 1917.

Then Mr. Cady had another meeting with those people out in Michigan, recorded, as I have already called to your attention, at page 413 of the record in the testimony of Mr. Templeton when Mr. Templeton first met him.

That these were not barely casual or accidental meetings, Mr. Cady being around in the discharge of his duties as agent for the American Book Co., but that they were specifically arranged is disclosed by the following telegram from Mr. Cady to Mr. Andrews:

New York, January 11, 1918.

ROGER ANDREWS,  
Menominee, Mich.:

Can you possibly arrange to meet me in Detroit any time week of January 21 instead of the Chicago appointment? All the clippings and information you want is at parties' Detroit office. Talked with Burt last night. He will be out January 15, and thinks we should all meet in Detroit. The Detroit people will be here Saturday and Sunday, and we can bring them in Detroit conference. You could probably meet Clark at that time. Teddy received two very appealing letters this week, one from a distinguished Northern Peninsula man, one from your honorable Senator, both hailing him as the great savior. Nothing doing, however. Treat this information very confidential.

Mr. TOWNSEND. Where is that telegram found?

Mr. WALSH of Montana. That is found at page 372 of the bill of exceptions. This telegram from Cady to Roger Andrews needs a little explanation. The "distinguished Northern Peninsula man," of course, was Gov. Osborn, and "your honorable Senator" was, of course, the Hon. William Alden Smith, both of whom were candidates or prospective candidates against Mr. Newberry at the primaries. Both of those gentlemen, it appeared, had written appealing letters to Col. Roosevelt asking his aid in their campaigns. Of course, Mr. Roosevelt must have communicated that information to Commander Newberry, and Commander Newberry must have communicated that confidential information to Mr. Cady, and Mr. Cady writes that, so far as Col. Roosevelt is concerned, there is nothing doing, and he arranges for the Detroit meeting.

Mr. KENYON. Mr. President, in order to identify this man, may I inquire of the Senator if this is the same Cady referred to in the brief as the messenger boy?

Mr. WALSH of Montana. The same man; the errand boy. Let us pursue further the activities of Mr. Cady, the messenger boy. He had an important meeting in New York, of course, on the occasion of Mr. King's interview with Commander Newberry. He was there to receive Mr. King; he made all the arrangements for accommodating him at the hotel, he paid his hotel bill, he procured his transportation for him, and he ac-

accompanied him to Senator Newberry's quarters and there participated in all the discussions, the story of which has already been read.

But he had a meeting in New York a little later on, the importance of which is so signal that I again turn to the bill of exceptions, at page 66, where I read from the testimony of James Sweinhart. We are following Cody down to the time that eventually Mr. Templeton became active in the committee through the instigation of Mr. Cody, and Mr. King became the manager of the so-called committee in much the same way. Mr. Sweinhart testified:

In January, 1918, I had a conversation with Mr. Cody in reference to Mr. Hayden. Mr. Cody first told me that Mr. Newberry had invited Mr. Hayden over and that they were going to employ Mr. Hayden as the manager in Michigan. He asked me what chance I thought that they would get Mr. Hayden to be their manager. I told them that I thought he had very little chance and stated my reasons therefor; then he said that Mr. Newberry would make Mr. Hayden such a financially advantageous offer that he could not afford to reject it.

I am acquainted with Mr. Robert Oakman, of Detroit. Mr. Oscar Marx, who was former mayor of Detroit, and Edward T. Fitzgerald, also of Detroit. I saw these men in New York in January, 1918, at the Hotel Biltmore. At the time I saw them they were seated at a table in the lounging room next to the bar, together with the defendant Cody and two other men.

Here are the distinguished politicians of the State of Michigan down in the city of New York at the bar and Mr. Cody with them.

I had a talk with Mr. Cody at that time. This was the first time I had ever met Mr. Cody, and he expressed some delight in meeting me because of my newspaper work in Michigan. After we had chatted about half an hour on things in general they stood up to go, and as they stood up to go Mr. Cody sort of took me by the arm and led me back through the room to where there is a kind of a cushioned seat, where we seated ourselves, the others remaining at the table. After some conversation we saw the other people were moving away, so we got up to go down the hall, and he said to me, "What do you think about Truman Newberry as a senatorial candidate?" I said, "He would make a mighty good candidate, very good candidate," and we went on down to the table, and he called the attention of the gentlemen there present to the fact that I thought Mr. Newberry would make a splendid candidate, and something was said there to the effect that they thought so too; and that was all the political conversation we had that day. Before we moved out to where the other gentlemen were sitting, and as we moved down toward these others, he said—

That is, Cody said—

"It will be a great time for the boys in Michigan, because they will spend a barrel of money."

Subsequently, on the Sunday before he sailed for Europe, I saw Mr. Fitzgerald upstairs in the Biltmore, in the room occupied by Mayor Marx and Mr. Robert Oakman. After being there a little while he and I left. On our return, about half an hour later, as we stepped out of the elevator we met Commander Newberry face to face coming away from the room of Mayor Marx and Mr. Oakman, which was near the elevator. Mr. Newberry was in naval uniform and Mr. Robert Oakman and Mr. Marx were saying good-by to him, and then we got out and said good day, or something like that. My newspaper work took me to Mr. Newberry's office at 280 Broadway very frequently from the time he came from the Brooklyn Navy Yard and opened the office there until the 10th of September following. After I met the defendant Cody my visits to Mr. Newberry's office were frequent, but they were not at all regular; some days I would be there twice, sometimes two or three times a week, and then there might be 10 days or 2 weeks when I was not there at all. It all depended upon the instructions of my office to go and get some particular information. On the occasion of those visits I saw the defendant Cody very frequently in Mr. Newberry's office. Sometimes other people were there, sometimes not. Very often when I went Mr. Cody would be there, or possibly I might have gone there and while I was there he would come in. There was an opening there, a sort of a gate that you had to pass through, as you could not go through until you had permission from the inner office. There were several occasions when I went there with Mr. Cody, and on those occasions we went right through. I would not say I found Mr. Cody present with Mr. Newberry every time I was there, but the majority of times that I went to the office Mr. Cody was there or came in while I was there. Mr. Newberry and I frequently discussed the senatorial campaign in Michigan, regardless of the business I went there on. I inquired about the campaign, how it was going. He said, from time to time, speaking generally, that he had had communications from Mr. King telling him the campaign was going very well indeed; that prominent men in all parts of the State were coming out for him, and he had an impression that the campaign was going very good. I remember once that he mentioned that almost daily he got either a telephone message or a night letter. I remember he showed me one night letter in which something was said about some prominent politician coming down to New York and he should show him whatever courtesies he thought fitting because of his influence in the State. I do not remember who the telegram was from; it seems to me it was from Mr. King. When Mr. Newberry told me that he got the communications almost daily I do not remember that he named anyone specifically or the party from whom he received communications. I should say that he said that he was kept posted almost daily either by telephone message or letter or telegram, night lettergram, something like that, and that he knew that prominent men all over the State were coming out for him, because the organization in Detroit had told him so. Mr. Cody was sometimes present at these conversations that I had with Mr. Newberry. I remember one specific conversation I had with Mr. Cody in the office of Mr. Newberry. It related to money. It would be early springtime; I can not say when—probably April. There were quite a number of gentlemen present in the office at the time of this conversation, but the conversation was between Mr. Cody and myself, because we stood at some distance from the other parties in the room. As I remember, Mr. Cody said he had been out there and he understood that the lid was off and the sky was the limit as far as expenditures were concerned.

Let me read just another passage from the testimony of Mr. Sweinhart:

During this period I am talking about Mr. Cody once escorted Mr. Stage, of the Grand Rapids Press, to Mr. Newberry's office. Mr. Cody came to my office one day about the 1st of February and he told me that they were hoping to get Mr. Paul King as manager of the campaign, and they hoped to have Mr. Allan Templeton head what they were going to call a representative citizens' committee, that would sort of give a prestige to the campaign, and then they also hoped to get Mr. Frank W. Blair as the treasurer; and I should say it was about a week, possibly two weeks, later than that that he was at my office again, and he told me definitely that these men had been secured, Mr. King as manager, Mr. Blair as the treasurer, and Mr. Templeton as the executive, or as the head, of this representative committee, and that these men had been specifically appointed by Mr. Newberry; that is, that they had been secured at his personal request.

I invite your attention to this language:

Mr. Cody came to my office one day about the 1st of February, and he told me that they were hoping to get Mr. Paul King as manager of the campaign, and they hoped to have Mr. Allan Templeton head what they were going to call a representative citizens' committee, that would sort of give a prestige to the campaign.

Who are "they" about whom Mr. Cody, the errand boy, is talking?

Mr. President, Mr. Cody had prior to this time made a trip all over the State of Michigan and canvassed the entire State, as disclosed by the testimony appearing in the record at page 556, from which I read as follows:

[Western Union telegram.]

DETROIT, MICH., 13.

TRUMAN H. NEWBERRY,  
Hotel Gotham, New York, N. Y.:

Have spent past two days in conference with Cody men from out in the State and city. Everyone thinks, including Frank Blair, that Paul King quite necessary. King will be in New York Saturday and Sunday this week; Mr. Blair next week. Report satisfactory progress.

A. A. TEMPLETON.

Observe, Mr. President, he says "have spent past two days in conference with Cody men from out in the State." What is meant by "Cody men"? "Cody men" evidently means men who, in Mr. Cody's campaign through the State, have pledged themselves in one way or another to support the candidacy of Mr. Newberry.

Bear in mind before King goes to New York at all Templeton wires Newberry that they all think King necessary in order to conduct the campaign; but why should they say that to Newberry, except for the purpose of getting Mr. Newberry's approval of the selection of King? Otherwise the telegram is utterly meaningless.

Mr. President, it is a matter of no consequence as to whether Mr. Templeton was a mere errand boy, such as you might hire to throw dodgers into the doors of the citizens telling about a public meeting or that you might hire to hand out cards to people promiscuously on the streets, or whether he was the agent of Truman H. Newberry carrying on this campaign, as all of the testimony and correspondence disclosed beyond a question of doubt; it does not make any difference whether he is one thing or the other; if he was an errand boy, whose errand boy was he other than Truman H. Newberry's errand boy?

Mr. President, I have discussed how Templeton came to be chairman. He does not say how it happened. King just put his name to letterheads as chairman of the committee; nobody ever elected him to that place; nobody otherwise ever appointed him to that place.

The next man was Blair, the treasurer. Blair was asked by Templeton to act as treasurer, as disclosed by the record at page 388. This was the testimony given by him before the grand jury, and read at the hearing of the Grand Rapids case:

Q. Mr. Blair was a witness—Mr. Frank Blair was a witness before the grand jury?—A. Yes, sir.

Q. The same question was propounded to him and the same answer made that you have spoken of with reference to the others?—A. Yes, sir.

Q. Then he was sworn, and did he testify?—A. Yes, sir.  
Q. Please read your notes of Mr. Blair's testimony.—A. Frank W. Blair said that he resided in the city of Detroit and was president of the Union Trust Co., of that city. He stated that Truman H. Newberry was a large stockholder in the Union Trust Co. He said that in the spring of 1918 he was asked by Allen Templeton to become treasurer of the Newberry senatorial committee, and that he did become treasurer.

He, too, Mr. President, acted perfunctorily; the fact about the matter is that he contributed but \$100 to Newberry's campaign fund, and that was the extent of his interest in it as measured upon a financial basis.

Now, who are the other members of this so-called committee? There was a man by the name of Floyd who was a member. Every other member of the committee was a hired and paid agent working on a salary. I have referred to Floyd. King secured him, as appears by the bill of exceptions at page 686.



He writes to Commander Newberry under date of March 7, 1918, as follows:

MARCH 7, 1918.

DEAR MR. NEWBERRY: This has been another busy day. I have secured the services of Mr. Charles A. Floyd, a former business associate in Grand Rapids, an A No. 1 young man, well acquainted throughout the State and very popular in handling the work of field secretary. I am sending him out in the State to-night, and he will confer with leaders in Ottawa County to-morrow, Ionia County Friday, Kent County Saturday and Sunday, reporting here Monday. I think we are very fortunate in getting him, as he is just the type of young man we need. He has had to make some sacrifice in a business way, but the people with whom he is connected were good enough to let us have him for the campaign.

I have also dispatched a man to go to the largest cities of the State and talk with the labor people. My idea is to form this month in each county the nucleus of a Newberry committee. These people will be asked to circulate the petitions next month, and we will use the names of signers as new members of our organization. I want to get thorough township and ward organizations in each county. Before we get through I am sure we will get them.

I find that the clipping was inadvertently omitted from my last letter last evening and am inclosing it herewith. Please pardon the oversight.

Sincerely, yours,

PAUL H. KING.

Mr. LA FOLLETTE. Mr. President—

The PRESIDING OFFICER (Mr. JONES of Washington in the chair). Does the Senator from Montana yield to the Senator from Wisconsin?

Mr. WALSH of Montana. I yield.

Mr. LA FOLLETTE. To whom is King writing the letter which the Senator from Montana has just read?

Mr. WALSH of Montana. That letter was written from Detroit to Commander Newberry in New York, telling him that he is going to get Floyd to associate himself in the campaign.

Mr. KING. Why did he ask pardon for an oversight if he was running the campaign and Mr. Newberry knew nothing about it?

Mr. WALSH of Montana. He was writing for the approval of Mr. Newberry, and Mr. Newberry gave the approval as appears from the record at page 514. I continue the quotation from Mr. King's testimony:

Mr. ALFRED LUCKING. Mr. King, we were calling your attention to Mr. Newberry's activities in his own campaign when you last were testifying. You reported to him your employment of Mr. Floyd, did you not?

Mr. KING. Yes, sir.

Mr. ALFRED LUCKING. As secretary?

Mr. KING. Yes, sir.

Mr. ALFRED LUCKING. And he approved of it?

Mr. KING. I believe he did.

Mr. ALFRED LUCKING. Did you tell him the compensation you were paying Mr. Floyd?

Mr. KING. No, sir.

Mr. ALFRED LUCKING. Or that you were not paying him anything, or anything about it?

Mr. KING. No, sir.

Mr. ALFRED LUCKING. Did you report to him that you were sending field men over the State?

Mr. KING. I think I did. I think the record shows it.

The fact about the matter is that Mr. Floyd got no compensation, at least so far as the record discloses; in fact, it says that he did not; but it is also a fact that immediately after the campaign he went over to Detroit and accepted a position paying \$10,000 with Henry B. Joy, the brother-in-law of Truman H. Newberry. All of the other members of this so-called committee were merely paid employees under King. I read in reference to one Hopkins, said to be a member of this committee, from the bill of exceptions, at page 667, of the record of the testimony of Mr. King given in the Grand Rapids trial:

I think Mr. Hopkins and I discussed in a general way what could be done in the way of publicity—making Mr. Newberry acquainted with the voters of the State. As a result of that conference, I engaged Mr. Hopkins to go to work for this committee; he was to be director of publicity, as we called it, and I arranged to give him a salary. I think it was \$500 a month. He stated to me that he had received that amount in the previous national campaign under Mr. Frank Hitchcock, and that he thought he ought to have as much in the State campaign, with which I agreed. He started to work within a few days.

Mr. Phillips was another man said to be a member of the committee, likewise a paid employee, as will appear from the next page of the bill of exceptions—page 668:

The next man that became connected with the publicity department was Mr. Thomas P. Phillips, whom I have known for a number of years. He had been connected with the Detroit News. I think, as you might say, the assistant to Mr. E. G. Pipp, then the editor of the News, and I had talked with him a number of times about helping me. I think his salary was \$100 a week. These three were the publicity men at the headquarters. I saw all of their advertisements, and I wrote some of them. Most of them were blue penciled, more or less, by me, and some I wrote myself. I mean I would blue pencil their advertisements or O. K. their suggestions, or occasionally write advertisements myself. I would write them wherever I might happen to be. I remember one was written in an automobile going from Hastings to Battle Creek to catch a train, about 40 miles an hour, and finished on a big truck on the platform at Battle Creek. That advertisement was afterwards used. These advertisements were run in practically every newspaper in Michigan.

Mr. President, that is the committee; those are the business associates and friends of Mr. Newberry who organized and conducted this campaign, and that is the way they were chosen.

Now I address myself as a lawyer to a body of lawyers, and ask whose agent was Paul H. King? Who was the principal back of Paul H. King when he contracted these large items of indebtedness out through the State? Who was obligated to pay if he was unable or unwilling to do so? I submit, Mr. President, to the learned Senator from Missouri, who has an honorable and creditable career as a judge in his State, if a lawsuit were pending before him by one of the newspapers that had carried this advertising matter and not been paid for it and Truman H. Newberry was sued as having authorized the contracting of that indebtedness, how could he escape the obligation to pay it?

Mr. SPENCER. Mr. President—

The PRESIDING OFFICER. Does the Senator from Montana yield to the Senator from Missouri?

Mr. WALSH of Montana. I yield.

Mr. SPENCER. The question of the Senator from Montana is a fair one. If Truman H. Newberry was responsible or could have been responsible for any item of expense in connection with the campaign, if it had not been paid, his liability is clear; but I call the attention of the Senator, whose mind is made up upon this matter and who is trying to prove his side of the case, I call his attention as a lawyer, if I may further trespass upon his time, that when he starts out with evidence he says Mr. Hayden said that Mr. Cody said that Mr. Miller said that Hayden would be a good man, and then attempts to connect that three-ply hearsay evidence with Truman H. Newberry. He starts out with Cody and he tells here and there a thing that Cody did, but he does not bring home by any competent evidence a single thing that was done wrongfully or improperly to the door of Truman H. Newberry.

I submit to the Senator from Montana that if he were on the bench he would have to find that the only men liable for any expenditures in that campaign were the voluntary committee who incurred them, who hired King, who were back of him, and who, according to their own testimony, if it is to be believed—and every one of them was a man of honor and character and integrity—did not have the source of their appointment in Truman H. Newberry, nor had he any control over their action.

I call the attention of the Senator from Montana for a moment. There were two striking instances of control. Paul H. King said, "We must get back of a Democratic candidate in the Democratic primary." The testimony shows that when in some way the attention of Truman H. Newberry was called to that matter he said, "We must keep out of it. Nothing ought to be done in it." What was done in it? Whose voice controlled? Whose hand guided? From the beginning to the end of it the guiding mind was that of Paul H. King, and the control of it was his; and Newberry, in New York, had nothing to do with it, except that information was given to him from time to time of the state of the campaign and as to what was going on; for he was, after all, the candidate himself.

Senators can make up their minds, if they like, and support them by inferences and suspicions; but you can not put your finger on this record to a single witness who under oath testifies that a dollar of Truman H. Newberry's money was spent.

Mr. ASHURST. Mr. President, will the Senator yield there? Has the Senator, in the fervor of his eulogy of his own witnesses, forgotten that the record shows that Truman H. Newberry wrote a letter and said, "Publicity! Full speed ahead with your publicity, and you will drive out the opponents"? Has the Senator forgotten that letter?

Mr. SPENCER. I do not recall it.

Mr. ASHURST. It is in the record.

Mr. SPENCER. I have no doubt it is, if the Senator from Arizona says so.

Mr. ASHURST. How can a man order "full speed ahead," "publicity to drive out my opponents," and then say "I had nothing to do with it"? How would the Senator, as a judge, get around that letter? Let him answer the question of the Senator from Montana, rather than eulogize his witnesses.

Mr. SPENCER. If the Senator from Arizona, who is a fair man, will look at that list of contributors—

Mr. ASHURST. If the Senator will look at Truman Newberry's letter, I will look at the list of witnesses.

Mr. SPENCER. I have looked at the letter. I will read it again if it pleases the Senator from Arizona; but here was the list of every man who gave to that campaign. It was all the money that was raised, and we brought before us the men who gave by far the larger amount in the aggregate. We brought every one of them before us. They were men of the highest standing. They were men with whom any Senator on

this floor would have been glad to associate, socially or financially or industrially, and every man of them gave his testimony, and he told exactly why he gave the money, and how he gave it; and in the face of the most careful examination upon the other side every one of them testified that the gift arose without any solicitation, knowledge, or participation of Truman H. Newberry.

With those facts before Senators, acting under oath as judges, how can you substitute for those facts what is at the best nothing but an inference, because there is not a word in that letter that says that he either did give or that he did solicit? It is an inference which the Senator from Arizona draws; and I submit—

Mr. ASHURST. Will the Senator yield to me?

Mr. SPENCER. May I finish this sentence?—and I submit that it is an unfair thing, when a man's honor and life, so far as honor is concerned, are at stake, to substitute a suspicion and an inference for a sworn fact about which there is no contradiction in the testimony.

Mr. ASHURST. I am neither substituting inferences for facts nor attempting to do so, and the man who in a case of this kind on either side would attempt to do so should be scourged from this Chamber. Let the Senator prove that the letter urging "full speed ahead," "publicity to drive out my opponents," is a forgery; then he can appeal to us.

Do honest men write letters like this? This is not what somebody said Newberry said, not what somebody said Paul King said Newberry said, but what Newberry said. He is charged with having spent too much money. In writing, he writes back and says: "Here is a copy of my noncommittal reply. How do you think I have evaded this question? Have I not done it pretty well?"

Do honest men write letters like that? "Do you think I have evaded the question well? What do you think of my noncommittal reply, where I am charged with having spent too much money?"

Do honest men say that? That is a letter that he sent. "What do you think of my noncommittal and flimsy reply?"

Ah, do not talk about insinuations, do not talk about substituting insinuations for facts, until you explain or excuse this attempt to excuse their own noncommittal and flimsy replies.

Mr. SPENCER. I do not deny the letter. It is nothing more than I have done in my own campaign.

Mr. ASHURST. No, no, no, Mr. President.

Mr. SPENCER. Just a moment.

Mr. ASHURST. I deny it. The Senator from Missouri was never charged with illegal expenditure of money, and if he were so charged he would not make a noncommittal reply.

Mr. SPENCER. May I answer the Senator now? Of course, a candidate was interested in his campaign. Of course, a candidate wanted them to go "full steam ahead." Of course, a candidate wanted everything done that could be honestly done to promote his candidacy. If there was any man in Michigan to whom such a letter could have been sent, he would have been a fool if he did not send it. Of course, he wanted everything to be done to promote his candidacy. I admit the letter. We were talking about who gave the money.

The Senator from Montana asked me if any man who had performed any service or made any publication in that campaign had not been paid, whom could he hold liable? The Senator from Montana reached the conclusion in his question, "Could he not have held Senator Newberry liable?" I admit that the test was a fair one. If Senator Newberry was back of that money, of course he was liable; and then I proceeded to show how every dollar of the amount had been contributed independently and voluntarily by others, eliminating any liability on the part of Senator Newberry.

Mr. GLASS. Mr. President—

The PRESIDING OFFICER. Does the Senator yield to the Senator from Virginia?

Mr. SPENCER. I yield to the Senator from Virginia.

Mr. GLASS. If Mr. Newberry had no interest in the financing of his campaign, what has been the explanation of his telephone conversation with Smith, testified to by Smith under oath, that he was vigorously protesting against the repeated transfer of funds from other Newberry accounts to the account of his brother John?

Mr. SPENCER. There was no telegram.

Mr. GLASS. I said "telephone conversation."

Mr. SPENCER. No; there was no telegram from Senator Newberry to Smith.

Mr. GLASS. I did not say "telegram"; I said "telephone conversation."

Mr. SPENCER. Mr. Smith did testify that he had had a telephone conversation with Senator Newberry, precisely as the Senator says—it has been repeated over and over again in this debate—

Mr. GLASS. I am asking for an explanation of it.

Mr. SPENCER. And that Senator Newberry, so Mr. Smith said, was concerned about the question of balances in his office. Of course, he was interested in the campaign; and I am perfectly free to admit to the Senator that any man who knew that a campaign as extended in publicity as he must have known was being carried on in Michigan must have known that it was costing a great deal of money. There can not be any doubt about that. The point that we were discussing with the Senator from Montana was, who gave the money? If Truman Newberry gave a dollar of it, may I say to the Senator, or if he solicited a dollar of it from the men who gave it, then Truman Newberry is a perjurer, and every man who testified before the committee on that point is a perjurer, for every one of them, under oath, denied any such fact. How can the Senator get away from that?

Mr. GLASS. The point about which I am inquiring is this: If Mr. Newberry had no interest in the financing of his campaign, if he had no knowledge of it and no pecuniary interest in it, why should he have exercised himself to protest over the long-distance telephone to his confidential agent against the repeated transfers of money from the various Newberry accounts to that particular account which was financing the campaign?

Mr. SPENCER. It is a perfectly fair inference, and if it stood alone it would need full explanation. We have not now got what that telephone conversation was.

Mr. GLASS. Oh, yes; we have.

Mr. SPENCER. No; because Mr. Smith said, if the Senator has it before him, that he could not remember definitely.

Mr. GLASS. But Mr. Smith says very explicitly that Mr. Newberry was raising a row at the repeated transfer of funds from the other Newberry accounts to the particular account which was responsible for the financing of the campaign.

Mr. SPENCER. The general idea of the quotation which the Senator makes is undoubtedly true.

Mr. GLASS. Yes.

Mr. SPENCER. I do not dispute it at all, and I should not dispute the weight of it if it stood alone. As a matter of fact—I may say to the Senator, as a lawyer, the Senator will know I perhaps have no right to say it—

Mr. GLASS. I am not a lawyer.

Mr. SPENCER. As a matter of fact, Mr. Smith was mistaken in his recollection of that telephone conversation. If we had him now before us, he would state so; but the record does not so state, and we must stand upon the record just as it is, and the record just as it is needs explanation.

Mr. WALSH of Montana. Probably Mr. Newberry could correct him if he had testified.

Mr. SPENCER. He had forgotten it entirely. If there had been any light he could have given to the committee, undoubtedly it would have been given.

Mr. GLASS. The very definite statement is made here in the testimony of Mr. Smith, under oath, that Mr. Newberry over the long-distance telephone was vigorously complaining about the transfer of funds from the other Newberry accounts to the account of his brother, John S. Newberry, who under oath testified that he was largely financing his brother's campaign.

Mr. SPENCER. Yes.

Mr. GLASS. Now let me ask the Senator a question. He has been a candidate for public office. If he had no pecuniary interest in the expenditures that were being made by his friends exclusively in his behalf, can he conceive that there would be any obligation upon him over a long-distance telephone to a bank official to protest against the transfer of funds from one account to another account? What would be the purpose of any such protest?

Mr. SPENCER. It was not to a bank official; it was to his own confidential man.

Mr. GLASS. Well, to his confidential man. Would the Senator feel any obligation resting upon him to do a thing of that kind if he had no sort of connection with the financing of a campaign?

Mr. SPENCER. I should not say there was any obligation upon him. I should say that without any financial interest in the matter, so far as obligation was concerned, I might well have an interest in what was going on in my own office, in an office in which my accounts were had; and yet I am quite free to say to the Senator that if that were the only testimony, if it stood alone, I am not disputing the inference that the Senator



seeks to draw from it. I am asking the Senator as a fair man to put his mind in the shape of a balance, and weigh with all the weight he likes to give it the inference from that fact as it appears in the testimony—

Mr. GLASS. No; I can not—

Mr. SPENCER. Let me finish, please—though I say to him now that the record is not full upon it, to give it all the weight the Senator likes, and then put upon the other side of the balance the sworn testimony of every man connected with it directly and positively, and which way do the scales lean?

Mr. GLASS. And yet, significantly, the evidence disappears, and the man who chiefly could testify disappears.

Mr. SPENCER. Oh, there was no disappearance of evidence. Now, the Senator is not exercising that judicial fairness which has characterized him all his life. There is no evidence that disappeared that was not available for this committee, either through the grand jury or through the petit jury.

Mr. GLASS. Did not the accounts disappear?

Mr. SPENCER. Yes; but they had all been previously subject to examination.

Mr. GLASS. Precisely; and upon the basis of that examination the grand jury acted, and the petit jury acted, and found guilty those charged with the offense.

Mr. SPENCER. What did the petit jury find? First, when the case came before that jury, the judge himself, with all his unfairness and partiality, at the close of it said:

There is no evidence to sustain corruption or bribery or fraud. The fifth count of this indictment shall be stricken out.

And it was. What did that leave to the jury? It left to the jury only two things to decide. One of them was as to whether Truman Newberry, together with 134 other men, had conspired together, to do what? To spend more than \$3,750. That was the whole charge.

Mr. GLASS. Then what was the—

Mr. SPENCER. Let me finish the answer, because I am glad the Senator asked me the question. First, the court itself took out of that trial anything which had to do with any wrongdoing by way of bribery or corruption or fraud of any kind, and left to the jury, first, the question which I have just stated to the Senator from Virginia, as to whether or not Truman Newberry was a party to any conspiracy to spend more than \$3,750; and, second, as to whether they had used the mails for an illegal or fraudulent purpose. When the jury took the case, they came back and said, "There is not the slightest evidence of any fraud or wrong in connection with the use of the mails." So when the case at Grand Rapids was finished, all that had to be determined, in the minds of that jury, under the guidance and instruction of that judge, who compelled them, was that "Truman H. Newberry and others together did spend, or conspire to spend, more than \$3,750 in the senatorial campaign in Michigan." The Senator from Virginia knows, and I do not need to repeat—

Mr. GLASS. The Senator knows perfectly well that the admission of Mr. Newberry himself—

Mr. SPENCER. May I be permitted to finish the sentence, please? The Senator from Virginia knows that when the result of that judge's instructions, which compelled that verdict, came before the Supreme Court of the United States for determination, the Supreme Court held, in language as severe as I have ever seen written in any decision of the Supreme Court, that the interpretation of the law by the judge was wrong.

Mr. GLASS. Other lawyers here say that the Supreme Court held nothing of the kind. I am not a lawyer, and I do not know whether it did or not.

Mr. SPENCER. No lawyer will dispute that the Supreme Court decided as I have stated.

Mr. GLASS. The Senator stresses \$3,750. We know perfectly well, by the admission of Newberry himself, that he spent \$176,000.

Mr. SPENCER. There is no doubt of it.

Mr. GLASS. Then why does the Senator stress the \$3,750? The fact of the case is that the jury brought in a verdict of guilty.

Mr. SPENCER. Of what?

Mr. GLASS. Guilty of spending money.

Mr. SPENCER. How much?

Mr. GLASS. The Senator himself admits that \$176,000 was spent.

Mr. SPENCER. How much did the jury decide that he spent over \$3,750?

Mr. GLASS. Why do we deal with the matter in that trivial way? It is not a question of \$3,700. The Senator knows that the testimony reveals the fact that it is admitted by the Newberrys that they spent \$176,000.

Mr. SPENCER. There is no doubt about it.

Mr. GLASS. What I am trying to focus attention upon right now is the fact that the jury found the defendant guilty, and it found the defendant guilty upon testimony which has since disappeared and was not available to the Senate committee.

Mr. SPENCER. It was available. That is where the Senator is mistaken, and there is the gist of the whole thing.

Mr. GLASS. I heard the testimony of Smith read yesterday by the Senator from Ohio, and Smith testified that the accounts had disappeared.

Mr. SPENCER. Yes; but everything which transpired in the trial at Grand Rapids, or before the grand jury, was available to our committee, and pages of it were incorporated in our report.

Mr. GLASS. Was the witness who went to Canada available to the committee?

Mr. SPENCER. No; he was not—

Mr. GLASS. Was Senator Newberry available to the committee?

Mr. SPENCER. Let me finish. No; he was not, because the witness to whom the Senator from Virginia is pleased to refer as having gone to Canada was tried, convicted, and sentenced in Michigan while he himself was unconscious in a hospital from the injuries which he had suffered. Take comfort out of that if you like.

Mr. GLASS. Oh, yes; but he occupied no different relation to the case from that of the many other defendants who were not unconscious.

Mr. OVERMAN. Newberry was not unconscious.

Mr. GLASS. Senator Newberry was not unconscious when he declined to come before the committee.

Mr. KING. Will the Senator from Montana yield for a moment?

Mr. WALSH of Montana. I yield.

Mr. KING. In discussing the contributions, or the obligations for the payments of money, by Mr. Newberry, let me call attention to the record, which contains the bill of exceptions, page 651, and I ask the attention of the Senator from Montana to it, where it is stated:

Neither Mr. Templeton, Mr. King, nor Mr. Oakman have ever, or expect ever, to receive one cent (except actual travel and publicity costs) from me.

This is a confidential letter written on April 6, 1918, by Mr. Newberry to George E. Miller, addressed "Dear George," and in this letter he confesses a liability upon his part for all publicity. We know from the statement of the Senator from Missouri, as well as from the record, that a very large sum, perhaps \$140,000, was expended for publicity, and Mr. Truman Newberry's own letter, a confidential letter, admits his liability for the publicity campaign.

In connection with that he wrote a letter to Mr. King, on April 4, as follows:

When you have impressed these papers and the public with the certain knowledge that I will continue in the race to a finish, they will then have to decide whether they can beat Mr. Osborn better by urging another candidate to enter beside myself, or whether their best opportunity to beat Osborn would be to concentrate and cooperate with all the most satisfactory publicity that you have already given to me. It seems most probable from what I hear and from what you must know that you have already covered so much ground, that any investigation by those who want to back some one beside myself will certainly show that a division of the opposition to Osborn will certainly result in his election. At the present writing I feel that you have secured for my candidacy what might be described as the inside track for the nomination.

First, we find the statement in which he acknowledges his liability and his promise, direct or implied, to pay the costs of the publicity. We have admissions from the representative of Mr. Newberry that the amount expended for publicity was in excess of \$140,000. We find a confidential letter by Mr. Newberry to Mr. King, in which he refers to this most satisfactory publicity, which he had authorized, and the expenses of which he had agreed to pay.

So when it is stated by my friend from Missouri that there is no evidence of the payment of any money, or the assumption of any obligation to pay money by Mr. Newberry, he is not speaking in harmony with the record, but he flies in the teeth of the record.

I thank the Senator from Montana for permitting me to call his attention to this part of the record.

Mr. STANLEY. Mr. President—

The PRESIDING OFFICER (Mr. McNARY in the chair). Does the Senator from Montana yield to the Senator from Kentucky?

Mr. WALSH of Montana. I yield.

Mr. STANLEY. I doubt the propriety of making a point of no quorum, but I think the fact that there are none so blind as those who will not see, and none so deaf as those who will

not hear, is manifest from the attendance of three or four Senators on the other side.

Mr. KING. Let the RECORD show that the senior Senator from Michigan [Mr. TOWNSEND] is in his seat, that the junior Senator from North Dakota [Mr. LADD] is in his seat, and no other Senator upon the Republican side.

Mr. STANLEY. Two Senators.

Mr. ASHURST. The Senator from New Hampshire [Mr. KEYES] is present.

Mr. KING. Yes; I observe the Senator from New Hampshire [Mr. KEYES].

Mr. WARREN. The Senator should look around a little before he makes such a statement.

Mr. TOWNSEND. Mr. President, I recognize the force of the criticism which is indulged so frequently on the other side as to the absence of Senators; but I ask Senators in good faith if there was any better attendance in the Senate when the Senator from Missouri [Mr. SPENCER] addressed the Senate, or if they can remember a time when Senators could be kept in their seats during a speech which consumes hours? I have never known it to be the case since I have been in the Senate. Senators will not remain here during long speeches.

I am not complaining about any speech, however long, made on this subject, but there was quite as good an attendance during the speech of the Senator from Ohio [Mr. POMERENE] as there was during the four or five hours when the Senator from Missouri [Mr. SPENCER] spoke. It may be deplorable, and I think it is, that Senators do not feel it incumbent upon them to remain in their seats, but it is a criticism which does not apply especially to this particular matter.

Mr. STANLEY. Mr. President, I had the honor to hear and to enjoy the very ingenious address of the very able Senator from Missouri, and the RECORD will show, if I am not much mistaken, as indicated by interruptions by Democratic Senators on this side, that there were five times as many Democratic Senators actively participating in that debate while the Senator from Missouri was making his defense of Senator Newberry as are now on the other side of the Senate.

Mr. WALSH of Montana. Mr. President, I hope the Senate understands perfectly the reply made by the distinguished Senator from Missouri to the very plain question I addressed to him, as to whether, in the light of evidence to which I have invited the attention of the Senate, if a suit were brought against Truman H. Newberry for any of the advertising placed by King in practically every newspaper in the State of Michigan, there would be any possibility of his escaping the obligation to pay upon the ground that King was his agent.

Mr. SPENCER. Does the Senator want a reply?

Mr. WALSH of Montana. I would be very glad to understand the answer of the Senator. Perhaps somebody does; I do not. I have had no reply to the question, so far as I can gather. I would be very glad, however, to try out before any jury in the State of Missouri the question I submitted to the Senator.

Mr. SPENCER. I am very sure the fault must be my own if the Senator did not clearly understand my answer.

Mr. WALSH of Montana. I think the fault is in the facts.

Mr. SPENCER. Mr. President, I will not repeat what may seem clearer to the Senator when he reads it, which doubtless was not made plain through the fault of my own expression, but I do repeat to the Senator and to the Senate that there could have been no liability of any kind, manner, or description on the part of Truman H. Newberry for any indebtedness which Paul King might have incurred; that nothing could have been collected through any court of law from Truman H. Newberry, as the facts set forth in the record conclusively establish.

Mr. ASHURST. Will the Senator from Montana yield to me for a moment to make a reply to that?

Mr. WALSH of Montana. I yield.

Mr. ASHURST. Mr. President, my learned friend the Senator from Missouri says there is no evidence appearing in the record under and by which any person who had an unpaid account for publicity could have recovered a judgment in a court against Truman H. Newberry. Let me read to the Senator a part of a letter dated April 14, 1918, not signed by Truman H. Newberry's agent or attorney, but signed by Truman H. Newberry, in which he said to Mr. King:

I am glad Mr. Warner . . . is scared out for the present, and as long as we keep up our publicity work at full pressure it will be harder and harder for any new man to get any kind of a start that will make it seem worth while for him to be a serious candidate.

That is not signed by Paul King, it is not what somebody said, but it is what Truman H. Newberry wrote. Let me read it again:

I am glad Mr. Warner (three times governor of Michigan) is scared out for the present, and as long as we keep up our publicity work at full pressure it will be harder and harder for any new man to get any kind of a start that will make it seem worth while for him to be a serious candidate.

Does the Senator from Missouri, who graces the annals of the Senate by his presence, mean to tell an intelligent people that when a man signs a letter like that he can say in a court of law, "I am not responsible for the publicity which you subsequently ordered, because I knew nothing about it"? Does the Senator mean to say that after signing a letter like that he will not be liable to pay for the publicity? Does my friend contend that?

Mr. SPENCER. Mr. President—

Mr. ASHURST. You either contend that or you do not.

Mr. SPENCER. Mr. President, I do not—

Mr. ASHURST. Answer yes or no. Do not enter into a eulogy of your witness. Say yes or no.

Mr. SPENCER. I may say immediately, without any eulogy of witnesses, that the proposition of the Senator from Arizona is to my mind ridiculous; there is no liability either direct or indirect. I will paraphrase it to the Senator from Arizona, if I may—

Mr. ASHURST. All right, but just a moment—

Mr. SPENCER. If the Senator from Arizona will permit me—

Mr. ASHURST. The Senator from Missouri has said—

Mr. SPENCER. May I answer the Senator?

Mr. ASHURST. Certainly.

Mr. SPENCER. If the Senator from Arizona were to write to me a letter and say, as he might well say, "I am glad no Senator can compete with me in appearance; there is no man in the Senate so handsome or well dressed as am I—be sure to do everything you can to add to my wardrobe and beauty, our efforts will keep away any competitor."

Mr. ASHURST. Again the eulogy!

Mr. SPENCER. It is a well-deserved eulogy in this case. Having written that letter to me and signed it, not by his secretary or by his wife, but by himself, does the Senator mean to intimate that I could go to a jewelry store, or a clothing store, and incur on behalf of the Senator any amount of bills I might like, and make the Senator from Arizona legally responsible therefor?

There is not one word in that letter of Mr. Newberry which creates even the shadow of a liability.

Mr. ASHURST. I will read the letter again, then. It is signed by Truman H. Newberry, to his agent Paul H. King. It is dated April 14, 1918:

I am glad that Mr. Warner—

Three times governor of the State of Michigan—

is scared out for the present, and as long as we keep up our publicity work at full pressure, it will be harder and harder for any new man to get any kind of a start that will make it seem worth while for him to be a serious candidate.

Mr. CARAWAY. Mr. President, will the Senator yield to me?

Mr. ASHURST. I have not the floor, if the Senator will pardon me.

Mr. WALSH of Montana. I have the floor.

The PRESIDING OFFICER. The Chair recognizes the Senator from Montana.

Mr. WALSH of Montana. Mr. President, on the evidence in this record there is no escaping the conclusion that Paul King was the agent of Truman H. Newberry. Let me follow the inquiry a little further. He was some one's agent. He was not acting on his own responsibility. There was somebody back of him. He did not pretend to be acting upon his own responsibility. He was Paul King, chairman. Now, suppose he were sued personally in a court of law on one of those contracts which he placed for advertising, he might very properly defend upon the ground that it was not his obligation at all, that he was a mere agent; but, of course, if he made a defense of that kind he would have to disclose who his principal was. Whom could he say? Upon whom could he cast the responsibility other than Truman H. Newberry?

Mr. TRAMMELL. Mr. President, will the Senator yield for just a moment?

Mr. WALSH of Montana. Certainly.

Mr. TRAMMELL. Is there any evidence whatever in the record to show that King made any report of the progress of the campaign and what was going on except to Mr. Newberry himself?

Mr. WALSH of Montana. Absolutely not.

Mr. STANLEY. Mr. President, not wishing to interrupt unduly, the statement made by the Senator from Montana is absolutely conclusive to my mind, but, to cinch it further,



these debts were incurred either by the principal or by the agent. Does not the record show that none of these so-called agents ever paid for any of this publicity out of their own personal funds or out of any other funds than the Newberry funds, which came through King?

Mr. WALSH of Montana. That is true. When the question of agency arises the direct evidence, of course, goes to the question of the authority conferred. Take Cody, for instance—

Mr. SPENCER. Mr. President, will the Senator yield to me for just a moment to answer the Senator from Florida?

Mr. WALSH of Montana. I yield.

Mr. SPENCER. I am sure the Senator from Montana will bear me out that there is not a word in the record of a single report or reference or statement, verbal or written, between Paul H. King and Truman H. Newberry that had one word to do either with the needs of the campaign, the amount contributed, the contributors, or the purposes for which the money was spent. Only once was a mention of money ever made and that was long before the campaign occurred, when Mr. King said to Mr. Newberry in New York, "The friends of Senator Townsend spent some \$20,000. I think it will be necessary for your friends to spend \$50,000, because you are not so well known."

Mr. WALSH of Montana. The Senator from Florida asked me no such question. He asked me to whom did King report. He reported to Truman H. Newberry. He reported repeatedly to Truman H. Newberry. He reported all his activities to Truman H. Newberry. He reported daily to Truman H. Newberry. He reported regularly to Truman H. Newberry. Not content with reporting by telephone and telegraph, he also sent regular form reports upon the progress of the campaign in every county.

Mr. SPENCER. Mr. President, will the Senator allow me—

Mr. WALSH of Montana. Now, just wait a moment. We are talking about whether King was the agent for Truman H. Newberry. Let us agree that he never wrote him about expenses, let us agree that he did not; but that is not the question addressed to me by the Senator from Florida. We are trying to find out whether he was the agent, not whether he was handling moneys for Truman H. Newberry. I am coming to that later on. I am going to discuss finances when I have disposed of this question of agency. Just now I will ask the Senator to confine himself to that question as I desire to do. The Senator from Florida asked me if he reported to anybody and I answered that he did not report to anybody except Truman H. Newberry.

Mr. SPENCER. Would he not be a strange agent, if he had full control of the campaign, if he was in fact the agent reporting to his principal, who never said a word about its needs, about money, its source, its contribution, or its use?

Mr. WALSH of Montana. That is a matter the Senator can argue in his own time.

Mr. SPENCER. I do not care to argue about it. I submit it to the Senator from Montana.

Mr. WALSH of Montana. The question of money has absolutely nothing to do with the phase of the question which I am discussing. I am discussing the question whether he made this man his agent or not.

Mr. BORAH. Mr. President—

Mr. WALSH of Montana. I yield to the Senator from Idaho.

Mr. BORAH. Mr. King testified very specifically that he reported regularly to Mr. Newberry, sometimes every day, as to the progress of the campaign and what he was doing.

Mr. WALSH of Montana. He even submitted a formal report of the condition of the campaign in each county in the State of Michigan.

Mr. ASHURST. Mr. President, will the Senator yield while I read just a sample report? Here is a sample of many, many reports. This is on August 15 from Mr. King to Mr. Newberry:

Our only weakness is with the labor vote, and my reports indicate that we are getting stronger there. The Flint Labor News, which has been strongly Osborn, is weakening, and I am sending a man there to-day with a page advertisement for insertion just before the primaries.

That is a sample of his reports.

Mr. CARAWAY. Mr. President, may I remind the Senator that in one instance he said, "I am sending you a copy of an advertisement which appears in foreign papers for your perusal."

Mr. POMERENE. Will the Senator allow me to interrupt?

Mr. WALSH of Montana. Certainly.

Mr. POMERENE. Mr. King, in one of his letters to Mr. Newberry, in speaking of 500 newspapers in which they had ad-

vertisements, congratulates himself—I do not recall the exact words—that 201 of those newspapers are actively supporting him.

Mr. WALSH of Montana. Mr. President, I was referring to the witness Cody. I insist upon all of the testimony here, and it is all but conclusive, that Fred Cody was the personal representative and agent of Truman H. Newberry. If he was not, how can the fact be established? Truman H. Newberry can come forward and contradict it. He can say he never authorized Cody to do anything, but he has not done that. We are bound upon the record in this case to draw the necessary inference that he was the personal representative and spokesman.

But when a question of whether one is an agent for another or not is up for consideration the testimony is directed to two features. In the first place there was testimony going to show whether he was authorized or was not. We might speak of that as the direct testimony. To that feature of the matter I have heretofore directed the attention of the Senate. The next thing is to show whether the principal, so called, has approved of, knows of, and works with the agent in the doing of the things which it is charged he did in a representative capacity. Accordingly, Mr. President, I am now going to invite attention to the testimony, which discloses the activities of Truman H. Newberry in the conduct of this campaign jointly with King for the purpose of adding a further prohibitive consideration to the question of whether King was or was not his agent.

It will be borne in mind that King did not assume the duties of this position before Mr. Templeton sent a telegram to Mr. Newberry for the purpose of securing his approbation of the selection of King for this place. Then King went to New York from time to time, according to the testimony, half a dozen times during the campaign to consult with Newberry concerning policies which they were to pursue. I read from the bill of exceptions, at page 669, as follows:

During the progress of this campaign I went to New York and conferred there with Commander Newberry a number of times; I do not know how many; I should say possibly half a dozen times—five or six times. Sometimes I went down to get away from the grind in the campaign; sometimes when some particular State-wide situation developed I would go down and discuss that. I remember one time I went—I think it was the second time—I tried to urge Commander Newberry to make a public statement of his views upon what we conceived to be the issues in the campaign, and the conferences or visits were as much social as anything. I sometimes went alone; sometimes Mrs. King went with me. I think Mr. Sibben went with me most times. I can not remember whether he did every time or not; I rather think he did. I was there with Mr. Templeton. He went down frequently to see Commander Newberry. He went to see Commander Newberry, as I recall, on business usually. I think almost without exception. They are interested in a common business—Detroit Seamless Steel. On one occasion Mr. and Mrs. Templeton, Mr. and Mrs. Roger Andrews, and Mrs. King and myself went down, and on another occasion I wanted the commander to meet some of the people who were active in the organization to get acquainted with them. I think Mr. Floyd was there at one time. Mr. Emery went down one time, too, when I did not go; I saw him there, I believe, afterwards. I think it was after the primaries that Mr. Emery was down there. I can not recall any others.

In other words, Mr. Newberry had down there in New York not only Mr. King, but he had Mr. Floyd and Mr. Emery and other men in connection with the campaign. Then it will be discovered a little later on that he had another gentleman who went down there to fix up the famous battleship film.

As has been said, reports were made regularly to Mr. Newberry. He was communicated with almost daily by telephone and by telegraph and communicated with by letter and, as has been shown, they went there personally.

The Senator from Arizona [Mr. ASHURST] has called attention to a letter appearing at page 704 of the bill of exceptions in which Mr. Newberry recognized that this is his committee and he is participating in its work. I read again under date of April 13, 1918, addressing "My dear Paul":

I am delighted to know that you have met Mr. Currie and that you will work closely together. He is an intimate, devoted friend of mine, and I hope you will persuade him to come down with you—as my guest, of course—and take part in our next conference. He is responsible for Mr. Warner's retirement and friendly attitude toward my candidacy.

I am glad Mr. Warner is scared out for the present, and as long as we keep up our publicity work at full pressure, it will be harder and harder for any new man to get any kind of a start that will make it seem worth while for him to be a serious candidate.

Mr. President, I desire again to call attention to the Federal statute which forbids, as I have said, not only contributing to the campaign more than the sum stipulated but expending in the campaign more than the amount allowed. It does not make any difference so far as this case is concerned whether Mr. Newberry ever contributed a dollar or not; the question is did he participate in the expenditure of more than \$3,750. On page 741 of the bill of exceptions he again recognizes his

participation in the work of this committee. Under date of May 23, 1918, he writes:

MY DEAR PAUL: I return herewith the draft letters with a few notations. Please be assured that these were made with no intent to criticize, and only as a suggestion.

He edited the forms of letters that the committee was sending out over the State of Michigan.

When you finally settle on the forms, please send me an index descriptive of the people to whom the various letters are intended to be sent, together with clean copies of the forms you finally decide to use.

If in your opinion I should, by the use of these letters, now declare myself to be a candidate under the primary law, would it not terminate our present plan of publicity?

Sincerely, yours,

TRUMAN H. NEWBERRY.

MR. PAUL H. KING,  
310 Ford Building, Detroit, Mich.

How can we get away from the proposition that he was participating in the expenditure of the enormous sum of money scattered over the State of Michigan by this committee? Moreover, Mr. President, how can one escape the conclusion that Paul King was acting as his agent? Mr. Newberry himself had conferences with a vast number of people in the city of New York coming there from the State of Michigan. I read from page 689 of the bill of exceptions, as follows:

(Confidential.)

MARCH 13, 1918.

MY DEAR MR. KING: When Oakman was here the other day I mentioned a luncheon I had with Mr. John Mitchell, who you may recall is very well known in labor circles, having been head of the miners' organization at the time of the great strike. He is also one of the constant advisers of Mr. Gompers.

I am inclosing herewith a copy of a letter received from him this morning, so that you may keep the matter in mind in case he came to Detroit, as he thought he might have to do before very long.

I shall probably see him again, or at least communicate with him, so that when he goes out there you will be able to make any suggestions to him that you think would be helpful.

Yours, sincerely,

TRUMAN H. NEWBERRY.

Mr. Newberry got active, Mr. President, with the Steel Trust officials, who seemed to have had more or less influence with the political condition in the State of Michigan. From page 709 I read from another letter written by Mr. Newberry to Mr. King:

I agree with you about the ridiculousness of my joining the Loyal Order of Moose. Goodness knows what they are organized to do, but I will see Mr. Price or Mr. Dice whenever they come and try to get myself into the frame of mind to become one of the brethren.

Your reference to Mr. O. C. Davidson, of Iron Mountain, interests me very much, but I do not know anything about Tom Cole or his difficulty with the Duluth people. Do you mean the United States Steel Co. people in Duluth? In this connection I am inclosing a copy of a letter received to-day from Mr. Duncan, and a copy of my reply thereto. I think it necessary that I should have more detailed information concerning Mr. Davidson and his exact connection with the United States Steel Co. before I undertake to talk to any of my friends here who are in intimate touch with that organization. You may be sure that I will leave nothing undone to accomplish the desirable result you indicate in this particular matter.

I am returning Mr. Grant M. Hudson's letter, as you probably need it for your records. You may be interested to know that I have renewed the subscription of my brother and myself to the Antislavery League, which I made last year through Mr. Kresge, for \$10,000—that is, \$5,000 each for my brother and myself.

He seemed to feel as if he were able to accomplish something with the great mining magnates of the State of Michigan, for, as appears at page 698, he writes:

(Private.)

MARCH 30, 1918.

DEAR MR. KING AND MR. TEMPLETON: This morning a high official of the Cleveland Cliffs Co. called me on the telephone from Cleveland, and requested that I not use his name, so I must ask you not even to guess at it, but to know that I have every confidence in the gentleman and that his advice is worthy of our careful and immediate consideration. As nearly as I can recall it, his part of the conversation was as follows:

"I have just had a full report from the Northern Peninsula and am surprised to find the strong sentiment in favor of your nomination. I have never known the Northern Peninsula to be so unanimous on any one candidacy before. I was surprised because your strength was unexpected, but we are all delighted and everyone will do their utmost to secure your success. I want to strongly advise, however, that you write personal letters as soon as possible to Mr. McNaughton and Mr. Duncan, who control the mine situation. They desire to act in your interests, but the mining people are very peculiar, and I hope that Mr. Andrews will not be named to handle the mining situation, as these gentlemen resent outside interference. I know Mr. Andrews has done excellent work in your interests and his assistance is of the highest value. Please tell this to Mr. Paul King, for whom I have a very high opinion, and I congratulate you on having him interested with you. If you will communicate with McN. and D. along these lines, I am sure it would work out greatly to your advantage and insure a remarkably successful result in the Northern Peninsula. I will keep you in touch with the situation and call you on the telephone when I hear anything that will assist your campaign. I prefer to do that rather than write letters."

That is the end of the quotation purporting to give the conversation which he had with this mining official. Then Commander Newberry writes King:

I am writing Mr. McNaughton and Mr. Duncan as he suggests, but before saying anything to Mr. Roger Andrews I would like to have the advice of Mr. Templeton and yourself as to whether you and Mr.

Templeton should handle this matter or leave it to my amateur efforts. Personally, I think you can do it better, and I hope you will reach the same conclusion.

Sincerely, yours,

TRUMAN H. NEWBERRY.

In view of what is here disclosed, what kind of justification is there for the statement made in the majority report which I now read:

Truman H. Newberry was absent from the State of Michigan continuously during the entire campaign and until long after the election had been held. He took no part whatever either in the financial or other features of the primary campaign or its direction or control. Nor did he take any part in the general election.

Mr. President, something has been said here to the effect that Mr. Newberry never controlled Paul H. King. Why should he control him? Senators have all been engaged in political campaigns.

You have ordinarily something to say about the selection of the man who is going to run your campaign. He is selected by the committee or by yourself if you are running in a primary campaign. He is a man in whom you have every confidence; you repose the utmost trust not only in his fidelity but in his good judgment. You give him carte blanche to go on, and whenever he does anything that does not exactly please you do you bring him on the carpet and say, "Here, you must quit this"? No; you talk with him about the matter, and eventually you agree about it and go on. Of course, you do not want to continue interfering with his transactions every day when he is conducting the campaign and you are out in the State making speeches, and you leave it to his entire discretion. So was entire discretion in the first place intrusted in Mr. Paul H. King. That is all there is to that.

Mr. President, so much for the question of the agency of Paul H. King, for Paul H. King was the entire committee; that is all there was to it; there was no one else who was exercising any kind of direction or control over the campaign in any way. There was not any committee. Again, I ask the Senator from Missouri if a lawsuit such as that I have suggested was brought and Paul King endeavored to escape responsibility by saying that he was the agent for somebody, upon whom could he throw the responsibility? It was either his responsibility or that of some one else; he was acting simply as a citizen of Michigan, or he was acting as a representative of somebody. He did not pretend to be acting merely as a citizen of Michigan and constituted as chairman by nobody. The real principal is at hand; we can not find him anywhere except we find him down in New York in Mr. Newberry's office.

Mr. President, this question of agency is all important, because the statute condemns the expenditure of money by a candidate through himself or through his agent as well as the contribution of money; and I submit, therefore, that whether he contributed a dollar or not, he is responsible for the expenditure of every dollar that was paid out by Paul H. King.

Now, Mr. President, I wish to address the Senate upon the subject of the financing of the campaign, to which the Senator from Missouri always turns. As I have said, it is a matter of no consequence at all, as I view this case, whether Mr. Newberry contributed a dollar or not; the important question is, Did he spend the money through himself or his agent? Let us see about where the money came from. Of course, Paul H. King, skilled politician as he was, experienced in the conduct of campaigns, recognized that this was going to be a campaign that would cost money. He estimated to Mr. Newberry himself, as is conceded upon the record, that at least \$50,000 must be forthcoming in order to carry it on in the manner in which he intended to prosecute the campaign; and, of course, he was not going to undertake the campaign unless he knew that the money was forthcoming to meet the expenses that would be incurred. Let us understand, then, how the campaign was to be financed which King was thus going to conduct.

King says that he thinks Templeton—bear in mind, "he thinks Templeton"—assured him that it would be financed by the friends and business associates of Commander Newberry. I read from the record on page 329:

MR. ALFRED LUCKING. Now, I think in that conversation with Senator Newberry you told him that the campaign would cost at least \$50,000?

MR. KING. Some such remarks as that was made; yes, sir.

MR. ALFRED LUCKING. By you?

MR. KING. Yes, sir.

MR. ALFRED LUCKING. He asked the question, did he not?

MR. KING. He asked, as I remember, what the campaign would cost, campaign for United States Senator, and I said I did not know. I said that I conducted one campaign for Senator Townsend, and that campaign cost the friends of Senator Townsend approximately \$20,000; that I thought in view of the changed conditions, and the fact that he was not so well known in Michigan as Senator Townsend had been, and that it would be necessary to conduct a more extensive publicity campaign, it would probably cost his friends around \$50,000.

MR. ALFRED LUCKING. Why do you say, "his friends"?

MR. KING. His friends had spoken to me about acting as chairman.

MR. ALFRED LUCKING. You mean Templeton and Cody?



Mr. KING. And Scott; yes, sir; those three.  
 Mr. ALFRED LUCKING. Did it cost those friends anything?  
 Mr. KING. Did it?  
 Mr. ALFRED LUCKING. Did it; yes?  
 Mr. KING. I don't know as they did contribute to the campaign.  
 Mr. ALFRED LUCKING. Did they contribute a cent outwardly so that your committee knew anything about it?  
 Mr. KING. Mr. Templeton contributed his services.  
 Mr. ALFRED LUCKING. You were talking about money, \$50,000. Did they contribute anything?  
 Mr. KING. Any money?  
 Mr. ALFRED LUCKING. Yes.  
 Mr. KING. I don't think they did.  
 Mr. ALFRED LUCKING. Then, it must have been somebody else. Did you make any arrangements with anyone to contribute?  
 Mr. KING. No, sir; I think it was stated to me that friends and business associates of Commander Newberry would finance the campaign.

Now, note, Mr. President, Mr. King says:

I think it was stated to me that friends and business associates of Commander Newberry would finance the campaign.

Mr. ALFRED LUCKING. Who stated that to you?

Mr. KING. Mr. Templeton, as I remember.

Mr. ALFRED LUCKING. Where?

Mr. KING. I think that was at our conference in Detroit.

Mr. ALFRED LUCKING. At the Statler Hotel?

Mr. KING. Yes, sir.

Mr. Templeton says he does not know anything about it; that if King says so, he would not dispute his word, but he has no recollection of ever having made the statement at all; and, moreover, that he never was authorized by anybody to make the statement. I read from the record, page 415, as follows:

Mr. ALFRED LUCKING. Did you give assurances to Mr. King that the friends and business associates of Mr. Newberry would finance the campaign?

Mr. TEMPLETON. He made such a statement, and if he made it, I would not question his word. I must have said it at some time or other. I do not remember when or where or anything about it.

Mr. ALFRED LUCKING. You have no recollection of any such thing being discussed at that interview?

Mr. TEMPLETON. No.

Mr. ALFRED LUCKING. Is it your best recollection that it was not talked of?

Mr. TEMPLETON. It is.

Mr. ALFRED LUCKING. Had you any authority from anybody else for saying that it would be financed?

Mr. TEMPLETON. I had not.

Mr. ALFRED LUCKING. Had you any knowledge of anybody going to finance it?

Mr. TEMPLETON. I had not.

Mr. ALFRED LUCKING. Had you any authority that John Newberry or anybody else would do it?

Mr. TEMPLETON. I had not at that time.

Mr. John S. Newberry, who contributed every dollar that was spent in this campaign—at least, so the record shows—until about the 10th day of August, 1918, when his total contributions summed up a matter of nearly \$80,000—\$86,000, as my recollection now serves me—says that he never spoke to anybody about it except to Fred P. Smith.

Mr. TRAMMELL. Mr. President, will the Senator yield there?

Mr. WALSH of Montana. I yield.

Mr. TRAMMELL. Did he not also state that he had not even talked with his brother about it?

Mr. WALSH of Montana. Exactly.

Mr. TRAMMELL. And that he had no information from his brother about his being a candidate, and that he had not talked to any member of his family? He talked to no one. It just seemed that in some mysterious way he got a wireless that his brother was probably going to be a candidate, and he went and made this request upon his financial secretary. He denies having had any knowledge whatever of his brother becoming a candidate until he saw something in the newspapers about it. That is all he had to say in regard to his information regarding his brother's candidacy, when he claims to have authorized his confidential agent, Smith, to use funds to finance the campaign.

Mr. WALSH of Montana. How did King go on with his campaign under these circumstances? He never talked to John S. Newberry. He has no information that John S. Newberry was going to contribute anything; and even Fred P. Smith does not testify that he gave any information to King that John S. Newberry or anybody else was going to finance the campaign. How did Paul King, experienced politician as he was, start in on the management of this campaign and incur unusual expenses without any assurance from anybody, as the record here practically establishes, that the money with which the expenses were to be paid would be forthcoming?

But, Mr. President, that is not all. John S. Newberry, as I said, contributed up to about the 10th of August, when the scandal of this enormous expenditure became rife, and Gov. Osborn had written the letter which has been read in the Senate here this morning, which was published broadcast in the State of Michigan. Then some contributions came in, and he went around and solicited some friends to give some money to

the campaign. I will speak of that directly; but, understand, up to that time every dollar, as far as it has been traced, came from John S. Newberry, through checks executed by his attorney in fact, Fred P. Smith.

Fred Smith was the private and confidential man for all of the Newberry interests. He had some 10 or 12 accounts—one of them for Truman H. Newberry, one for John S. Newberry, one for Mrs. John S. Newberry, one for Mrs. Truman H. Newberry, one for the sons of these persons, one for the Newberry estate, and so on. You have heard the testimony read to the effect that whenever the funds in the John S. Newberry account were not sufficient to meet the drafts which Smith was making upon his account for the purpose of keeping alive the senatorial campaign committee account in the bank, drafts were made upon the other funds. That is to say, money was taken from the Truman H. Newberry account, for instance, and put into the John S. Newberry account, upon which the checks were drawn. You have also heard read the testimony, and I am not going to take the time to go into it, about a conversation over the telephone between Truman H. Newberry and Fred P. Smith, in which we are told that Truman H. Newberry was "kicking" about the draft that was being made upon these funds, and the exhaustion that was taking place by reason of the expenses of the campaign; but I want to call your attention to a most significant circumstance in connection with the financing of this campaign.

John S. Newberry testified that he left the State of Michigan for Chicago some time during the latter part of the month of March or the first part of the month of April, and that just before he went away—just before he went away—he talked with Fred P. Smith, and said to him, "I expect that my brother is going to have a campaign for the United States Senate, and I want to finance it," and that was the authority upon which Fred Smith, acting under his power of attorney, drew upon the funds of John S. Newberry for the purpose of financing this campaign. Bear in mind, now, this was immediately before he went away, in the latter part of the month of March or the first of April. I want to read the record.

Mr. SPENCER. Mr. President, will the Senator let me correct him as to the record? If he has it before him, it will correct itself. What Mr. Newberry said was not, "I expect that my brother will have a campaign," but the statement of Mr. Newberry was, in March—for even he did not know about it then—to the effect that "If my brother should run, then I want to finance it." The Senator will bear that out when he gets the record before him.

Mr. WALSH of Montana. Yes. You will bear in mind also, in that connection, that it was the latter part of April when he said, "If my brother has a campaign"; and the campaign was already under way, organized and operative, as early as the 7th of March.

I read from the testimony of John S. Newberry at page 306.

Mr. ALFRED LUCKING. Did you ever have any conversation with him about this campaign?

He is speaking about Mr. Blair.

Mr. NEWBERRY. No, sir.

Mr. ALFRED LUCKING. Or with Mr. Templeton about it?

Mr. NEWBERRY. No, sir.

Mr. ALFRED LUCKING. Or with Mr. Paul King?

Mr. NEWBERRY. No, sir.

Mr. ALFRED LUCKING. Did you ever have any conversation with Mr. Fred Cody about it?

Mr. NEWBERRY. No, sir.

Mr. ALFRED LUCKING. Do you know him?

Mr. NEWBERRY. Yes, sir.

Mr. ALFRED LUCKING. How long have you known him?

Mr. NEWBERRY. Since the campaign.

Mr. ALFRED LUCKING. Did you know him before that?

Mr. NEWBERRY. Very slightly; only by sight. I never had any conversation with him before.

Mr. ALFRED LUCKING. Did you talk with him at all about this matter?

Mr. NEWBERRY. No, sir.

Mr. ALFRED LUCKING. Did you talk to Cody at all about his contributing to your brother's campaign?

Mr. NEWBERRY. No, sir.

Mr. ALFRED LUCKING. Did you to Mr. King?

Mr. NEWBERRY. No, sir.

Mr. ALFRED LUCKING. Did you to Mr. Templeton?

Mr. NEWBERRY. No, sir.

Mr. ALFRED LUCKING. Did you to Mr. Charles Floyd?

Mr. NEWBERRY. No, sir.

Mr. ALFRED LUCKING. Mr. A. J. Hopkins was on the committee. Did you know him?

Mr. NEWBERRY. No, sir.

Mr. ALFRED LUCKING. Mr. Thomas Phillips, I believe, was also on the committee. Did you know him?

Mr. NEWBERRY. No, sir.

Mr. ALFRED LUCKING. You did contribute something, did you not?

Mr. NEWBERRY. Yes, sir.

Mr. ALFRED LUCKING. How much?

Mr. NEWBERRY. Ninety-nine thousand dollars.

Mr. ALFRED LUCKING. Ninety-nine thousand dollars exactly?

Mr. NEWBERRY. I think so, as near as I saw the reports.

Mr. ALFRED LUCKING. As near as you saw the reports?  
 Mr. NEWBERRY. Yes, sir.  
 Mr. ALFRED LUCKING. When did you contribute the \$99,000?  
 Mr. NEWBERRY. At different times during the campaign.  
 Mr. ALFRED LUCKING. Did you personally draw the checks for it?  
 Mr. NEWBERRY. No, sir.  
 Mr. ALFRED LUCKING. Did you see that they were made to any person in particular?  
 Mr. NEWBERRY. I did not see any checks.  
 Mr. ALFRED LUCKING. Did you sign any checks?  
 Mr. NEWBERRY. No, sir.  
 Mr. ALFRED LUCKING. Did you authorize anybody to sign any checks?  
 Mr. NEWBERRY. Mr. Smith has my power of attorney.  
 Mr. ALFRED LUCKING. He had your power of attorney?  
 Mr. NEWBERRY. Yes, sir.  
 Mr. ALFRED LUCKING. That is all the authority you gave him?  
 Mr. NEWBERRY. Yes, sir.  
 Mr. ALFRED LUCKING. Did you talk to him about it, and tell him to make these contributions?  
 Mr. NEWBERRY. I told him when I was going away that Mr. Newberry expected to have a campaign, and that I wanted to finance the campaign.  
 Mr. ALFRED LUCKING. You wanted to finance it?  
 Mr. NEWBERRY. Yes, sir.  
 Mr. ALFRED LUCKING. And what?  
 Mr. NEWBERRY. And he signed the checks as they wanted the money, I suppose. I was not at home.  
 Mr. ALFRED LUCKING. When was that talk with Mr. Smith?  
 Mr. NEWBERRY. Before I went away, some time the last end of March.  
 Mr. ALFRED LUCKING. That is Mr. Fred P. Smith?  
 Mr. NEWBERRY. Yes, sir.  
 Mr. ALFRED LUCKING. The man who keeps your account and your brother's account?  
 Mr. NEWBERRY. Yes, sir.  
 Mr. ALFRED LUCKING. And keeps the office of both of you?  
 Mr. NEWBERRY. Yes, sir.  
 Mr. ALFRED LUCKING. The same office, whatever it is?  
 Mr. NEWBERRY. The same office.  
 Mr. ALFRED LUCKING. He keeps books for both of you?  
 Mr. NEWBERRY. Yes.  
 The ACTING CHAIRMAN. He has already testified to that.  
 Mr. ALFRED LUCKING. You told him you wanted to finance the campaign?  
 Mr. NEWBERRY. Yes, sir.  
 Mr. ALFRED LUCKING. I would like you to make that date of that conversation known, as near as you can.  
 Mr. NEWBERRY. Sometime the last end of March. The only way I can fix it, I left around the 1st of April.  
 Mr. ALFRED LUCKING. And it was just before you went away?  
 Mr. NEWBERRY. It was just before I went away. It might have been a day or two or a week.  
 Mr. ALFRED LUCKING. Had you paid out any money before you left?  
 Mr. NEWBERRY. No, sir.  
 Mr. ALFRED LUCKING. Or authorized any to be paid out?  
 Mr. NEWBERRY. No, sir.  
 Mr. ALFRED LUCKING. As I understand you, none of those persons whose names I have mentioned talked with you about doing this financing?  
 Mr. NEWBERRY. No, sir; I did not know them.  
 Mr. ALFRED LUCKING. Or got you to do this financing?  
 Mr. NEWBERRY. Not one.

The first contribution made by Mr. Newberry, as disclosed by the record, was on March 22, as will appear from the bill of exceptions at page 281.

The contributions by Mr. Newberry are listed, as I have indicated, at page 281 of the bill of exceptions. I read the first item:

March 22, John S. Newberry, \$1,000.

So that he is entirely corroborated by the actual record, by the actual check, dated March 22, for \$1,000; and the campaign had been running since the first part of March. We have had correspondence, to which I have already invited attention, between Paul King and Truman Newberry, dated the 7th day of March.

The account of Paul King, as chairman of the Newberry committee, was opened on the 6th day of March—bill of exceptions, page 117. I read from that page as follows:

Albert R. Moore, being duly sworn as a witness on behalf of the Government, testified as follows:

Direct examination by Mr. Elchorn:

I live in Detroit, Mich., and am vice president of the Commonwealth-Federal Savings Bank. In 1918 I was in charge of the commercial department, paying and receiving teller. I am acquainted with Paul H. King and understand that he was chairman of what was known as the Newberry senatorial committee in 1918. During that year an account was carried in the Commonwealth-Federal Savings Bank under the name of "Paul H. King, Chairman." Referring to the records of that bank before me, that account was opened on March 6, 1918, with a deposit of \$2,000. The account was closed on May 4, 1918. The aggregate amount of deposits that was made to that account in that period was \$5,083.73. The entire amount was checked out on the date given in May. There had been checking against the account in the interval from March to May, leaving a balance of \$10 when the final check was given. There was also an account carried in the bank by the Newberry senatorial committee during the summer of 1918. That account was opened on March 22, 1918, with a deposit of \$1,000. The account was checked down until there was a balance of \$2.75 on January 15, 1919. The aggregate deposits on September 6 was \$53,456. The aggregate of the deposits to the account of the Newberry senatorial committee was \$178,857.20. The aggregate amount of withdrawals from that account was \$178,854.45, leaving a balance of \$2.75.

So that it appears that for some three weeks before John S. Newberry ever contributed a dollar this campaign was in full progress, and an account had been opened in the bank with a deposit of \$2,000.

I inquire now, as anticipatory of the consideration of questions of law applicable to the case, the question as to what this committee did. After we find out what they did, financed as they were, we will try to apply the law to the facts.

In the first place, they proceeded to subsidize the entire press of the State of Michigan. I read from page 615 of the record, as follows:

Mr. ALFRED LUCKING. I call your attention to another sentence out of the same letter, page 827, as follows:

This is from Truman H. Newberry to Paul King—

"It is hard luck that there is no paper in Detroit strongly on our side, but we anticipated that when we started, so we can hardly call it a discouragement. Your statement that there are 201 papers openly supporting me suggests the inclosed clipping, which I cut from this morning's New York Sun, and which ought to be good ammunition for the 201 papers you speak of and any others who are not behind the Hearst-Wilson candidates."

Now, all of those 201 papers had some of your ammunition, did they not, in the way of advertising and money payments?

Mr. KING. Yes; every paper in the State had it, whether they were supporting Senator Newberry or not.

Mr. ALFRED LUCKING. Nearly every one?

Mr. KING. I think practically every one. That was my idea.

The term "ammunition" is there used, and in the letter from Newberry to King to which I have adverted it is undoubtedly used to signify newspaper clippings, or something of that sort, which could be used for general publicity purposes. But that was not the limit of the significance of the term as it is used in this correspondence, by any means. I want to make that quite clear. That appears from a letter written by Commander Newberry to Paul King under date of August 9, 1918, appearing in the bill of exceptions at page 881. After discussing the situation at some considerable length, he said:

There is much more information about Osborn's present plight I will tell you when I see you. The statement that he is short of ammunition is an absolute fact. Whether or not this was a feeler I will leave to you to judge when I talk to you about it.

In other words, Commander Newberry was congratulating himself and Mr. King upon the fact that the money resources of Gov. Osborn were practically exhausted, and therefore they might felicitate themselves upon a successful campaign, their supply, of course, being inexhaustible.

As to this advertising campaign, every paper in the State had some of the "ammunition" in the shape of advertising and money payments. Let us see what the effect of that kind of "ammunition" was. I read again the letter to which attention was called this morning by the Senator from Arizona [Mr. ASHURST], a letter from Paul King to Newberry, appearing at page 888 of the bill of exceptions, as follows:

AUGUST 15, 1918.

HON. TRUMAN H. NEWBERRY.

P. O. Box 908, New York City.

MY DEAR COMMANDER: I am inclosing herewith the proof of an advertisement which will appear next week showing the indorsement of leading farmers and men interested in agricultural matters throughout the State. This should help.

Our only weakness is with the labor vote and my reports indicate that we are getting stronger there. The Flint Labor News, which has been strongly Osborn, is weakening, and I am sending a man there today with a page advertisement for insertion just before the primaries. As is natural, many of the reports that I am getting now indicate "grief" of various kinds and I am straightening out the troubles as fast as they come along.

There is not a doubt in the world that this advertising was placed with the newspapers of the State of Michigan for the purpose of getting their influence in behalf of the candidacy of Mr. Newberry. We are not babes. We are not children. We know the significance of this kind of thing. We know perfectly well that when anybody goes out, in these days of ours, for the purpose of getting editorial support, he puts an advertisement in the paper whose support he seeks and ingratiates himself in that way. We can not close our eyes to the significance of these proceedings.

They then did what they called "organizing the State." They organized the State. In every county of the State of Michigan, with the possible exception of one, they had a chairman and a secretary. In each precinct of each county, 2,100 in all in the State of Michigan, they had a precinct captain. I read from page 334 of the record:

Mr. ALFRED LUCKING. You had a chairman and secretary of your county committee in nearly every county, did you not?

Mr. KING. I think in every county but Chippewa.

Mr. ALFRED LUCKING. What is that county?

Mr. KING. The home county of ex-Gov. Osborn, who was also a candidate for the nomination, and I felt it discourteous to go into his county and try to organize his political opponents against him, and we did not go into that county.

Mr. ALFRED LUCKING. So that you had an organization in every county outside of that?

Mr. KING. I think so.

Mr. ALFRED LUCKING. Was money put into every one of those counties where you had an organization?

Mr. KING. I think so; practically every county.



Every one of these men was salaried, every one of them was paid; errand boys, no doubt. I now want to read from the record at page 426.

Mr. KING. While the Senator is finding that quotation, it might be interesting to let the RECORD show that the attorney for Mr. Newberry et al. in his opening statement to the jury avowed that they had the most perfect and ingenious scheme for organization and publicity that the State of Michigan had ever beheld. He seemed to boast of it.

Mr. WALSH of Montana. One Judge Harris was called as a witness, and he testified that he was chairman of Charlevoix County, and his testimony was as follows:

Mr. ALFRED LUCKING. You also went into these other counties?  
Mr. HARRIS. Yes.  
Mr. ALFRED LUCKING. And each had their chairman and secretaries?  
Mr. HARRIS. Yes.  
Mr. ALFRED LUCKING. And you selected some of them?  
Mr. HARRIS. Yes; I think I did.  
Mr. ALFRED LUCKING. And you paid out some of these moneys, did you?

Mr. HARRIS. Yes; in our own county.  
Mr. ALFRED LUCKING. How much?  
Mr. HARRIS. Well, I think it was \$75 or \$80.  
Mr. ALFRED LUCKING. Out of the \$1,200?  
Mr. HARRIS. Yes. It was expended by our county committee.  
Mr. ALFRED LUCKING. The \$75 or \$80?  
Mr. HARRIS. Yes, sir.  
Mr. ALFRED LUCKING. Did you make a report of that?  
Mr. HARRIS. Yes; I did.  
Mr. ALFRED LUCKING. On those expenditures?  
Mr. HARRIS. Yes, sir.  
Mr. ALFRED LUCKING. To whom?

Mr. HARRIS. Well, to some member of the committee. Now, I do not know whether I sent that to Detroit or whether I sent it to their Grand Rapids office.

Mr. ALFRED LUCKING. To Mr. Floyd, was it not?  
Mr. HARRIS. It may have been. I do not just now recall, Mr. Lucking.

Mr. ALFRED LUCKING. Did you not have some request to send in a statement of your expenditures?

Mr. HARRIS. I think I did.  
Mr. ALFRED LUCKING. What did your report cover?  
Mr. HARRIS. It covered the expenses in Charlevoix County. I asked the different members of the committee to furnish me with the amount of the expenses and I handed that in.

Mr. ALFRED LUCKING. Something like \$75 or \$80?  
Mr. HARRIS. Something like that.  
Mr. ALFRED LUCKING. Your report did not cover the other \$1,100, did it?

Mr. HARRIS. No, sir.  
Mr. ALFRED LUCKING. Was it not by express request of Mr. Floyd that you simply covered in your report the payments out and not the moneys which were received for your own compensation?

Mr. HARRIS. No; I would not say that. As I understood it, it was this: That what Mr. Floyd wanted was the record of the expenditures. Senator POMERENE. Are you giving here your conversation with him now?

Mr. HARRIS. Mr. Floyd?  
Senator POMERENE. Yes.  
Mr. HARRIS. No; I am not, Senator.  
Senator POMERENE. As a judge you realize the importance of giving a conversation as it occurred, if you can?

Mr. HARRIS. Well, I do not believe that I can, Senator.  
Senator POMERENE. Well, the substance of it.  
Senator WALSH. He was giving his understanding of the conversation.

Mr. HARRIS. That is all I was giving you; what I understood.  
Mr. LUCKING. You are giving the actual expenditures that you paid out of your pocket?

Mr. HARRIS. In the county. I mean not what I paid out, but what the committee paid. Our county is peculiar. We had three sections, and we had three members of the committee. One member of the committee in his section looked after it, and I looked after it in ours. Whatever those boys said and what I had, that is what I reported.  
The ACTING CHAIRMAN. You got \$1,200 and you reported about how much?

Mr. HARRIS. I think it was between \$70 and \$80.  
The ACTING CHAIRMAN. What was the other \$1,100?  
Mr. HARRIS. I acted on a salary. I went around and I wrote letters covering the northern part of Michigan.

The ACTING CHAIRMAN. That was kept for your expenses and compensation?

Mr. HARRIS. Yes, sir.  
Senator POMERENE. That is, about \$1,120 or \$1,125?  
Mr. HARRIS. It must have been near that.

A matter of \$110 for six weeks' work on the part of Judge Harris. These were not cheap men who were secured. An effort was made, and apparently with some degree of success, to secure only the very best workers that could be employed, as will appear from the bill of exceptions at page 743. Mr. King reported to Mr. Newberry by a letter of May 30, 1918, as follows:

We are making good progress, I think, and the preliminary organizations in the counties are practically complete. \* \* \* Of course, we could find people in these counties to take up the work, but in many cases they would be lesser lights and we want to get the principal workers, if possible.

I read this because a little later on I am going to consider with you the significance of the decision in the Missouri case which was the subject of some discussion yesterday. I want Senators to understand that the contention of the Senator from Missouri is that while it is perhaps improper, perhaps contrary to the statute of the State of Missouri as well as of the State

of Michigan, to hire workers to go out and induce or persuade or argue with people to vote for a candidate, it would not be contrary to law to send messenger boys out to circulate dodgers and to pass cards, and that kind of thing.

I wish to call attention to the fact that the men employed in this campaign were not of that character. They were men who were believed to have great influence in their communities and they were hired for the purpose of exercising and exerting that influence. For instance, in one of those counties were some gentlemen by the name of Hanson, who were men of very large influence, apparently very honorable men, as I shall show. It was thought that it was desirable to secure the assistance as well as the influence of the Hansons. In the bill of exceptions, at page 753, is found part of a very complete report of the entire county. I read from that part of the report which refers to Crawford County as follows:

No organization has been perfected in Crawford County, but Mr. Emery, of our office, will go into that section of the State on the third and complete the organization, which we hope to have backed up by the Hansons, who are the big men of this section. In fact, it is absolutely necessary to have their support if we expect to have this county. While the number of votes which Crawford County carries is small it has an influence on adjoining counties. Esbern Hanson, son of one of the elder Hansons, is circulating our petition.

They got the Hansons all right, and we will see how they got them.

I read now from the bill of exceptions at page 305, where Mr. Marius Hanson testified before the trial court in Grand Rapids, as follows:

I live at Grayling, Crawford County, Mich. I have lived in Michigan all my life. My principal business is banking. I was at my home in 1918. I saw Mr. B. F. Emery some time during the year 1918 at my bank in Grayling. He called and informed me that he was out in Mr. Newberry's interest and wanted to know what the sentiment was in our county, and I told him that, so far as I was concerned personally, Mr. Newberry was my candidate, and he said he was very glad to hear it. He told me what Mr. Newberry's qualifications were, and asked me if I would be willing to circulate nominating petitions for him in the village, and I told him I would be very glad to do so. Before he left he picked up a magazine that was lying on the table—

I notice that the junior Senator from Ohio [Mr. WILLIS] is in the Chamber, and I am very glad to ask his attention to this testimony:

He told me what Mr. Newberry's qualifications were, and asked me if I would be willing to circulate nominating petitions for him in the village, and I told him I would be very glad to do so. Before he left he picked up a magazine that was lying on the table, put it over in front of me, and underneath or in the magazine was a \$50 bill. Nothing whatever had been said by me to him about the \$50 or any other sum as compensation. When I saw the \$50 bill, I asked him what it was for. I told him so far as I was concerned I was not looking for any money; that I was glad to do this without any compensation, and he said, "We would like to have these nominating petitions circulated in the different townships in your county. It may be necessary to hire some one to do that. I realize that you would not be inclined to do it." And he said, if it was necessary to hire anyone to do this, to pay them out of this money. I expended \$15 of that money. I did not employ men to circulate the petitions. I called up three men that I was acquainted with in the three different townships, and I knew that they were Republicans and asked them if they would circulate the petitions and they said they would be glad to do so. When they came in with the petitions I offered them \$5 for their trouble, and they said it was not necessary, that they did not ask anything for it, and I said, "You might just as well take it; you used your car and spent some money for gasoline and you are entitled to something for your services." The other \$35 was not expended nor returned.

Mr. President, I call the attention of the Senate again to the advice and information given to the Senate by the majority report, as follows:

The amount of money spent at the primary was large—too large—but there was no concealment whatever with regard to it, and it was spent entirely for legal and proper purposes.

Has the Senator from Missouri [Mr. SPENCER] been giving his attention to the reading of these letters?

Mr. SPENCER. I did not hear the last one read.

Mr. WALSH of Montana. I desire to inquire of the Senator from Missouri if he thinks that is a legal and proper purpose?

Mr. SPENCER. I did not hear the last remarks which the Senator made.

Mr. WALSH of Montana. The information is that certain gentlemen named Hanson were most influential men in their community. Mr. Emery interviewed Mr. Hanson, who told him at once he was for Newberry. Emery then picked up a magazine off the table and placed a \$50 bill either in or under the magazine and shoved it over to Hanson. Hanson said he did not want the money. Emery said, "Oh, take it, you may have to hire somebody." He got three good Republicans to go out and circulate petitions and he offered them \$5 apiece. They did not want to take it, but he finally pushed it on them, and he kept the rest of it.

Mr. SPENCER. What is the inquiry of the Senator?

Mr. WALSH of Montana. I wish to know from the Senator whether that is an entirely legal and proper expenditure of money?

Mr. SPENCER. In the State of Missouri it would be entirely legal.

Mr. WALSH of Montana. In the State of Michigan?

Mr. SPENCER. In the State of Michigan I also say it would have been entirely legal, because one of the 11 enumerated purposes for which money can be spent without limit is for the purpose of canvassing voters. If it was intended that these men should canvass voters or get signatures to petitions, and they wanted to pay for that, I should say it was entirely legal. I am not at all enamored of the method of payment of money which the Senator has described. I would prefer to give the money right out.

Mr. WALSH of Montana. I am merely giving Mr. Hanson's testimony. It is not a question of whether I said it or not, but a question of his testimony.

Mr. SPENCER. The right to hire a man to secure names to a petition or to canvass for voters is unquestioned, in my judgment, in the State of Michigan, as it is in the State of Missouri.

Mr. WALSH of Montana. Does the Senator understand from the letter that that is all he expected Hanson to do, just merely to act as a messenger boy, as a bill poster, as a dodger circulator, to go out and lay this paper before people? Is that the interpretation which the Senator from Missouri gives to the letter.

Mr. SPENCER. I do not consider that a man who is a canvasser of voters or securing their names on a petition is a bill-poster or a dodger or—I forget what else the Senator thought he might be. It takes a man of a certain high character and personal appearance and attractive manner to do any of those things, as the Senator well knows, because he has been a candidate himself.

Mr. WALSH of Montana. I am glad to have the Senator's official morality exposed in that way.

Mr. KENYON. Has the Senator concluded with the Hanson matter?

Mr. WALSH of Montana. I have.

Mr. KENYON. I am wondering if he is going to refer to the Kern testimony?

Mr. WALSH of Montana. I am coming to that next.

Mr. KENYON. That is another example of secrecy.

Mr. WALSH of Montana. I wish to address another inquiry to the Senator from Missouri, if he will kindly attend to the testimony found in the bill of exceptions at page 133.

Mr. SPENCER. It will give me very great pleasure and profit to hear it.

Mr. WALSH of Montana. I have doubt that it will be a pleasure, but it will be profitable.

Mr. SPENCER. I always listen to the Senator from Montana with pleasure and with profit.

Mr. WALSH of Montana. I thank the Senator. I read from the testimony of John E. Kern, who stated as follows:

I reside at Midland, Mich., which is in Midland County, about 135 or 140 miles northwest from Grand Rapids and about 117 miles from Detroit. I am in the real estate business and have lived at Midland about 16 years. The defendant Terry Corliss called on me at Midland about the middle of August, 1918, and wanted me to organize Midland County in the interest of Mr. Newberry, and I agreed to do so. He said he had charge of several other counties. Probably a week or so afterwards and a week or 10 days before the primary Corliss asked me to go to Detroit to meet Paul King, and I went to Detroit and had a conversation with Mr. King at his office, where I was taken by Mr. Corliss. There was another person present when Mr. King and I had this conversation—a man, I think. We discussed the campaign there in Midland County and the conditions there politically, etc. I think we discussed our campaign expenditures to some extent there, too, at the time. That is all I can recall about it. I do not know whether anything was said about other counties having been organized and Mr. King's desire to have that county organized. Finances were discussed. I am not sure whether this other man was in there at the time the conversation started or whether he came in later. I think there was somebody else present at the time, though. While Mr. King and I were talking there, and in the presence of King, a sealed envelope was put on the table right beside me there to take it all right. I do not recall whether my name was on it or not. I put it in my pocket. I did not open it there. I left Detroit to return to Midland on the evening train. I opened the envelope on the train during the course of the trip and found \$400 in it.

I would like to inquire of the Senator from Missouri whether he thinks that money was expended for entirely legal and proper purposes?

Mr. SPENCER. So far as the record goes, unless the Senator wishes to depend entirely upon inference, it was expended for proper purposes. I do not like the particular way of handing out money in an envelope, but does not the Senator see as a lawyer that what he is doing, and what seems to me so monstrously unfair, is to pick out little circumstances from different counties in the State of Michigan, about which Truman H. Newberry knew nothing, and then present them before the Senate of the United States as reasons why Mr. Newberry should be unseated in the Senate.

I should dislike very much to have every detail of the canvass and every act brought to light of every man in the State of Missouri who thought I ought to have been elected and who, in his enthusiasm for me, may have treated or acted or worked in manners that I knew nothing about, and that if I had known about I would have disapproved of. I have no doubt in the world that in the canvass of every candidate his friends do things that ought not to be done. How unfair it is to bring up against the man in the State of New York what men were doing or possibly doing in precincts in Michigan without his knowledge or consent!

But I may say, with regard to these men, if the purpose was, as the record seems to indicate, to send that man back to the county from which he came and have him organize the county; to have men who were reputable, strong men in the county come and favor Senator Newberry's candidacy, and to exert their time and their influence in promoting the interests of Senator Newberry in that county, there was nothing wrong in having them do it or paying them for doing it.

Mr. WALSH of Montana. Of course, the responsibility of Mr. Truman H. Newberry for it will be considered at some other time. I was not asking whether Mr. Truman H. Newberry was responsible or was not responsible; I was asking the Senator from Missouri whether he thought a contract of that character and the expenditure of money in that way was a violation of the Michigan statute, and he has answered that in his judgment it is not. That is good enough. Now, lest I should do Mr. Kern wrong I desire to call attention to the fact that he returned this money. He says:

Of this \$400 I expended \$96 and a few cents, leaving approximately \$304, for which I sent a draft back to Mr. B. Frank Emery.

Mr. SPENCER. That shows that they made no mistake in their man.

Mr. WALSH of Montana. No.

Mr. SPENCER. It shows that the money that was expended in that county was as much as they needed to spend, and the rest of it was returned.

Mr. WALSH of Montana. They made a mistake all right.

Mr. SPENCER. It shows that they were dealing with an honorable man.

Mr. WALSH of Montana. Yes; and they thought they had been dealing with a rogue; as they had.

Mr. SPENCER. That is the Senator's inference.

Mr. WALSH of Montana. Of course, it is my inference, because if they thought otherwise they would have handed the money to him and not put it in an envelope without disclosing the character of it at all.

Mr. ROBINSON. They would have asked him the amount that would have been necessary.

Mr. WALSH of Montana. Of course.

Mr. ROBINSON. And they would have paid no more than necessary, instead of paying him four times as much.

Mr. WALSH of Montana. Everybody knows the significance of slipping a man some cash in between the leaves of a magazine or in a sealed envelope.

I was referring to the organizers whom they had in all the counties; but they were not enough; they employed special men, called field men and workers, to go around from place to place in the State. The general character of their employment is conceded by Mr. Murfin, the representative of Mr. Newberry before the committee, in his brief, as follows:

Advertising men and publicity men were secured at substantial salaries to take charge of and direct this work. As an incident thereto, men in every walk of life were engaged, obviously for purposes of propaganda—one man to talk among the Masons, another man to talk among other fraternal organizations, one man to organize the railroad men, one man to organize the Polish voters, and so on. Every county, save the home of Gov. Osborn, who was an opposition candidate, had its Newberry chairman and Newberry secretary. These county organizations were perfected and kept active through field agents, who traveled from county to county making investigations and reports. Men who distributed buttons, literature, and like political stuff, or who circulated petitions, required by law to be filed before the candidate could have his name put upon the ticket, were paid reasonable sums for their time and expenses.

Mr. President, it will be observed that he refers to men who distributed buttons. Of course, if that is all they did, that would not be a violation of the law. Nor would the fellow who scatters literature, dodgers, and political stuff all around be violating the law; nor would the circulation of petitions, merely laying petitions before people and having them put their names on them be in violation of the law, but he says:

Men who distributed buttons, literature, and like political stuff, or who circulated petitions, required by law to be filed before the candidate could have his name put upon the ticket, were paid reasonable sums for their time and expenses.



That carries the inference that the field workers who traveled around from place to place in the State working for Newberry and endeavoring to induce people to vote for him were not paid. Of course the contrary is the case; they were the highly paid men in the organization. The statement concludes:

The campaign was undoubtedly the most pretentious, the most thoroughly planned, the most far-reaching, and the best organized that had ever been staged in any community.

Let us see about these workers. I quote from page 516 of the record:

Mr. Alfred Lucking, would you consider Glocheski a field man?

I thought I had a reference here to the Glocheski testimony, but I do not find it in my notes, and I am going to ask the Senator from Utah [Mr. KING] if he will have the kindness to find the testimony for me, because I want to read to the Senate the testimony of Glocheski, who was one of these field operators working amongst the Polish voters.

Mr. KING. I will find it for the Senator in a moment.

Mr. WALSH of Montana. Mr. Lucking asks:

Would you consider Glocheski a field man? He worked over the State.

Mr. KING. I did not call him such.

Mr. ALFRED LUCKING. Briefly, tell us the names of the six, if you can, from memory.

Mr. KING. As I recall, they were Mr. James R. Davis, James F. McGregor, Terry T. Corliss, R. E. Prescott, Ben F. Reed, and Charles Tufts for a short time. That is all I now recall. Mr. William Calnon, who was the publicity man, did some little field work. I think he went over to Kalamazoo County and other counties.

The ACTING CHAIRMAN. Was Judge Harris a field man?

Mr. KING. Yes, sir; he was one I overlooked. I overlooked his name. He had the northwestern section—the Grand Traverse section. Capt. Tufts was more in the classification of Mr. Glocheski. I assigned the sections of the State to these field men, certain counties for them to visit periodically, which they did. Then I assigned other men whom I did not consider field men in the same sections, men like Mr. Glocheski, to work with certain nationalities of people or certain classes of people. Mr. Glocheski did work among the Polish people of the State. He visited the Polish settlements around the State, especially in Presque Isle County and Manistee County, and there are a good many Polish citizens in Kent County. Capt. Tufts visited the fishing communities, the fishermen and the shore counties, primarily.

Mr. ALFRED LUCKING. Were they all under pay?

Mr. KING. Yes, sir.

Mr. ALFRED LUCKING. Did you have a man or men to work with the fraternal societies?

Mr. KING. Yes, sir.

Mr. ALFRED LUCKING. Under pay?

Mr. KING. Yes, sir.

Mr. ALFRED LUCKING. What was his name, please?

Mr. KING. I can not recall it. Does the record show it?

Mr. ALFRED LUCKING. Was Elmer Smith one of them?

Mr. KING. Elmer Smith did some work; yes, sir.

Mr. ALFRED LUCKING. What did you call him?

Mr. KING. He did not have any title.

Mr. ALFRED LUCKING. Just a worker?

Mr. KING. Yes, sir.

Mr. ALFRED LUCKING. What was his field?

Mr. KING. What was his field?

Mr. ALFRED LUCKING. Yes.

Mr. KING. He was connected with a fraternity known as the American Yeoman, I think it was. I think Mr. Gilbert, the grand lecturer, did a little work. He testified yesterday. He was grand lecturer of the Masonic order. Those were the only two.

Mr. ALFRED LUCKING. Did Mr. Newberry know you had these field men at work?

Mr. KING. I think so.

Mr. President, a little later on I am going to advise the Senate about the manner in which the money contributed to the Newberry campaign was handled. From the 1st of March until the 7th day of May bills were paid by checks drawn upon the account, as would be done by any self-respecting and honest business institution. From that time on, however, large payments were made in cash, a subject to which I shall advert a little later on. Mr. Glocheski gives us some valuable information concerning that subject. I read from his testimony, as follows:

Mr. ALFRED LUCKING. Mr. Glocheski, the foreman of the jury, testified as follows—

Now, his attention is being called to testimony which it is said Glocheski gave before the grand jury:

Mr. Glocheski was recalled and stated that while in Paul King's office at one time he saw a table about 2½ by 3 feet about half covered with bills, currency, with denominations of \$20, \$50, and \$100, and thought at the time there must have been a million dollars there.

It probably looked big to him.

Mr. TOWNSEND. From what is the Senator from Montana reading?

Mr. WALSH of Montana. I am reading from the record at page 503.

Is there no part of that correct?

Mr. GLOCHESKI. No, sir.

Mr. ALFRED LUCKING. Was the size of the table about right?

Mr. GLOCHESKI. I think the table size is about right.

Mr. ALFRED LUCKING. And it was half covered with bills?

Mr. GLOCHESKI. Yes, sir.

Mr. ALFRED LUCKING. That is correct; and the smallest denomination you saw was a 20?

Mr. GLOCHESKI. No; a 10.

The ACTING CHAIRMAN. What was the largest?

Mr. GLOCHESKI. I think, a 50.

The ACTING CHAIRMAN. Were there many of them?

Mr. GLOCHESKI. Oh, I don't know. I just glanced at the table. They were lying there. They were making up the pay roll.

Senator WOLCOTT. What do you mean by "half covered with money"?

Mr. GLOCHESKI. There were little piles of money on the table, possibly a quarter of an inch thick, or maybe less.

Senator WOLCOTT. You say this table was what size?

Mr. GLOCHESKI. It was about 2½ by 3 feet, a small-sized center table used to put books on.

Senator WOLCOTT. How many piles of money would you say there were?

Mr. GLOCHESKI. I should imagine possibly eight or nine. I did not count them. Senator WOLCOTT.

Senator WOLCOTT. Were they all little piles about a quarter of an inch or different sizes?

Mr. GLOCHESKI. They were different sizes. They were not larger than a quarter of an inch.

Senator WOLCOTT. Do you know what the pay roll amounted to?

Mr. GLOCHESKI. I do not.

Mr. ALFRED LUCKING. Who gave you your money? Where did you get it from?

Mr. GLOCHESKI. I think Mr. King paid me by check.

Mr. ALFRED LUCKING. By check or draft, which?

Mr. GLOCHESKI. I will not say whether it was a draft or check.

Mr. ALFRED LUCKING. Was it all at one time?

Mr. GLOCHESKI. No, sir.

Mr. ALFRED LUCKING. Different times?

Mr. GLOCHESKI. Each month; the 1st of each month Mr. King would send me a check for my expenses and the amount agreed upon.

Mr. ALFRED LUCKING. What was the amount agreed upon?

Mr. GLOCHESKI. \$150 a month and expenses.

Mr. ALFRED LUCKING. For work in Grand Rapids?

Mr. GLOCHESKI. For work in the entire State of Michigan.

The Senator from Ohio [Mr. POMERENE] has called attention to the workers employed on primary day to have the last word with the voters. I wish to read that again. It will be found on page 854 of the bill of exceptions, being a letter from Mr. Floyd, giving a general review of the conditions in each of the counties over which he was exercising some degree of supervision, as follows:

In addition to the above and in general, I have encouraged all of the organizations to make as wide a distribution of literature as possible during the remaining days of the campaign. I have arranged with them also to provide for representation at each voting precinct the entire day of the primaries so that through this whole district you can be sure that there will be at least one man and in some cases two or three giving their entire time in saying the final word.

The Senator from Missouri [Mr. SPENCER], I see, has temporarily left the Chamber. I wanted again to inquire of him if he has any disposition to change the statement in the report to the effect that, though the amount was large, it was spent entirely for legal and proper purposes.

Mr. CURTIS. Mr. President, the Senator from Missouri will be back in just a moment.

Mr. TOWNSEND. Mr. President, I desire to state here that while that statement was made by Mr. Floyd, that he had made arrangements that they should be there, the fact is that there was not a man in the State of Michigan working at the polls on primary day. They had direct instructions not to employ anyone. That letter was evidently put in, but not a single man in the State of Michigan was employed on primary day.

Mr. WALSH of Montana. The important point is that he had arranged to do it and had already hired them to do it.

Mr. TOWNSEND. No.

Mr. WALSH of Montana. Well, he so says.

Mr. TOWNSEND. He said that he had made arrangements; but that is a statement that is not proven, and it did not occur.

Mr. PITTMAN. Mr. President, I suggest the absence of a quorum.

The VICE PRESIDENT. The Secretary will call the roll.

The roll was called, and the following Senators answered to their names:

Ball	Jones, N. Mex.	Nelson	Simmons
Bursum	Jones, Wash.	Norris	Spencer
Capper	Kendrick	Oddie	Stanley
Caraway	Kenyon	Overman	Swanson
Curtis	Keyes	Page	Townsend
France	King	Phipps	Trammell
Gerry	Ladd	Pittman	Walsh, Mont.
Glass	La Follette	Poindexter	Warren
Gooding	McCumber	Pomerene	Watson, Ga.
Hale	McKellar	Ransdell	Watson, Ind.
Harrison	McLean	Robinson	Williams
Heflin	McNary	Sheppard	Willis
Hitchcock	Myers	Shortridge	

The VICE PRESIDENT. Fifty-one Senators have answered to their names. A quorum is present.

Mr. WALSH of Montana. Mr. President, on this outline of the facts—all too inadequate, as I realize—I desire to address myself to the law which I conceive to be applicable and controlling in this controversy.

I lay down these propositions:

(1) If Truman Newberry spent or participated in the spending of more than \$3,750 in this campaign, he is not entitled to his seat in this body.

(2) If the committee were his agents, and flagrantly and continuously violated the law for the purity of elections in the State of Michigan, his election is void, and he is not entitled to his seat in this body.

(3) If the committee were not his agents, and yet persistently and continuously violated the law with his knowledge, and he did not protest and seek to compel them to desist, the election, so far as he is concerned, is void, and he is not entitled to his seat in this body.

(4) If the committee even were not his agents but they persistently and flagrantly violated the law of the State of Michigan in the conduct of the campaign, and he did not know anything at all about it, and such illegal conduct probably affected the result, the election is void, and he is not entitled to his seat in this body.

We shall have to inquire and examine into each one of these particular considerations.

Of course, Mr. President, bear in mind again that the statute of the United States—I am speaking now about the Federal statute, the statute that we enacted for the purpose of insuring purity in the election of Senators and Representatives—condemns not only the contributing of an amount in excess of \$10,000, or such sum as is fixed by the State statute, but prohibits as well the expenditure by the candidate of such an amount of money, whether he contributes it or whether somebody else contributes it. If, then, the gentlemen who conducted this campaign in the State of Michigan and confessed to have expended \$195,000 were the agents of Truman H. Newberry, of course he expended that amount of money. Moreover, even if that is not true, and they were his agents, and they openly and flagrantly and continuously and persistently violated the law of the State of Michigan in the conduct of the campaign, the election is void. But even if they were not his agents, I propose to establish, and I think conclusively, that if they did so violate the law, then it was his duty to call the attention of these people who were thus conducting the campaign to the fact, and to compel them to desist from doing so, and if he did not do so his election is void. And, finally, if he was absolutely ignorant of the whole thing, and yet they did encompass his election by plain and open violation of law, he would not be entitled to his seat.

I discussed with the Senate some time ago this question of agency; but the rule of agency, so far as elections are concerned, is one that is not just exactly the same as the rule in respect to agency concerning ordinary business transactions. A very much more liberal rule, in the interest of the public and in the interest of purity of elections, is laid down by the courts than is the case in civil actions. This is not only the law of this country, but it is the law of Great Britain.

I read from page 548 of Hodgkins's Election Cases for the Province of Ontario, as follows:

The law of agency as regards parliamentary elections is not the ordinary law of agency, but a special law. The usual rule is that where an agent acts contrary to his instructions the principal is not bound; but in parliamentary agency it is different, for there the principal is liable for all acts of the agent whatsoever, even though they be done contrary to his express instructions.

That is, assuming that the agency exists.

Mr. FRANCE. Mr. President, is it not true that under our practice an agent can not do an illegal act within the authority of his agency?

Mr. WALSH of Montana. Undoubtedly; but if he is generally clothed with authority in the premises he becomes liable, as a matter of course, and of course if the principal joins with him the principal is liable, just the same as the agent is liable.

Mr. KING. Mr. President, as I understand the Senator, an agent may commit a tortious act while he is seeking to execute the purpose of his principal and he may commit an illegal act, which may infract the statute in the execution of his principal's purpose and subject himself to criminal prosecution as well as to civil liability.

Mr. WALSH of Montana. Let me make a further explanation to the Senator. Of course, a corporation can act only through its agents, and if the principle suggested by the Senator from Maryland were correct, you never could convict a corporation of a criminal act at all, because it must act through its agents.

The point is this, that if the agent is clothed with such authority as would be understood to be either authorized or approved by the principal, and in the course of his agency he does an illegal act, the principal becomes liable for it, and becomes liable criminally as well as civilly.

Upon the same doctrine, as suggested, the owner of a saloon is liable for the wrongful sale of liquor by his barkeeper, even though he does not know anything about it, because he puts him behind the bar and authorizes him to sell.

In the same volume from which I read before, Hodgkins Election Cases, page 127, I read as follows:

It may be as well here to refer to the reason for the rule why candidates should be made liable for acts done by their agents. Mr. Justice Blackburn refers to it in the Taunton case (1 O.M. & H., 184) in these words: "The rule of parliamentary election law, that a candidate is responsible for the corrupt act of his agent, though he himself not only did not intend it or authorize it, but bona fide did his best to hinder it, is a rule that must at all times fall with great hardship upon particular persons. But I may just mention the considerations which, no doubt, led the common law, as I may call it, of Parliament to establish it. Corruption, as we all know in practice and in fact, is seldom or never done by the hand of the candidate. The two modes in which it was found in practice that corruption was carried on were these: Persons were put forward to do all the work of canvassing and conducting an election, and these persons acted corruptly; but the candidate purposely kept himself out of the knowledge of anything about the matter, so that he might have the full benefit of their services; and were it not for this rule which has been established, he would not suffer for their misdeeds. That is one of the great reasons. Another great reason would be that no doubt people were put forward as to whom the candidate was carefully kept from knowing they were spending any money, or doing anything, with the notion, according to the loose morality that prevailed in election matters, that when the time for petitioning was past, those persons might come to him and say, 'I did spend that £1,000 for you upon the election; of course I did not tell you about it, or say a word about it at the time, but now you are bound in honor to repay me that £1,000 of which you had the benefit'; and which, in point of fact, the candidates did feel themselves bound in honor to pay. This, therefore, was another reason for the parliamentary law declaring that the candidate should be responsible for the act of his agent."

I am not going to have Senators assume the contention made by the supporters of Mr. Newberry, that these people who were running the campaign, Mr. King and his associates, were not the agents of Mr. Newberry. Yet, if they persistently violated the law and he knew it, and did not call upon them to desist, he becomes responsible, so far as his title to the office is concerned, for their violation of the law.

I read from the same volume, at page 247, as follows, the opinion by Draper, chief justice:

It is very satisfactory to me to be able to find that there is no evidence whatever in this case which impugns the personal conduct or character of the respondent. I find not only that he is free from the imputation of any forbidden practice in the course of this election, but that he has endeavored, by earnest advice and caution, to restrain his friends and supporters from doing anything which would enable his opponents to neutralize the success to which he aspired, and render the election in which he confidently anticipated success being open to question through the indiscretion or recklessness of any of them. Unfortunately, his advice was disregarded; the law forbidding the practice of treating and keeping the taverns open during the hours of polling has been wantonly violated, and the principal matter of inquiry is whether any of the leading culprits in these offenses are so far identified with the respondent as in point of law to constitute them his agents and to render him responsible for their illegal acts.

There was a meeting of the electors at Apsley about a week before the polling day. It had been publicly advertised. The respondent, the petitioner, and Maj. Boulton all spoke at it. The respondent had engaged a sleigh, and one Timothy Cavanagh and Maj. Boulton accompanied him to this meeting. They drove first to Holmes's tavern. After the meeting the respondent and Cavanagh returned to Holmes's. The respondent retired almost directly for the night. A number of those electors who attended the meeting went also to Holmes's. Cavanagh treated the people; Holmes says he told him to give the people liquor, and Cavanagh says he treated many times, and that one Boyd, a supporter of Stratton's, the opposing candidate, did so likewise. This continued, as Cavanagh states, from 10 p. m. to 2 a. m. the next morning. The facts are relied upon to show a violation of the sixty-first section of the election law of 1868, by Cavanagh, at the expense of the respondent, or at his own expense, in providing and furnishing drink to a meeting of electors assembled for the purpose of promoting such election. If this be proved, then the question arises, Was Cavanagh the agent for respondent? For if he was, then the latter is answerable for his acts and corrupt practices, though, as in this case, he not only did not authorize them, but actually and in sincerity endeavored to prevent them.

Agency does not necessarily require to be proven by an actual appointment, verbal or written, by the candidate. "It is a result of law to be drawn from the facts of the case and from the acts of the individuals." Every instance in which, with the knowledge of the candidate or his employed agent, say, his expense agent, a person acts at all in furthering the election for him, or in trying to get votes for him, tends to prove that the person so acting was authorized to act as his agent. A repetition of such acts strengthens the conclusion. I found these conclusions upon authorities in the mother country, using to a great extent their very words, but not simply quoting them.

Mr. WATSON of Georgia. Mr. President—

The VICE PRESIDENT. Does the Senator from Montana yield to the Senator from Georgia?

Mr. WALSH of Montana. I yield.

Mr. WATSON of Georgia. As it is a national custom to have campaign committees and campaign funds, I would like to know whether the Senator holds that a candidate for President, for instance, is to be held responsible for what his campaign committee does.

Mr. WALSH of Montana. Within the law laid down here, beyond question. If he knows that they are conducting the



campaign in violation of law, I assert, sir, that the law ought to disqualify him from the discharge of the high duties of President of the United States.

Mr. WATSON of Georgia. Nothing has been done with regard to the enormous sums of money which have been spent in presidential campaigns.

Mr. WALSH of Montana. I understand now the suggestion is that this thing has been done before, that enormous amounts of money have been spent, that the law has been violated, and consequently we should not do anything about this matter.

Mr. WATSON of Georgia. Is not that a notorious matter? Does not everybody know it?

Mr. WALSH of Montana. Assume that it is.

Mr. WATSON of Georgia. Why not begin with the big men?

Mr. STANLEY. The Senator does not assume that it is usual or customary for Senators to be elected in the manner in which this election was conducted? There is no inference of that kind?

Mr. WALSH of Montana. Of course, when the Senator says that Mr. Newberry may be guilty, but there are a lot of other people guilty, and that we ought to begin on them, I can not answer that argument at all.

Mr. WATSON of Georgia. If the Senator is referring to my statement, he misunderstood me. I have here the decision of Chief Justice White, which is not a dissenting opinion, and Chief Justice White exonerates Mr. Newberry entirely, and the judge who tried him excluded from the jury any accusation of bribery.

Mr. WALSH of Montana. I gladly yield to the Senator to read to the Senate the language of Chief Justice White exonerating Mr. Newberry.

Mr. WATSON of Georgia. I will do that with pleasure.

Mr. WALSH of Montana. Was the Senator in the Chamber when I discussed the effect of the decision of the Supreme Court?

Mr. WATSON of Georgia. I may not have been in at the time. Does the Senator still want me to read the language to which I referred?

Mr. WALSH of Montana. If the Senator please. I do not want to pass that question at all.

Mr. WATSON of Georgia. Here is what the court said, on page 18:

At the trial, before the submission of the case to the jury, the court put the fifth count entirely out of the case by instructing the jury to disregard it, as there was no evidence whatever to sustain it. The bribery, therefore, disappeared.

That is what Chief Justice White said.

Mr. WALSH of Montana. I have not discussed the bribery of voters at all. There was a count that voters had been bribed, and there was no testimony to sustain it, so the Chief Justice said that it was properly dismissed. I have not talked about the bribery of voters at all.

Mr. WATSON of Georgia. Then I misunderstood the Senator, especially regarding the magazine and the \$50—those two incidents.

Mr. WALSH of Montana. I do not contend that they were bribed to vote. I contended that that was to hire them to go out and use their influence, and, at the same time, to get their support of Mr. Newberry. I am not arguing that Mr. Newberry ought to be unseated because any voters were bribed. I am arguing that Mr. Newberry ought to be unseated, first, because the committee who were his agents spent more than \$3,750; second, I am arguing that he ought to be unseated because the committee, his agents, grossly and flagrantly violated the statute of the State of Michigan; in other words, hired those men to go to work for Newberry.

Mr. WATSON of Georgia. Does not the law of Michigan allow just that very thing?

Mr. WALSH of Montana. I will read that directly, if the Senator will do me the honor to listen to me.

Mr. WATSON of Georgia. I have listened to the Senator, and always do.

Mr. WALSH of Montana. I appreciate that. I think the Senator will be convinced that the law of Michigan does not allow that; on the contrary, that the law of Michigan expressly condemns it, very justly, and not only does the law of Michigan condemn it, but the common law condemns it, and the statute of the State of Michigan is nothing more nor less than an expression of the common law.

I read from page 555 of the same volume from which I read a while ago—

Mr. WATSON of Georgia. The law is contained on pages 75 and 76 of Mr. Hughes' brief, and the ninth part of the statute certainly does seem to cover the employment of canvassers.

Mr. WALSH of Montana. I will reach that directly, I will say to the Senator. In this case the court says:

I exonerate the respondent personally from any complicity in the corrupt acts committed; but I think it my duty to say that I can scarcely conceive that Mr. D. B. Maclellan and Mr. H. S. Macdonald would have acted in the manner in which they appear to have acted at this election if they had appreciated the gravity of the acts committed by them.

At page 665 the court says:

I do not doubt that if a candidate, who has appointed no agents, is made aware that some of his supporters are systematically working for him, and by any act (or perhaps even by forbearance to interpose) can be fairly deemed to recognize and adopt their proceedings in order to further his election, he makes them his agents and must take the consequences. A contrary rule would encourage fraud and corruption and facilitate evasions of the law.

Mr. President, I want to discuss the subject of paid workers, but I have now been talking for some time and feel somewhat fatigued, and I would be very glad to have this matter go over until Monday morning before I take up that important phase of the case.

Mr. FRANCE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. LADD in the chair). The absence of a quorum is suggested. The Secretary will call the roll.

The reading clerk called the roll, and the following Senators answered to their names:

Bail	Hitchcock	Oddie	Spencer
Borah	Jones, N. Mex.	Overman	Stanley
Bursum	Jones, Wash.	Page	Sterling
Capper	Kendrick	Philpotts	Swanson
Caraway	Keyes	Pittman	Townsend
Curtis	King	Poinsett	Trammell
Dial	Ladd	Pomeroy	Walsh, Mass.
France	La Follette	Ransdell	Walsh, Mont.
Gerry	McCumber	Robinson	Warren
Glass	McKellar	Sheppard	Watson, Ga.
Gooding	McNary	Shortridge	Watson, Ind.
Hale	Myers	Simmons	Willis
Harrison	Nelson	Smith	
Heflin	Norris	Smoot	

Mr. TRAMMELL. I wish to announce the absence of my colleague [Mr. FLETCHER] on official business.

The PRESIDING OFFICER. Fifty-four Senators having answered to their names, a quorum is present. The Senator from Montana has the floor.

Mr. WALSH of Montana. Mr. President, in connection with the letter to which I invited attention, from Floyd to King, telling that he had employed men to be at the polls all day on election day in order to give the very last word to the voters, the Senator from Michigan [Mr. TOWNSEND] advised the Senate that no man was at the polls on election day. He evidently overlooked the testimony of Mr. Sherwood appearing in the record at page 884. The witness is telling what Sherwood testified to before the grand jury.

He said, "I employed men to work at the polls on election day in five precincts in our city." I correct that. He said he employed men to work at the polls on election day; that there were five precincts in the city; he had put men in each of the four precincts, but none in the other. He said, "I paid these men \$7 per day." He also had a man out over the city reporting the sentiment, and he paid him \$50 per month.

Mr. President, I inquire of the Senator from Kansas [Mr. CURTIS] whether we might not very properly adjourn at this time?

Mr. CURTIS. Does the Senator wish to stop now?

Mr. WALSH of Montana. I should like very much to do so.

Mr. CURTIS. May I inquire if there is anyone else who might occupy an hour? We were desirous of remaining in session until 5 o'clock and then having an executive session. However, if the Senator from Montana can not go on and if the Senator from Missouri [Mr. SPENCER] is willing, it will be perfectly satisfactory to have an executive session now.

Mr. TOWNSEND. Does the Senator from Montana have any idea about how much more time he will require?

Mr. WALSH of Montana. I think another hour or two will enable me to conclude.

Mr. CURTIS. I move that the Senate proceed to the consideration of executive business.

Mr. HARRISON. Will the Senator withhold that motion a moment? There are a couple of bridge bills which are ready to be reported favorably, which we desire to have passed, if possible.

Mr. SHEPPARD. I have three bridge bills to report from the Committee on Commerce, which ought to be passed.

Mr. CURTIS. I withhold the motion for that purpose.

BRIDGES ACROSS WHITE RIVER, ARK.

Mr. SHEPPARD. I report back favorably without amendment, from the Committee on Commerce, the bill (S. 2724) to authorize the construction of a bridge across the White River,

in Prairie County, Ark., and I submit a report (No. 318) thereon. I ask for the immediate consideration of the bill.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill, and it was read as follows:

*Be it enacted, etc.*, That the consent of Congress is hereby granted to Harry E. Bovay, his successors and assigns, to construct, maintain, and operate a bridge and approaches thereto across the White River, at a point where the Bankhead Highway now crosses the said river, said point being now designated as just south of the Chicago, Rock Island & Pacific Railroad Co.'s bridge, near the city of De Valls Bluff, county of Prairie and State of Arkansas. Said bridge shall be constructed at or near such point as is most suitable to the interests of navigation and in accordance with the provisions of the act of Congress approved March 23, 1906, entitled "An act to regulate the construction of bridges over navigable waters."

SEC. 2. That the right to alter, amend, or repeal this act is hereby expressly reserved.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

Mr. SHEPPARD. I report back favorably with amendments from the Committee on Commerce the bill (S. 2722) to extend the time for constructing a bridge across the White River at or near the town of Des Arc, Ark., and I submit a report (No. 320) thereon. I ask for the immediate consideration of the bill.

There being no objection, the Senate as in Committee of the Whole proceeded to consider the bill.

The amendments were, in line 7, after the word "extend," to strike out "three years" and to insert "one year"; and, in the same line, before the word "years," where it occurs the second time, to strike out "six" and to insert "three," so as to make the bill read:

*Be it enacted, etc.*, That the times for commencing and completing the bridge authorized by the act of Congress approved February 19, 1920, to be built across the White River at or near the town of Des Arc, Ark., by Gordon N. Peay, jr., his heirs and assigns, are hereby extended one year and three years, respectively, from the date of approval hereof.

SEC. 2. That the right to alter, amend, or repeal this act is hereby expressly reserved.

The amendments were agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

#### BRIDGE ACROSS TOMBIGBEE RIVER, MISS.

Mr. SHEPPARD. I report back favorably without amendment, from the Committee on Commerce, the bill (H. R. 7394) to extend the time for the construction of a bridge across the Tombigbee River at or near Ironwood Bluff, in the county of Itawamba, Miss., and I submit a report (No. 319) thereon. I ask that the bill be put on its passage.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill, and it was read, as follows:

*Be it enacted, etc.*, That the times for commencing and completing the construction of a bridge and approaches thereto authorized by the act of Congress approved January 15, 1920, to be constructed by the board of supervisors of Itawamba County, Miss., across the Tombigbee River at a point suitable to the interests of navigation at or near Ironwood Bluff, in the county of Itawamba, in the State of Mississippi, are hereby extended one and three years, respectively, from the date of approval hereof.

SEC. 2. That the right to alter, amend, or repeal this act is hereby expressly reserved.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

#### PETITIONS AND MEMORIALS.

Mr. WARREN presented a telegram in the nature of a petition of the Woman's Christian Temperance Union of Cheyenne, Wyo., praying for the immediate enactment of the supplemental prohibition bill, which was ordered to lie on the table.

He also presented resolutions adopted by the Methodist Episcopal Church of Big Horn, Wyo., favoring the immediate enactment of the supplemental prohibition bill, which were ordered to lie on the table.

Mr. HARRIS presented a resolution adopted by the Atlanta (Ga.) Woman's Club, favoring the enactment of legislation granting citizenship to American Indians, which was referred to the Committee on the Judiciary.

Mr. TOWNSEND presented a resolution adopted by the board of directors of the Escanaba (Mich.) Chamber of Commerce, favoring the passage of the so-called French-Capper truth in fabric bill, which was referred to the Committee on Interstate Commerce.

Mr. WILLIS presented a resolution adopted by the trustees of the Cincinnati (Ohio) Museum Association, favoring the

placing of the governmental scientific bureaus at Washington under the jurisdiction of the Board of Regents of the Smithsonian Institution, etc., which was referred to the Committee on Appropriations.

Mr. RANSDELL presented the following concurrent resolution of the Legislature of Louisiana, which was referred to the Committee on Commerce:

Senate concurrent resolution 14. By Mr. Williamson.

Whereas the Federal Government, under the provisions of the flood control act of the United States Congress, has committed itself to a definite program for the construction and completion of the levee system along the Mississippi River; and

Whereas the appropriation on the part of the United States allotted to the several Mississippi River Commission districts is about to be exhausted and there is impending the closing down of all of the levee-building machinery and other work for the prevention of floods; and Whereas the danger of overflow still exists owing to the incompleteness of the levee system; and

Whereas the work of construction can now be continued at an economical cost: Therefore be it

*Resolved by the Senate of the State of Louisiana (the House of Representatives concurring)*, That the United States Congress be petitioned and urged to immediately make an emergency appropriation to continue the work now going on and to later continue the appropriation heretofore made for this purpose;

And that a copy of this resolution be immediately sent to the Senators and Representatives of the State of Louisiana in Congress.

DELOS R. JOHNSON,  
President Pro Tempore of the Senate.  
R. F. WALKER,  
Speaker of the House of Representatives.

Mr. RANSDELL also presented the following concurrent resolution of the Legislature of Louisiana, which was referred to the Committee on Agriculture and Forestry:

House concurrent resolution 38. By Mr. Teekell.

Whereas through the industry characteristic of Americans on the part of our fellow citizens of Arizona, California, and New Mexico the cotton producers of those States are placing on the markets of the world a quality of cotton which competes with the excellent quality of cotton produced on the Nile and in other English-controlled colonies; and

Whereas since cotton from Arizona, California, and New Mexico has entered the world's markets persistent attempts to depress the prices of that grade of cotton are being made through the influence of spinners and large cotton dealers abroad and at home; and

Whereas the Dial bill now pending in Congress is clearly in the interest of the spinners and large spot-cotton dealers, as said bill endeavors to restrict the delivery of cotton on future contracts to less than 10 grades as now provided by an amendment to the United States cotton futures act; and

Whereas when the United States cotton futures act became a law in 1916 it placed cotton dealings through exchanges under the supervision of the United States Department of Agriculture and provided for the delivery of 20 grades of cotton on contract, and this provision was clearly in the interest of cotton producers, who are powerless to prevent dust and rain from affecting cotton, and tests made by the United States Department of Agriculture proved that the spinning value of cotton outlawed by the 10 grade amendment was not injured, and that the tensile strength of some of this outlawed cotton was about the same as higher grades of cotton; so be it

*Resolved by the House of Representatives of the State of Louisiana (the Senate concurring)*, That we oppose the Dial bill and similar legislation which will have the effect of interfering with the marketing of cotton all over the world for producers, and we memorialize Congress to this end; and be it further

*Resolved*, That a copy of this resolution be forwarded to every Member of the Louisiana delegation and a copy to the Clerk of House and Senate in Congress and given to the press.

I hereby certify that the above and foregoing is a true and correct copy of House resolution No. 38, adopted by the Legislature of the State of Louisiana.

E. J. TALLIEU,  
Clerk of the House of Representatives.

Mr. RANSDELL also presented the following concurrent resolution of the Legislature of Louisiana, which was referred to the Committee on Post Offices and Post Roads:

House concurrent resolution 30. By Mr. De Paoli.

A concurrent resolution memorializing Congress to prohibit transmission through the mails or in interstate commerce of information concerning betting on horse races.

Whereas, subsequent to the prohibition of bookmaking on race tracks by Louisiana and other States, handbook betting has become a pernicious and demoralizing form of gambling, tempting young and old of both sexes, exercising a corrupting influence over American youth and manhood, often leading to great crimes and wrecking many homes; and

Whereas the State of Louisiana has enacted legislation denouncing handbook betting as gambling, punishable by fine and imprisonment; and

Whereas enforcement of such legislation is rendered difficult, if not impossible, by reason of the fact that there is no inhibition against the interstate transmission, by telegraph, telephone, express, and Postal Service of information concerning horse racing, including entries, form charts, betting odds, tips, and similar sinister suggestions essential to the successful operation of handbooks; and

Whereas the suppression of this vice is, therefore, a national problem, not one with which the States individually may deal successfully, a problem on all fours with that of the Louisiana lottery, the destruction of which was only made possible by congressional action in 1891, denying it the use of the mails and express service for the transmission of its tickets and the results of its drawings; and



Whereas Louisiana and other States in which this evil has found lodgment and daily increases its ramifications are entitled to the support of the National Government in their effort to suppress it for the protection of the weal of their several communities: Therefore be it

*Resolved by the House of Representatives of the State of Louisiana (the Senate concurring), That the Senate of the United States be memorialized to pass the act which has passed the National House of Representatives, which will forbid and penalize the transmission by telegraph, telephone, mail, or express, or other medium of interstate transportation of form charts, entries, betting odds, tips, and other methods of suggestions, since it has been demonstrated that the only effective method of combating such an evil, as evidenced by Federal laws relative to lotteries, is action taken by the Federal Congress.*

*Resolved further, That the secretary of state is hereby directed to immediately transmit to the United States Senate and to the Louisiana delegation in Congress certified copies of this resolution.*

R. F. WALKER,

Speaker of the House of Representatives.

HEWITT BOUANCHAUD,

Lieutenant Governor and President of the Senate.

Approved November 4, 1921.

[SEAL.]

JNO. M. PARKER,

Governor of the State of Louisiana.

A true copy.

JAMES J. BURLEY,

Secretary of State.

#### AMENDMENT OF RAILROAD TRANSPORTATION BILL.

Mr. RANDELL submitted an amendment intended to be proposed by him to the bill (H. R. 8331) to amend the transportation act, 1920, and for other purposes, which was ordered to lie on the table, to be printed, and to be printed in the Record, as follows:

At the end of line 23, page 2, insert the following proviso: "Provided, That no portion of the fund arising from the sale of bonds, notes, and securities authorized herein shall be used by the President for the purpose described in section 202 hereof, to settle with those transportation systems which have preferential contracts with foreign ship companies, so long as the contracts continue in effect."

#### EXECUTIVE SESSION.

Mr. CURTIS. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to, and the Senate proceeded to the consideration of executive business. After 20 minutes spent in executive session the doors were reopened.

#### RECESS.

Mr. CURTIS. I move that the Senate take a recess until Monday at 11 o'clock.

The motion was agreed to; and (at 4 o'clock and 30 minutes p. m.) the Senate took a recess until Monday, November 21, 1921, at 11 o'clock a. m.

#### NOMINATIONS.

*Executive nominations received by the Senate November 19 (legislative day of November 16), 1921.*

##### AID IN COAST AND GEODETIC SURVEY.

August Hans Wagener, of Maryland, to be aid, with relative rank of ensign in the Navy, by promotion from deck officer, in the United States Coast and Geodetic Survey, in the Department of Commerce, vice H. C. Warwick, promoted.

##### APPOINTMENT IN THE REGULAR ARMY.

###### GENERAL OFFICER.

Col. Joseph Compton Castner, Infantry, to be brigadier general from November 14, 1921.

##### PROMOTIONS IN THE NAVY.

Commander Edward T. Constien to be a captain in the Navy from the 3d day of June, 1921.

Lieut. Commander David Lyons to be a commander in the Navy from the 1st day of January, 1921.

The following-named lieutenant commanders to be commanders in the Navy from the 3d day of June, 1921:

Byron McCandless.	George C. Pegram.
William E. Eberle.	Theodore G. Ellyson.
John W. Wilcox, jr.	Russell Willson.
Leigh Noyes.	Arthur L. Bristol, jr.

Lieut. Commander Frank J. Fletcher to be a commander in the Navy from the 25th day of June, 1921.

Lieut. Commander Walter F. Jacobs to be a commander in the Navy from the 1st day of July, 1921.

The following-named lieutenants to be lieutenant commanders in the navy from the 3d day of June, 1921:

Harold T. Smith.	Benjamin V. McCandlish.
Arthur S. Dysart.	Edmund S. R. Brandt.
Wallace L. Lind.	Freeland A. Daubin.
Charles E. Reordan.	Virgil J. Dixon.
Mark C. Bowman.	Clifford E. Van Hook.
Charles M. Elder.	Walter E. Brown.

Harry W. Hosford.

Melville S. Brown.

Henry B. Cecil.

Lieut. Robert T. Young to be a lieutenant commander in the Navy from the 1st day of July, 1921.

Lieut. (Junior Grade) George E. Maynard to be a lieutenant in the Navy from the 1st day of July, 1920.

Ensign Leonard Doughty, jr., to be a lieutenant (junior grade) in the Navy from the 30th day of March, 1920.

Ensign George E. Maynard to be a lieutenant (junior grade) in the Navy from the 28th day of June, 1920.

The following-named passed assistant surgeons to be surgeons in the Navy with the rank of lieutenant commander from the 11th day of May, 1921:

Harry E. Jenkins.

Stanley D. Hart.

Robert G. Davis.

Asst. Surg. Joseph H. Durrett to be a passed assistant surgeon in the Navy with the rank of lieutenant from the 30th day of January, 1920.

Asst. Surg. William C. Darwin to be a passed assistant surgeon in the Navy with the rank of lieutenant from the 6th day of December, 1920.

Asst. Surg. Paul V. Greedy to be a passed assistant surgeon in the Navy with the rank of lieutenant from the 6th day of June, 1920.

Passed Asst. Dental Surg. James L. Brown to be a dental surgeon in the Navy with the rank of lieutenant commander from the 11th day of May, 1921.

Civil Engineer Reuben E. Bakenhus to be a civil engineer in the Navy with the rank of captain from the 1st day of October, 1921.

Lieut. (Junior Grade) Harry F. Newton for temporary service to be a lieutenant (junior grade) in the Navy from the 1st day of July, 1920, in accordance with a provision contained in the act of Congress approved June 4, 1920.

Lieut. (Junior Grade) Irwin G. Sooy, United States Naval Reserve Force, to be an ensign in the Navy from the 4th day of June, 1920, in accordance with a provision contained in the act of Congress approved June 4, 1920.

Asst. Paymaster David W. Robinson for temporary service to be an assistant paymaster in the Navy with the rank of ensign from the 6th day of June, 1919, in accordance with a provision contained in the act of Congress approved June 4, 1920.

The following-named officers for temporary service to be chief pharmacists in the Navy to rank with but after ensign from the 5th day of August, 1920, in accordance with a provision contained in the act of Congress approved June 4, 1920:

De Witt C. Allen.

Herman C. Roe.

The following-named officers for temporary service to be chief boatswains in the Navy, to rank with but after ensign, from the 5th day of August, 1920, in accordance with a provision contained in the act of Congress approved June 4, 1920:

Forest E. Frost.

George A. Spedden.

Clarence R. Reed.

Thomas F. Langseth.

The following-named officers for temporary service to be chief gunners in the Navy, to rank with but after ensign, from the 5th day of August, 1920, in accordance with a provision contained in the act of Congress approved June 4, 1920:

Hal W. Barnes.

Edward L. Moyer.

Howard A. Booth.

The following-named officers for temporary service to be chief machinists in the Navy, to rank with but after ensign, from the 5th day of August, 1920, in accordance with a provision contained in the act of Congress approved June 4, 1920:

Emmet L. Bourke.

Leo E. Gray.

Nicholas Keding.

Louis Verbrugge.

Elmer O. Davis.

Emmet C. Thurman.

Shine S. Halliburton.

Alfred Hayes.

The following-named officers for temporary service to be chief carpenters in the Navy, to rank with but after ensign, from the 5th day of August, 1920, in accordance with a provision contained in the act of Congress approved June 4, 1920:

Alfred L. Johnson.

Joseph P. Emms.

Lott C. Newton.

Ellis B. Berkstresser.

Armand Mayville.

John Reid, jr.

Evert O. Smith.

Robert J. Leahy.

Goldsboro Sessions.

Merick A. Beach.

Frederick A. Johnson.

Benjamin B. Britt.

William Tavenner.

Ensign Kenneth G. Clark, United States Naval Reserve Force, to be a chief gunner in the Navy, to rank with but after

ensign, from the 5th day of August, 1920, in accordance with a provision contained in the act of Congress approved June 4, 1920.

The following-named officers of the United States Naval Reserve Force to be chief carpenters in the Navy, to rank with but after ensign, from the 5th day of August, 1920, in accordance with a provision contained in the act of Congress approved June 4, 1920:

Clifford J. Lishman.  
Chris A. Rodegerdts.

#### POSTMASTERS. CONNECTICUT.

Joseph Brush to be postmaster at Greenwich, Conn., in place of W. S. Meany, resigned.

#### GEORGIA.

Forrest C. Berry to be postmaster at Young Harris, Ga. Office became presidential January 1, 1921.

#### ILLINOIS.

Chalon T. Land to be postmaster at Enfield, Ill., in place of J. M. Connery. Incumbent's commission expired September 4, 1920.

Willis J. Huston to be postmaster at Rochelle, Ill., in place of John Coleman, deceased.

William F. Koch to be postmaster at Union, Ill. Office became presidential January 1, 1921.

#### INDIANA.

Charles H. Ruple to be postmaster at Earl Park, Ind., in place of C. C. Leisure. Incumbent's commission expired July 21, 1921.

Kent A. Brewer to be postmaster at Greenwood, Ind., in place of W. W. Drake, resigned.

Albert W. Bitters to be postmaster at Rochester, Ind., in place of Otto McMahan, resigned.

William F. Kahler to be postmaster at Winamac, Ind., in place of E. S. Rees, resigned.

William D. Crow to be postmaster at Petersburg, Ind., in place of D. D. Corn. Incumbent's commission expired July 21, 1921.

#### IOWA.

James E. Carr to be postmaster at Farmington, Iowa, in place of J. S. Forgrave. Incumbent's commission expired August 7, 1921.

Theodore E. Templeton to be postmaster at Paton, Iowa, in place of W. H. Fowler. Incumbent's commission expired March 16, 1921.

Anna A. Gough to be postmaster at Palmer, Iowa. Office became presidential January 1, 1921.

#### MAINE.

Ernest E. Pike to be postmaster at Princeton, Me., in place of G. W. Swan, resigned.

Edmund O. Collins to be postmaster at Bridgewater Center, Me. Office became presidential October 1, 1920.

Flavie Fournier to be postmaster at Eagle Lake, Me. Office became presidential April 1, 1921.

Archie D. Clark to be postmaster at East Corinth, Me. Office became presidential April 1, 1921.

#### MARYLAND.

Howard F. Owens to be postmaster at Betterton, Md., in place of K. E. Brice. Incumbent's commission expired January 8, 1921.

#### MICHIGAN.

Leonard B. Carter to be postmaster at Fennville, Mich., in place of H. L. Reynolds, declined.

Ettie M. Meyer to be postmaster at Fowler, Mich., in place of G. T. Baldwin. Incumbent's commission expired March 16, 1921.

#### MINNESOTA.

Thomas S. Smith to be postmaster at Dilworth, Minn. Office became presidential January 1, 1921.

#### MONTANA.

Mattie C. Donaldson to be postmaster at Froid, Mont., in place of M. C. Donaldson. Incumbent's commission expired March 16, 1921.

Georgiana C. Wilson to be postmaster at Lehigh, Mont., in place of H. C. Higgins, resigned.

Harry L. Coulter to be postmaster at Plains, Mont., in place of W. P. Willis, resigned.

Luther M. Hoham to be postmaster at Saco, Mont., in place of F. W. Tarwater (named changed by marriage).

Roy C. Stageberg to be postmaster at Westby, Mont., in place of T. R. Reuter. Incumbent's commission expired December 20, 1920.

George W. Edkins to be postmaster at Glacier Park, Mont. Office became presidential October 1, 1920.

#### NEBRASKA.

Edwin R. Frady to be postmaster at Oakdale, Nebr., in place of E. R. Frady, declined.

Mary E. Hossack to be postmaster at Sutherland, Nebr., in place of Eustis Quinn, resigned.

#### NEW MEXICO.

William W. Dedman to be postmaster at Hurley, N. Mex., in place of H. S. Boise, resigned.

Ella T. Roberts to be postmaster at Gibson, N. Mex. Office became presidential April 1, 1921.

Nora A. Keithly to be postmaster at Hot Springs, N. Mex. Office became presidential July 1, 1920.

#### NEW YORK.

Marion L. Lewis to be postmaster at Gilboa, N. Y., in place of Willis Baker. Incumbent's commission expired December 20, 1920.

Darwin E. Hibbard to be postmaster at North Collins, N. Y., in place of Joseph Thiel. Incumbent's commission expired January 11, 1920.

Wilbur C. Eaton to be postmaster at Youngstown, N. Y., in place of M. G. Wellman. Incumbent's commission expired July 21, 1921.

#### OHIO.

Everett W. White to be postmaster at Albany, Ohio, in place of H. W. Reeder. Incumbent's commission expired January 13, 1921.

#### PENNSYLVANIA.

Ralph S. Hood to be postmaster at Beaver Falls, Pa., in place of Arthur McKean, resigned.

Thomas G. Wood to be postmaster at Elkland, Pa., in place of Joseph Smith. Incumbent's commission expired June 2, 1920.

Katharyn L. McClellan to be postmaster at Marienville, Pa., in place of K. L. McClellan. Incumbent's commission expired January 8, 1921.

#### SOUTH CAROLINA.

S. T. Waldrop to be postmaster at Greer, S. C., in place of W. E. James, resigned.

Cary Smith to be postmaster at Manning, S. C., in place of H. H. Bradham, resigned.

#### SOUTH DAKOTA.

Ollie V. Loughlin to be postmaster at Colman, S. Dak., in place of L. P. Snyder. Incumbent's commission expired August 26, 1920.

#### TEXAS.

Willie L. Weaver to be postmaster at Cooledge, Tex., in place of J. M. Hill. Incumbent's commission expired September 1, 1920.

#### UTAH.

Walter Cannon to be postmaster at St. George, Utah, in place of D. R. Forsha. Incumbent's commission expired January 5, 1920.

#### WASHINGTON.

Lester S. Overholt to be postmaster at Omak, Wash., in place of L. S. Overholt. Incumbent's commission expired August 7, 1920.

#### WEST VIRGINIA.

James P. Peek to be postmaster at Mabscott, W. Va., in place of J. P. Peek. Incumbent's commission expired December 20, 1920.

#### CONFIRMATIONS.

*Executive nominations confirmed by the Senate November 19 (legislative day of November 16), 1921.*

#### PROMOTIONS IN THE CONSULAR SERVICE.

##### CONSUL GENERAL OF CLASS 2.

Nathaniel B. Stewart.

##### CONSUL GENERAL OF CLASS 3.

Alexander W. Weddell.

William H. Gale.

##### CONSUL GENERAL OF CLASS 4.

Douglas Jenkins.  
Claude I. Dawson.



## CONSULAR INSPECTOR.

William Dawson.

## CONSUL OF CLASS 3.

Tracy Lay.  
Ezra M. Lawton.  
Edwin L. Neville.

## CONSUL OF CLASS 4.

Kenneth S. Patton.  
Henry H. Balch.  
Wilbur Keblinger.

## CONSUL OF CLASS 5.

Felix Cole.	Hamilton C. Claiborne.
J. Klahr Huddle.	Leslie E. Reed.
Ernest L. Ives.	Keith Merrill.
Paul Knabenshue.	James P. Davis.
George K. Donald.	

## CONSUL OF CLASS 6.

Thomas M. Wilson.	Thomas R. Owens.
William C. Burdett.	Joseph E. Jacobs.
Henry S. Waterman.	

## CONSUL OF CLASS 7.

Samuel H. Wiley.

## COMMISSIONER OF IMMIGRATION.

Luther Weedon to be Commissioner of Immigration, port of Seattle, Wash.

## POSTMASTERS.

## ILLINOIS.

Charles A. Jean, Anna.  
James E. Harley, Aurora.  
James F. Mill, Hillsdale.  
Emma H. Howe, Ravinia.

## INDIANA.

Priscilla M. McDole, Clarks Hill.  
Marion L. Medcalf, Dale.  
Roy L. McCullough, New Palestine.

## KANSAS.

Leslie Fitts, Reading.

## MAINE.

William R. Elliott, Skowhegan.  
Nellie O. Gardner, Smyrna Mills.  
Maybelle Medeiros, Vanceboro.

## MASSACHUSETTS.

Harold E. Cairns, Bernardston.  
Harry D. Whitney, Milford.  
George T. McLaughlin, Sandwich.  
Harriette L. Smith, West Newbury.

## MISSOURI.

Margaret E. Matson, Barnard.  
Henry C. Oehler, Bismarck.  
Arthur F. Goetz, Canton.  
Oral G. Brown, Fair Play.  
Frederick D. Williams, Fulton.  
Chester D. Green, Hume.  
Edward Baumgartner, Linn.

## NEW HAMPSHIRE.

Sarah J. Moore, Alstead.  
Thomas J. Donovan, Ashuelot.  
Ambrose P. McLaughlin, Bretton Woods.  
Arthur H. Wilcomb, Chester.  
Ernest L. Abbott, Derry.  
Charles E. Beede, Fremont.  
Arthur K. Merrill, Haverhill.  
James A. Reed, Union.

## NEW MEXICO.

Guy Miner, Des Moines.

## NORTH CAROLINA.

William S. Carawan, Columbia.

## PENNSYLVANIA.

Henry C. Boyd, Finleyville.

## TENNESSEE.

Willard J. Springfield, Chattanooga.  
Carus S. Hicks, Clinton.  
Peyton B. Anderson, Greenback.  
Fred S. Pipkin, Lafayette.  
Adam W. Meek, Mascot.  
James M. Antwine, Middleton.  
Evan D. Phillips, Oliver Springs.

## WISCONSIN.

Clarence Nelson, Boyd.  
Frank J. Duquaine, Crivitz.  
Albert C. Wagner, Edgar.  
Roy L. Thompson, Hancock.  
Charles E. Juza, Haugen.  
Amasa J. Edminster, Holcombe.  
Amund J. Amundson, New Auburn.  
Julia D. Knappmiller, Pound.  
John H. Bunker, jr., Turtle Lake.

## HOUSE OF REPRESENTATIVES.

SATURDAY, November 19, 1921.

The House met at 11 o'clock a. m., and was called to order by Hon. William Tyler Page, its Clerk, who directed the reading of the following communication:

SPEAKER'S ROOM,  
November 19, 1921.

To the CLERK OF THE HOUSE:

I hereby designate Mr. WALSH to act as Speaker to-day.

F. H. GILLET.

Mr. WALSH assumed the chair.

The SPEAKER pro tempore. The Chaplain will offer prayer.

The Chaplain, Rev. James Shera Montgomery, D. D., offered the following prayer:

Father in heaven, according to Thy infinite love we have found satisfaction at Thy table and peace of mind in Thy truth. May all that is best in us rise up to give Thee grateful answer. O bless the old in their wisdom, the young in their opening dream, the busy man in his honest labor, and the patient mother in her beautiful ministry. Grant that in Thee all may find the index to character and the way to the highest attainment. Through Jesus Christ our Lord. Amen.

The Journal of the proceedings of yesterday was read and approved.

## NO QUORUM—CALL OF THE HOUSE.

Mr. WINSLOW. Mr. Speaker, I make the point of no quorum and move a call of the House.

The SPEAKER pro tempore. The gentleman from Massachusetts makes the point that there is no quorum present. The Chair will count. [After counting.] Thirty-one Members are present—not a quorum. The gentleman from Massachusetts moves a call of the House.

A call of the House was ordered.

The SPEAKER pro tempore. The Doorkeeper will close the doors, the Sergeant at Arms will notify the absentees, and the Clerk will call the roll.

The Clerk called the roll, and the following Members failed to answer to their names:

Anderson	Fish	Kreider	Rossdale
Andrew, Mass.	Fitzgerald	Langley	Rucker
Anthony	Flood	Larson, Minn.	Sabath
Bell	Focht	Linthicum	Sanders, N. Y.
Blakeney	Fordney	Longworth	Schall
Bland, Ind.	Frear	Lyon	Scott, Mich.
Bowers	Freeman	McSwain	Sears
Brand	Frithingham	Madden	Shelton
Britten	Gahn	Mann	Shreve
Browne, Wis.	Gallivan	Mansfield	Siegel
Burke	Garrett, Tex.	Merritt	Slomp
Campbell, Pa.	Goodykoontz	Michaelson	Smith, Idaho
Cantrill	Gorman	Mills	Smithwick
Carter	Gould	Moores, Ind.	Snell
Chandler, Okla.	Graham, Pa.	Morin	Snyder
Christopherson	Green, Iowa	Mott	Steagall
Clarke, N. Y.	Griest	Mudd	Stiness
Classon	Haugen	Nolan	Stoll
Codd	Hawes	O'Brien	Sullivan
Collier	Herrick	O'Connor	Summers, Wash.
Connally, Tex.	Himes	Oliver	Taylor, Ark.
Connell	Hogan	Overstreet	Taylor, Colo.
Connolly, Pa.	Houghton	Padgett	Ten Eyck
Copley	Hukriede	Paige	Thomas
Coughlin	Humphreys	Parker, N. Y.	Thompson
Cramton	Ireland	Parks, Ark.	Tilson
Curry	Jefferis, Nebr.	Patterson, N. J.	Tinkham
Dale	Johnson, Ky.	Perlman	Treadway
Dallinger	Kahn	Peters	Tyson
Davis, Minn.	Keller	Petersen	Vare
Davis, Tenn.	Kelley, Mich.	Pou	Voigt
Dempsey	Kindred	Purnell	Ward, N. Y.
Dickinson	Kinkaid	Rainey, Ala.	Wason
Drane	Kitchin	Rainey, Ill.	Wingo
Driver	Klecka	Ransley	Woodyard
Echols	Kline, N. Y.	Riordan	
Elston	Knight	Roach	
Fenn	Kopp	Rogers	

The SPEAKER pro tempore. On this call 283 Members have answered to their names. A quorum is present.

Mr. CAMPBELL of Kansas. Mr. Speaker, I move to dispense with further proceedings under the call.

The SPEAKER pro tempore. The gentleman from Kansas moves that further proceedings under the call be dispensed with. The question is on agreeing to that motion.

The motion was agreed to.

The SPEAKER pro tempore. The Doorkeeper will open the doors.

The doors were opened.

#### LEAVE OF ABSENCE.

Mr. KINDRED, by unanimous consent (at the request of Mr. LEA of California), was granted leave of absence for six days, on account of illness in his family.

#### PROTECTION OF MATERNITY AND INFANCY.

Mr. LONDON rose.

Mr. WINSLOW. Mr. Speaker, I move that the House resolve itself into Committee of the Whole House on the state of the Union for the further consideration of the bill S. 1039.

Mr. LONDON. Mr. Speaker, will the gentleman withhold that motion for a moment?

Mr. WINSLOW. Yes.

Mr. LONDON. I desire to present a unanimous-consent request.

The SPEAKER pro tempore. Does the gentleman from Massachusetts withhold his motion?

Mr. WINSLOW. Yes.

Mr. LONDON. I ask, Mr. Speaker, that I be allowed 20 minutes in my own time to address the House on the subject of the bill. I ask that I may be permitted to address the House for 20 minutes on the subject of the so-called maternity bill.

The SPEAKER pro tempore. The Chair would state that the House has not gone into committee yet.

Mr. LONDON. Can I make that request in the committee? I thought the committee had no control of its time. I thought the request should be made to the House.

The SPEAKER pro tempore. The gentleman from New York asks unanimous consent that he may be permitted to address the Committee of the Whole House on the state of the Union, having under consideration of the bill S. 1039, for 20 minutes, the time not to be taken out of the time already agreed to. Is there objection?

Mr. WINSLOW. I object.

The SPEAKER pro tempore. The gentleman from Massachusetts objects. The gentleman from Massachusetts moves that the House resolve itself into Committee of the Whole House on the state of the Union for the further consideration of the bill (S. 1039) for the public protection of maternity and infancy and providing a method of cooperation between the Government of the United States and the several States. The question is on agreeing to that motion.

The motion was agreed to.

The SPEAKER pro tempore. The gentleman from New York, Mr. HUSTED, will please take the chair.

Accordingly the House resolved itself into Committee of the Whole House on the state of the Union for the further consideration of the bill (S. 1039) for the public protection of maternity and infancy and providing a method of cooperation between the Government of the United States and the several States, with Mr. HUSTED in the chair.

The CHAIRMAN. The House is in Committee of the Whole House on the state of the Union for the further consideration of the bill S. 1039.

Mr. WINSLOW. Mr. Chairman, will you kindly announce the time left over from yesterday?

The CHAIRMAN. On yesterday evening a unanimous-consent agreement was reached limiting the time of this debate, and under that agreement the gentleman from Massachusetts, Col. WINSLOW, controlled two hours and thirty-three minutes, the gentleman from Kentucky [Mr. BARKLEY] two hours, and the gentleman from New York [Mr. KINDRED] 10 minutes.

Mr. WINSLOW. Mr. Chairman, I suggest that the gentleman from New York [Mr. KINDRED] use his time.

Mr. GARRETT of Tennessee. Mr. Chairman, the gentleman from New York [Mr. KINDRED] was called away. He was excused just a few moments ago, and in my presence he said to the gentleman from California [Mr. RAKER] that he could have his time.

Mr. COOPER of Ohio. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. COOPER of Ohio. Just before the close of the session last night the Chairman recognized me for one hour, and I used some of my time. I believe the Chair stated that I had used 25 minutes of my time. I reserved the remainder of my time. Under the arrangements made yesterday allotting the time for debate to-day I will not be deprived of my 35 minutes remaining of my hour, will I?

The CHAIRMAN. The parliamentary clerk advised the Chair that the gentleman reserved the remainder of his time, and that the record so states.

Mr. COOPER of Ohio. And I have 35 minutes of my hour still remaining?

The CHAIRMAN. The gentleman has 35 minutes still remaining.

Mr. MONDELL. Mr. Chairman, a parliamentary inquiry. How much general debate does that make in all?

The CHAIRMAN. That makes 4 hours and 43 minutes plus 35 minutes, or 5 hours and 18 minutes.

Mr. WINSLOW. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. WINSLOW. I should like to inquire if the Chair recognizes the gentleman from California, Judge RAKER, to represent the gentleman from New York [Mr. KINDRED] to use the 10 minutes allotted to him?

The CHAIRMAN. The Chair will say that he will do so if it is entirely agreeable to the gentleman from New York [Mr. KINDRED], who has control of that time.

Mr. RAKER. In the presence of Members here last night the gentleman from New York [Mr. KINDRED] agreed to yield time to me, but the business of the House was such that he could not yield to me then, and he told me I could have that time this morning.

The CHAIRMAN. Under that statement the Chair will be glad to recognize the gentleman.

Mr. RAYBURN. If I understand, Mr. Chairman, the time is to run 5 hours and 18 minutes?

The CHAIRMAN. The gentleman is correct.

Mr. JOHNSON of Washington. Mr. Chairman, what is the regular order?

The CHAIRMAN. The gentleman from California [Mr. RAKER] is recognized for 10 minutes.

Mr. RAKER. Mr. Chairman and gentlemen of the House, a great deal has been said in regard to this legislation. The matter has been up for a number of years. Full hearings were had before the Committee on Interstate and Foreign Commerce. The various women's organizations of the country from one end of it to the other have not casually or superficially but earnestly and fully considered it with a view to determining what the legislation is and what is desired by these various organizations, and there has been a general consensus of opinion that this legislation will accomplish great good.

Mr. LAYTON. Will the gentleman yield for a question?

Mr. RAKER. I never refuse my distinguished friend from Delaware, although he has had a great deal of time; but knowing his great interest in the matter, and knowing that he will throw some light in favor of the bill although he will speak against it, I will yield for a question.

Mr. LAYTON. The gentleman stated that some and implied that all of the women of the country were behind this bill. Are there any women's organizations in the country against it?

Mr. RAKER. Well always, without possibly any exceptions, you will find a few scattering outsiders—

Mr. LAYTON. Then it is not unanimous?

Mr. RAKER. From the few who have not looked into it.

Mr. LAYTON. Oh!

Mr. RAKER. Just a moment—and some who have received the advice of some of their medical friends, telling them that it possibly would be better—and by that I mean no personal reflection—

Mr. LAYTON. How does the great medical profession—not myself, but the great medical profession—stand on this question?

Mr. RAKER. I suppose the greater part of them stand for it.

Mr. LAYTON. No; the gentleman does not suppose that if he is well informed.

Mr. RAKER. Of course, there are bound to be some against it, but undoubtedly the great body of the medical profession, if their hearts are in the right place—

Mr. LAYTON. Oh, that is an assumption.

Mr. RAKER. Why, no; the assumption is that their hearts are in the right place.

Mr. LAYTON. It is an assumption that the gentleman knows better than a trained physician knows about a matter of this kind.



Mr. RAKER. Oh, well now, a trained physician or untrained, with medical ability or without medical ability, with experience or without experience, with his usual interest in favor of humanity can not help being in favor of advancing the cause of maternity and child birth and child life.

Mr. LAYTON. Will the gentleman yield for just one other question?

Mr. RAKER. I yield to the gentleman.

Mr. LAYTON. I belong to the medical profession.

Mr. RAKER. And the gentleman is a good and distinguished member of it.

Mr. LAYTON. And the gentleman belongs to the legal profession. I leave it to the conscience of the legal profession as to which of those professions does the most charity.

Mr. RAKER. Undoubtedly it is the legal profession. [Laughter.] Now, that does not apply generally, but we know it does apply to some.

Mr. HUDDLESTON. Is it not a well-known fact that members of the medical profession charge the rich for anything they may do for the poor?

Mr. RAKER. Now, let us get down to this bill. The purpose and the only purpose of the bill is to promote the welfare and hygiene of maternity and infancy as provided in the bill. All our schools and all our efforts in the line of education from the primary schools to the college, all the money spent for schools and for education is to better the condition of the human race. This bill has for its object like education on a specific and on special lines. No one has raised the constitutional question, no one has gone into hysteria over the study of animal life or money expended by the Federal Government for those purposes; no one has gone into hysteria over spending money in order to see that we might have better plant life; no one has gone into hysteria over a thousand and one other things that we are spending money on to better plant and animal life. I have the total sum expended in the last 60 years for information regarding these various subjects to give people an opportunity to raise more horses, cattle, sheep, and hogs, and varieties of plant life. But when it comes down to spending a little money for the purpose of studying human life, human conditions, for the purpose of its betterment, the constitutional question is raised and the cry of economy—for everyone is strong for economy—and therefore no money should be expended for that purpose. That kind of an argument will not suffice as against this bill.

If the great American people through their representatives and through this bureau that is to have charge of it can alleviate the situation, can better the lives of the mothers of America, can save the lives of the children of her children, which according to the statistics run into the thousands of both mother and child each year, is not the country advancing, have we not improved our condition? For after all the whole climax, the very acme of government, is for the purpose of bettering the conditions of human life and making it such that every man in the confines of the Government may have a better opportunity to advance, not only in their mental and physical condition, but in the family condition and the condition of the State and the Nation of which he is a part.

That appears unquestionably to be the object of this bill, and when carried into execution and the work has gone forth and the results have been obtained we will be able to receive a report in two or five years of the splendid results that have been accomplished and the great saving of human life that has come thereby. Therefore I feel justified in voting for this legislation and helping to place it on the statute books. [Applause.]

Mr. KEARNS. Will the gentleman yield?

Mr. RAKER. If I have any time.

Mr. KEARNS. How, under the terms of this bill, are you going to organize to carry out its provisions? How are these things going to be accomplished?

Mr. RAKER. These good women, assisted by the Children's Bureau now organized, have a method and will carry it out beyond all question.

The CHAIRMAN. The time of the gentleman from California has expired.

Mr. WINSLOW. Mr. Chairman, I yield 25 minutes to the lady from Oklahoma [Miss ROBERTSON]. [Applause.]

Miss ROBERTSON. Mr. Chairman, it may seem ungracious to speak of a little incident that occurred once when a Cherokee girl—and very few of our beautiful half-breed Cherokee girls can talk in Cherokee—was suddenly called upon to speak in her own language for the benefit of an assembled audience. But she quickly arose to the occasion and repeated over and over, with different inflections of voice and gesture, the alphabet and counted up to 25. [Laughter.] We have heard the argu-

ments about pigs, and they mean just about as much as the Cherokee alphabet and counting up to 25. [Laughter.]

The committee in reporting out this bill remind me a little of the spoiled child traveling with its mother and nursery governess; mother was absorbed in a novel; young hopeful crying very petulantly; mother said to the nursery governess without looking up from her novel, "Why don't you give him what he wants? I've told you he is too high strung to be crossed in anything." There was a moment's silence, and then a frightened and angry howl. Mother said, "Why don't you give him what he wants?" Poor nursery governess replying, "I did let him have it. It was a bumblebee and it stung him." [Laughter.] The House has been given the bill that it has been crying for; it may prove to have a sting to it. It should be remembered that this bill leads a procession of other hyphenated-title bills. Many of you remember childhood days on the farm. Do you remember when the calves and lambs came thirstily up to the pasture gate; how they crowded each other? Did you ever try to let just one through? Were not all the rest pushing and crowding from the rear, breaking through, till you sought safety behind the gate? I wonder how many of you have seen the numerous little folders that flood the mails, going out from various headquarters to the women's clubs all over the country, calling for club action on the hyphenates that are following this. Have you noticed the duplication of demands and the personal urge in each of them? Sometimes the senders have not consulted each other enough? For instance, their statistics of the number of babies the American Congress is murdering every year vary from 12,000 to 25,000 mothers and from 100,000 to 300,000 babies; but then, as long as you are killing babies, why not kill a plenty? Like the little boy who came in all excited, "Mother, there's more than a million cats fighting out in our back yard." Mother quieted him and insisted that there could not be so many, until finally he admitted, "Well, mother, there's our cat and another fighting and they're making more noise than a million." [Laughter.] More than 10,000,000 club women making a noise over this bill! I think all of you must be rather tired of the infant mortality thermometers that we have had sent to us to look at. I for one am mortally sick of New Zealand in capitals with the notation that her death rate is less than that of any other country. New Zealand statistics, where birth control is legally taught, are based on her white population only and therefore worthless. But her per capita debt is four times ours in spite of not having unwanted babies. Also the whole thermometer, to use plain English, lies, because there is nothing to tell the year for which these statistics were compared; dates are not given. In one of these thermometers it says that the United States lost over 23,000 mothers in 1918. Anybody who remembers the "flu" epidemic of 1918 knows how unfair giving such statistics is. In my judgment, so long as only 23 out of 48 States are in registration areas there are no statistics worth considering.

There are no statistics upon which any but a misleading statement can be based except where there is registration. It is admitted that it is comparatively easy to obtain death statistics because of the death certificate the undertaker must record even where no record is kept of the babies that are born. The 21st of last December Mrs. Florence Kelly, general secretary of the National Consumers League, in a hearing before the House Committee, said:

Every day since the bill was introduced (and we had that hearing on the 7th of January, 1919), six times as many children on an average have died every day—on Sundays, Christmas, and holidays, every day—as there are men in the United States Senate. On each of those days, according to our annual average, 680 little children died. Then, in July, we read in the campaign textbook of the Republican Party these words [reading]:

"The present Congress has appropriated generously for the disabled of the World War. The amounts already applied and authorized for the fiscal year 1920-21 for this purpose reached the stupendous sum of \$1,180,571,893. This legislation is significant of the party's purpose in generously caring for the maimed and disabled men of the recent war."

It is hard for a woman's mind to grasp a sum of money like that. I meditated over it from July until December, and then I met one of the Assistant Secretaries of the Treasury, who has to do with the disbursing of the funds under the appropriations of Congress. I said to him, "Is that to be taken literally, do you think, Mr. Secretary?" And he said, "Yes; I think so. I think that if you totaled all the items that Congress has appropriated for the disabled soldiers they would amount to \$1,180,000,000. Perhaps a little more."

These quotations are from the hearing a year ago; if the lady who made the statement believed them it is difficult to understand how with 10,000,000 club women demanding the passage of this bill when it failed of speedy action, had there been any real affection for the mothers and babies in their hearts they would not have made it merely a matter of resolutions in their clubs, of circulars, of lobbying visits to Congressmen;

they would have cured by their own power this condition themselves. Ten million club women, well-to-do women, women who sit at ease in their comfortable homes or thrill at the woes of the world told over the teacups. [Applause and laughter.] And I belong to six of these clubs. Would they let babies die so waiting for Congress to do what they had power to do in one day of concerted effort? As a matter of fact, the bill as originally introduced, as it now stands, is insignificant in its scope. No unprejudiced mind could for a moment believe that \$1,480,000 a year could reach 20,000,000 mothers in the United States. I assume that there are 20,000,000—probably this is an overestimate—but even supposing that there are 10,000,000 only, figure for yourselves the fraction of a dollar this would allow each mother. In listening with the greatest interest to the testimony of Dr. Baker before the committee, my one predominant feeling was that her entire evidence was strongly against this bill. Through her we learn that the city of New York is spending \$900,000 a year upon its own welfare work of this kind. New York is sufficient unto its own needs, and upon interrogation, Dr. Baker hastily disclaimed any desire to come under Government direction and control through the Children's Bureau. Doubtless if we could have the evidence of the great army of workers along these lines who are busy all over the United States we would find them also repugnant to the idea of being placed under Federal control. To my mind, in its present form, the greatest danger in this bill is that it will have the effect of interference with far more work that is now being cared for. In the event of its passage good women all over the United States will feel that there is no need longer of effort upon their part, as the Government will do it all. In my home town of Muskogee, Okla., our charity budget calls for \$30,000. By this we care for a visiting nurse, day nursery, a friendly visitor, and a health center. We have a county Red Cross nurse who at this time is visiting the rural communities, who takes to the meetings she holds all the necessary equipment for practical demonstration for the care of babies, distributing such literature as may be most helpful in individual cases.

The munificent sum of \$18,679 which would be allowed under this bill to the State of Oklahoma would be \$242 to each county. The only apology I have to make for my State of Oklahoma is that she has not yet risen above her environment, following the lead of her neighbors, Missouri, Arkansas, Texas, Louisiana, and Colorado, all nonregistration States, instead of her next neighbor on the north, Kansas, a registration State. Not one of these States but is able to care for its own people, not one but has a legislature capable of providing all the financial aid, the plan of work, and the personnel required. It might seem an invidious suggestion to add that if, as suggested by my colleague [Mr. GREENE of Vermont], there are to be, as in the times of King George, "multitudes of new offices and swarms of officers to harass our people and eat out our substance."

If we are to be taxed for them we would rather fix our own rate and personally supervise it through officers of whom we have entire control. [Applause.]

When this bill first was before me as reported out by the committee it seemed to me to have become "denatured" [laughter and applause], to have had eliminated through a wiser and more careful wording its former unlimited autocracy, which placed absolute power in the hands of individuals who—with no unkindness but simply a statement of cold fact—there was every reason to feel were absolutely unsafe because of their constant association with un-American people and un-American principles. You remember that—

Vice is a monster of so frightful mien  
As to be hated needs but to be seen;  
Yet seen too oft, familiar with her face,  
We first endure, then pity, then embrace.

Not yet has the great American people reached the stage of endurance even, and I believed the bill as now pending would make it impossible for conditions to continue with their undermining attacks upon American home life.

There are Members upon this floor who believe in birth control—they have told me so—they were for the bill in its original form. They must surely believe in a revision of the Scriptures, so that instead of the text our mothers used to teach us—we all of us remember it, when we were told that some little child that had gone away to a beautiful home, never to come back—"Suffer little children to come unto me, and forbid them not, for of such is the kingdom of heaven," they would have it read, "Suffer *not* the little children to come unto me."

In a luxurious hotel in a great city, not long since, I saw a dog carefully wrapped in embroidered flannels and costly furs, carried by a white-capped maid for its limousine outing. Let us

stop talking about hogs for a little while and talk a little about dogs. [Laughter and applause.]

Birth control for the avenue, while over on the crowded streets we find the children playing. Scripture tells us of the golden streets of the heavenly city, that they will be filled with angel children, but that without are dogs and sorcerers and whoremongers and whoever doeth or maketh a lie.

I have known the confidence of many people. I am not a mother as you know, but God has given me more or less of a mother's heart. [Applause.] I have tried to be a comforter in sorrow, in many instances. I have seen wives torn from the arms of husbands who have been for decades all the world to them. I have been with children. I have been with soldiers going out from home to battle. One time I had an opportunity of looking away down into the human heart, such as I never had before nor since. It was when a boy went off to the Spanish-American War. He asked me then to write to his mother and said that he had run away, that he would not go back to her, but that he did not tell her good-by, and he said, "I know that I am going to die," and he was killed. I have never told all of the things that that boy said, because there are some things so sacred that like the relationship between husband and wife in its beauty none of us may ever know who have not had it. In this case it was a man to whom I went with words of sympathy. I simply held out my hand and said nothing, because the most wonderful boy I had almost ever known had gone away from him, an only child, and there was a petulant, peevish mother at home. The man was trying to bear the burden alone. We stood there a minute in quiet, and never, as long as life lasts shall I forget the look on his face as he said, "Do you think God would punish a man and woman who did not want the care of little children, who did not want the struggle, who wanted only one when they really could have had more, if they had been willing—do you think that is the reason God took that one away from us?"

Mr. Chairman, as long as I live, birth control must always bring up to me the horror of that man's grief. Is the birth control yet in the bill as it was? I am not certain whether it be eliminated, as it is, but I believe and hope it is. The originators of the bill certainly favored it, judging by the membership that they hold in various societies.

All of these propaganda magazines have had upon them many pictures like the one I show you. Is not that wonderful? Surely that will appeal to you men—I shall send it around and let you see it—this picture of a very lively baseball boy. That picture is on the wrapper of a magazine which undertakes to instruct the woman voter.

Mr. YATES. What is the name of the magazine?

Miss ROBERTSON. The Pictorial Review for August, 1921. Here are 50 questions for the woman voter, a test of intelligent citizenship. The article says:

Let no woman citizen be discouraged if she fails in the test suggested in the questions below. There is probably not a man in the House or the Senate of the United States who could score 80 per cent on this test.

The truthfulness of my fellow Members would not tolerate the answers as given.

There are a great many of these questions, part of which, with your permission, I shall insert in the RECORD.

My colleagues on reading them may judge their accuracy, comment on my part being superfluous.

[From the Pictorial Review for August, 1921.]

FIFTY QUESTIONS FOR THE WOMAN VOTER—A TEST OF INTELLIGENT CITIZENSHIP.

[By Ida Clyde Clarke.]

HERE ARE THE QUESTIONS AND ANSWERS—STUDY THEM—THEY'RE WORTH IT.

Question. Has the addition of the votes of 25,000,000 women in the United States had any effect on national legislation?

Answer. No. Every bill backed by the organized women of America was sidetracked or killed by the Sixty-sixth Congress.

Question. What bill left to die by that Congress had the unanimous support of the 10,000,000 organized women?

Answer. The Sheppard-Towner bill, known wherever "American" is spoken as the maternity and infancy bill. Never before have Senators and Congressmen received so many letters in support of a measure. This bill was reintroduced in April.

Question. What are the provisions of the maternity and infancy bill?

Answer. It provides Federal aid to the States to promote the care of maternity and infancy. Administration for the Government to be by the Children's Bureau; for the States by the child-hygiene division of State boards of health.

Question. What appropriation does the bill call for?

Answer. From the Government \$1,480,000. Of this, \$10,000 goes as a free gift to each State. The remaining million is to be divided among the States in proportion to their population on condition that each State appropriate from its treasury an equal sum. Only 5 per cent may be spent by the Children's Bureau. Remainder must go to State.



Question. How does the United States rank in infant mortality?

Answer. Tenth among 20 leading countries, the rate being 124 per 1,000—higher than any European countries except Germany, Austria, Russia, and Italy.

Question. What would be a direct result of the passage of the bill?

Answer. The lives of 200,000 babies and 20,000 mothers who die needlessly would be saved annually.

Question. What American woman said during the war, "It is three times as safe to be a soldier in the trenches as to be an American baby in a cradle"?

Answer. Dr. S. Josephine Baker, head of the department of child hygiene in New York City. Casualties in the allied armies were 4 in a hundred, while the baby deaths in this country are over 12 in a hundred. In 65 cities of the United States the death rate is from 100 to 182 under 1 year of age for every 1,000 born alive. Stillbirths likewise disclose a shocking figure. The black list of 65 cities may be secured from the Voluntary Parenthood League, 206 Broadway, New York City.

Question. What other bill backed by a number of influential organizations failed of passage in the last Congress?

Answer. The Smith-Towner educational bill.

Question. What were the provisions of the Smith-Towner bill?

Answer. The bill provided for the creation of a department of education with a secretary in the President's Cabinet; and for Federal aid for education in the States, but prohibited Federal control.

Question. What new department in the Federal Government is now being widely discussed?

Answer. A department of public welfare with a woman as head.

#### WHO WILL BE THE FIRST WOMAN CABINET MEMBER?

Question. Who is likely to be the first woman in the President's Cabinet because of her brilliant attainments in public life, her wide popularity, and her achievements in the field of practical politics?

Answer. Mrs. Harriet Taylor Upton, Ohio, mother of the suffrage movement in Ohio, vice-chairman Republican National Committee for Harding campaign. She captivates every audience she addresses. If a new welfare department is created, she may be its head.

Question. Why are organized women, standing solidly for certain national legislation, unable to make their votes effective?

Answer. Because the laws of the Nation are made and administered by a Congress of men, who work under a system that is highly inefficient and extravagant. Under this system—for which Democrats and Republicans are alike responsible—politics has become an end in itself.

Question. How can women voters become articulate in national affairs?

Answer. By changing this system, which is now at its lowest point of efficiency.

Question. How can this system be reformed?

Answer. By electing at least 25 women to Congress who will think straight and who will have courage to stand for what they believe, no matter what their party affiliations. In order to elect 25 women 100 should be nominated.

Question. There have been many honest-minded, conscientious men in Congress; why have they been unable to bring about this reform?

Answer. One man, or a small group of men, is powerless against the system. Daring to oppose it, they are ridiculed, persecuted, and usually eliminated. Unless Members of Congress abuse the franking and the leave-to-print privileges, they have no means of keeping themselves before their constituents. They use the system or they suffer political extinction.

Question. How can women in Congress expect any different treatment from that accorded to men?

Answer. That success of the woman in Congress movement depends on the clean-mindedness of the women chosen. Events that go unnoticed in a Congress of men would be dramatized by them. While women are in the minority they will be "copy" to the newspapers. Because Miss Rankin was reported to have sobbed when she voted on the war question she was "played up" in the papers of the world. There were sobbing men voters on that question, but they were unnoticed. When women refuse to work under a demoralized and a demoralizing system the world will know it. Publicity works miracles.

Question. How many men and how many women have been elected to Congress?

Answer. Twenty-five thousand men and two women—Jeanette Rankin and ALICE ROBERTSON.

#### DO WOMEN NEED SPECIAL TRAINING?

Question. Is special training needed for women congressional candidates?

Answer. No. The training that average women get managing households, bearing and rearing children, and carrying on the general business of being women, is the best possible training for public life. The problems the country is now facing are human problems. Women act and react from distinctly human motives. If men do not need training for Congress, women do not need it.

Question. What general type of women would be most effective in Congress?

Answer. Middle-aged women who have gone up against the average problems of average life by the simple means of living through them; women of broad human experience, general intelligence, and, above all, fair minded. They may be of any political party, and they should be able to answer the majority of the questions herein propounded.

Question. Should young women be encouraged to enter politics and become conspicuous in public affairs?

Answer. No. Young women should attend strictly to the business of being young. While young they should enjoy the blessings that only youth gives. Young women should spend their time loving and learning and living.

Question. Should candidates be politically wise?

Answer. Not at all. We need in Congress fresh-minded women—"political virgins"—not 10 but three times 10 of them, for some will forget to put oil in their lamps. And they must be watchful lest "political vamps" be lying in wait for the "political virgins."

Question. Did the national political parties include in their platforms the planks insisted upon by the organized women voters?

Answer. No. All of the parties indulged only in deceptive phraseology. The platforms, like the traditional Mother Hubbard, covered everything and touched nothing.

Question. Did women voters realize the deception?

Answer. No. The men pacified them with "foolery." We women were so busy sucking away at the hollow phrases they gave us we never dreamed we were sucking wind.

Question. Have any women been candidates for the United States Senate?

Answer. Yes. Anne Martin of Nevada has twice been a candidate. Of approximately 26,000 votes she captured about 5,000 on an independent ticket. In New York, Rose Schneiderman, Farm Labor Party, received 28,000 votes out of about 3,000,000.

Question. What congressional reform has been inaugurated in Congress after years of agitation on the part of a few interested people?

Answer. The Senate has buried 40 of its useless committees. One of these, the "committee on transportation routes to the seaboard," had not met for more than 40 years. Yet its chairman was allowed the usual complement of clerks, printing privileges, etc. The "committee on the university of the United States" had existed for 30 years, although there is not now and never has been such an institution. The House has done nothing toward burying its dead committees.

Question. Name four of the most glaring extravagances of our National Government.

Answer. (1) The abuse of the franking privilege. One Congressman sent out 640,000 parcels of books in one day—

I wonder where he got them? Is there any woman or man so absolutely credulous as to believe such a statement?

The postage would have cost average citizens 45 cents each. Uncle Sam spent \$300,000 for postage that day. If every Congressman abused the privilege to this extent only once each term, it would make a total of \$130,000,000. (2) The free-seed habit, which costs the taxpayers \$250,000 a year. (3) The leave-to-print privilege. Many speeches that have been printed in the CONGRESSIONAL RECORD have never been spoken at all, but are written for campaign purposes. During the recent shortage of print paper the "speechless speeches" printed and sent postage free from Washington cost \$442,798.73. They weighed \$49,110 pounds. (4) The captured German cannon bills. One Congressman recently introduced bills authorizing the Secretary of War to donate German cannon for 44 towns in his district. If all similar bills introduced in Congress were passed, it would be necessary to start up the Krupp works in Germany to supply the towns.

Question. How much did the war cost us?

Answer. The direct cost was \$22,000,000,000, nearly enough to pay the entire cost of running the United States Government from 1791 to 1914. For over two years this country spent more than \$1,000,000 an hour. Our expenditures in this war were sufficient to have carried on the Revolutionary War continuously for more than 1,000 years. The pay of the Army during the war cost more than the combined salaries of all the public-school teachers and principals in the United States for the five years of 1912-1916, inclusive.

Question. What is the attitude of women toward war?

Answer. The women of the world are unqualifiedly for peace.

Question. How can peace be secured?

Answer. By the limitation of armaments of all nations.

Question. Is limitation of armaments among the great nations of the earth practicable?

Answer. Leading men of the world seem to have thought so. The preamble to the peace terms with Germany made at Versailles says that Germany shall be disarmed "in order to render possible the initiation of a general limitation of the armament of all nations."

Question. What have the great powers done to carry out the intention stated in the peace terms?

Answer. Nothing. All are planning to increase their armaments to the extreme limit of capacity.

Question. Do men live up to the terms of the peace treaties they make?

Answer. No. Men said, in solemn conclave assembled, long before the European war, that in future wars the use of toxic gases would be prohibited. They ruled out the ruthless use of submarines, and put limitations on the ruthless blockade. Yet all of these restrictions were freely violated during the recent war.

Question. What do women believe is the proper method of settling international disputes?

Answer. The method of arbitration.

Question. Has this method been tried?

Answer. Yes. Because of an agreement between England and the United States we have a transcontinental boundary between the United States and Canada nearly 4,000 miles long, in which there has been for many years not a single fort, a single soldier, or a single gun. Argentina and Chile at one end of the world and Norway and Sweden at the other, have settled their disputes by arbitration. Denmark's three treaties with Italy, Portugal, and the Netherlands withhold no cause, however vital, from reason's peaceful sway.

Question. What can women do to prevent war?

Answer. Women can stand unitedly against the stupendous appropriation bills in Congress. The only hope to prevent future wars lies in an agreement between the three great naval powers—England, Japan, and the United States—to limit their armaments.

Question. Does any nation want war?

Answer. No. Every nation has stated through its official spokesman that it is ready to limit armaments as soon as an agreement can be reached among the great powers.

Question. What nation is the logical one to take the initiative?

Answer. The United States.

Question. Has the United States officially approached either Japan or England on the subject?

Answer. No. Although just as we go to press the Senate has passed a resolution authorizing the President to take such action.

Question. What proportion of our national expenditures is used for war?

Answer. Ninety-three per cent in 1920; 88 per cent in 1921.

Question. How much does our Government spend to establish social justice, develop our farms and forests, our roads and schools, to fight disease, and prevent needless destruction?

Answer. Only 12 cents of every dollar spent is used for all of the national constructive nonmilitary activities.

Question. How much does Uncle Sam owe?

Answer. We have a vast load of unpaid bills for this year amounting to over \$2,838,000,000, besides an extra burden of over \$855,000,000 for large military and naval establishments.

Question. What is the average cost of war to us as individuals?

Answer. \$40 each, or \$200 for each family of five—enough to pay the fees of one child at the university for a year.

Question. How does America show its lack of recognition of the importance of education?

Answer. By spending more money for luxuries than we spend for education. The amount paid for jewelry is nearly \$100,000,000 more than that spent for salaries of teachers in the elementary and high

schools. The total sum we spend for jewelry is more than the total productive funds of all endowed colleges and universities in the United States.

Question. Do we spend as much for teachers' salaries as we do for cigarettes?

Answer. No. The cost of cigarettes in 1921 is twice as much as the salaries of teachers in elementary and high schools. In 1920 we blew away in smoke of cigars and cigarettes \$300,000,000 more than the total cost of all education in 1918.

Question. What 12 national organizations of women have united in formation of a woman's joint congressional committee in Washington, and who are the members of this committee?

Answer. American Association of University Women, Mrs. Raymond Morgan; American Home Economics Association, Miss Gertrude Van Hoesen; General Federation of Women's Clubs, Miss Lida Haford; Girls' Friendly Society in America, Mrs. Graham Powell; National Board of the Y. W. C. A., Miss McArthur; National Congress of Mothers and Parent-Teachers' Association, Mrs. Milton P. Higgins; National Consumers' League, Mrs. Florence Kelley; National Federation of Business and Professional Women's Clubs, Miss Mary Stewart; National League of Women Voters, Mrs. Maud Wood Park; National Society Daughters of the American Revolution; National Woman's Christian Temperance Union, Mrs. Ellis Yost; National Women's Trade Union League, Miss Ethel Smith; The Council of Jewish Women, Mrs. Alexander Wolf.

Question. What is the approximate cost of running women's organizations?

Answer. The National League of Voters, mainly women of leisure, membership 2,000,000, expended last year \$38,000, including cost of legislative headquarters at Washington. The National Federation of Business and Professional Women's Clubs maintains headquarters on Fifth Avenue, New York, pays its secretary \$5,000 a year, does organization work, and has an official organ. Its budget is approximately \$30,000, about 50 cents per capita.

Question. Why was the Woman's Bureau established in the Department of Labor?

Answer. To serve as a "policy forming and advisory body" during the war emergency. The words were carefully chosen to avoid any remote possibility of power or authority in the hands of women.

Question. What are the functions of the Woman's Bureau?

Answer. Congress appropriated the niggardly sum of \$40,000 "to enable the Secretary of Labor"—note the careful evasion of any credit or authority for women—"to continue the investigations touching women in industry." The bureau is not a "special activity"; is not on a statutory basis; is not permanent.

Question. How is the Woman's Bureau financed?

Answer. It is dependent on the whims of a Congress of men for its support. The last Congress reduced and limited the salaries of experts in this bureau. Furthermore, the situation was aggravated because of the refusal of Congress to allow these workers the so-called bonus or flat salary increase of \$240 a year granted to other employees. Miss Mary Anderson is director of the bureau.

Question. Name one bureau researching and dealing with vocations for business and professional women.

Answer. The Bureau of Vocational Education, 2 West Forty-third Street, New York City. This bureau cooperates with the Young Women's Christian Association.

Wonderful instruction, is it not?

The CHAIRMAN. The time of the lady from Oklahoma has expired.

Miss ROBERTSON. Mr. Chairman, will the gentleman from Massachusetts kindly yield me three minutes more?

Mr. WINSLOW. I yield three minutes more to the lady from Oklahoma.

Miss ROBERTSON. I want now to call the attention of every one of you gentlemen here to this statement of figures, and if you look at it you will see the absolute absurdity from those figures of believing that \$1,480,000 apportioned out as it will be can get anywhere.

Explanatory of section 2 of S. 1039, entitled "An act for the public protection of maternity and infancy and providing a method of cooperation between the Government of the United States and the several States" (as reported Nov. 14, 1921, by Committee on Interstate and Foreign Commerce) in respect to annual distribution of "additional appropriations" (to be matched by States) for 5-year period.

	Population.	Fixed amount to each State.	Apportionment to each State on basis of population.	Total amount to each State.	Per cent of additional appropriation to each State.	Pro-gressive percent.
1. New York.....	10,385,227	\$5,000	\$70,042	\$75,042	7.9	.....
2. Pennsylvania.....	8,720,017	5,000	58,811	63,811	6.7	14.6
3. Illinois.....	6,485,280	5,000	43,739	48,739	5.1	19.7
4. Ohio.....	5,759,394	5,000	38,843	43,843	4.6	24.3
5. Texas.....	4,663,228	5,000	31,450	36,450	3.8	28.1
6. Massachusetts.....	3,532,356	5,000	25,982	30,982	3.3	31.4
7. Michigan.....	3,698,412	5,000	24,741	29,741	3.1	34.5
8. California.....	3,426,861	5,000	23,112	28,112	3.0	37.5
9. Missouri.....	3,404,055	5,000	22,958	27,958	2.9	40.4
10. New Jersey.....	3,155,900	5,000	21,284	26,284	2.8	43.2
11. Indiana.....	2,930,390	5,000	19,764	24,764	2.6	45.8
12. Georgia.....	2,895,832	5,000	19,531	24,531	2.6	48.4
13. Wisconsin.....	2,632,067	5,000	17,752	22,752	2.4	50.8
14. North Carolina.....	2,539,123	5,000	17,260	22,260	2.3	53.1
15. Kentucky.....	2,416,630	5,000	16,290	21,290	2.2	55.3
16. Iowa.....	2,404,021	5,000	16,214	21,214	2.2	57.5
17. Minnesota.....	2,387,125	5,000	16,100	21,100	2.2	59.7
18. Alabama.....	2,348,174	5,000	15,837	20,837	2.2	61.9
19. Tennessee.....	2,337,885	5,000	15,768	20,768	2.2	64.1
20. Virginia.....	2,309,187	5,000	15,574	20,574	2.2	66.3
21. Oklahoma.....	2,028,283	5,000	13,679	18,679	2.0	68.3
22. Louisiana.....	1,798,509	5,000	12,130	17,130	1.8	70.1
23. Mississippi.....	1,790,613	5,000	12,077	17,077	1.8	71.9
24. Kansas.....	1,769,257	5,000	11,932	16,932	1.8	73.7

Explanatory of section 2 of S. 1039, etc.—Continued.

	Population.	Fixed amount to each State.	Apportionment to each State on basis of population.	Total amount to each State.	Per cent of additional appropriation to each State.	Pro-gressive percent.
25. Arkansas.....	1,752,204	\$5,000	\$11,817	\$16,817	1.8	75.5
26. South Carolina.....	1,683,724	5,000	11,355	16,355	1.7	77.2
27. West Virginia.....	1,463,701	5,000	9,872	14,872	1.6	78.8
28. Maryland.....	1,449,661	5,000	9,777	14,777	1.6	80.4
29. Connecticut.....	1,380,631	5,000	9,311	14,311	1.5	81.9
30. Washington.....	1,356,621	5,000	9,149	14,149	1.5	83.4
31. Nebraska.....	1,296,372	5,000	8,743	13,743	1.4	84.8
32. Florida.....	998,470	5,000	6,532	11,532	1.2	86.0
33. Colorado.....	939,629	5,000	6,337	11,337	1.2	87.2
34. Oregon.....	783,389	5,000	5,283	10,283	1.1	88.3
35. Maine.....	768,014	5,000	5,180	10,180	1.1	89.4
36. North Dakota.....	646,872	5,000	4,363	9,363	1.0	90.4
37. South Dakota.....	636,547	5,000	4,293	9,293	1.0	91.4
38. Rhode Island.....	604,397	5,000	4,076	9,076	.9	92.3
39. Montana.....	548,889	5,000	3,702	8,702	.9	93.2
40. Utah.....	449,396	5,000	3,031	8,031	.8	94.0
41. New Hampshire.....	443,083	5,000	2,988	7,988	.8	94.8
42. Idaho.....	431,893	5,000	2,913	7,913	.8	95.6
43. New Mexico.....	360,350	5,000	2,430	7,430	.8	96.4
44. Vermont.....	352,428	5,000	2,377	7,377	.8	97.2
45. Arizona.....	334,162	5,000	2,254	7,254	.8	98.0
46. Delaware.....	223,003	5,000	1,604	6,604	.7	98.7
47. Wyoming.....	194,402	5,000	1,311	6,311	.7	99.4
48. Nevada.....	77,407	5,000	522	5,522	.6	100.0
Total.....	105,273,049	240,000	710,000	950,000	100.0	.....

(This table prepared by Census Bureau.)

Analyze these figures: States 1, 5, 9, 10, 12, 16, 18, 19, 21, 22, 23, 25, 27, 31, 32, 33, 36, 37, 39, 42, 43, 45, 46, 47, and 48 are all nonregistration States, and therefore without statistics. Fifty per cent of the entire appropriation goes to the first 13 but their heavy taxation is not met by a corresponding sum from the Government. The next 10 States take 25 per cent of the whole amount. The remaining 25 per cent, with the far greater needs of great areas and sparse settlements, is almost negligible in its inadequateness.

They have been taught to expect something; they will receive practically nothing.

There are many other things that I should like to say, but it seems to be the custom lately to read letters, and I want to read one here. This letter was sent to the leading Republican woman of my district. It reads as follows:

The maternity bill passed the Senate with only 7 votes against it on Friday the 22d. I am inclosing the Republican poll. If you know any of these Senators who voted for it, I wish you would write them a letter thanking them for their stand on this bill and telling them you feel sure the women of the country appreciate it. Do not use any of my words, because I do not want them to think the thought originated with me.

If you know any of the Senators who voted against the bill, please write them saying you are sorry they could not stand by the party in this the only measure which the Republican women have asked for of this Congress. Do it very gently.

Senator BORAH said he was for the bill, but he voted against it because it carried an appropriation. The Senators are voting large appropriations every day, but they propose to economize on this, a woman's measure, of course.

Senator MOSES has never been for the bill and made no excuse. Do not know what Senator WARREN's real attitude was.

(Signed)

P. S.: Do you not think it would be wise to write all of the Republican Senators, signing yourself officially? This is something of a task, I know, but it would be of such great assistance to the Republican organization.

We Republican women are awfully disappointed to have Miss ROBERTSON against the bill. It seems like woman against woman, and then Miss Rankin was for it.

It has been said that the great reason for this bill is that it is an administration bill. I notice that many of you men went off the reservation the other day. [Laughter and applause.] I am an organization person, even when a leading woman of my party picks on me in my Democratic district through Republican women because I have the courage of my convictions.

Mr. Chairman, I think this is a harmful bill, and I stand here and tell you so, and if I am digging my own political grave in doing so, let me say that it will be a mighty comfortable grave. [Applause.]

Inasmuch as this is claimed to be an administration measure and that much virtue thereby attaches to it, permit me to quote from some remarks made in the President's address at Plymouth:

The one outstanding danger of to-day is the tendency to turn to Washington for the things which are the tasks or the duties of the 48 Commonwealths which constitute the Nation. Having wrought the Nation as the central power of preservation and defense, let us preserve it so.

[Applause.]



Mr. BARKLEY. Mr. Chairman, I yield 30 minutes to the gentleman from Mississippi [Mr. Sisson.]

Mr. Sisson. Mr. Chairman and gentlemen of the committee, most Members of Congress are physically courageous men. They are not physical cowards. If you were to say to the average Member of Congress that he is a liar or that he is a thief he would strike you. I wish to God that all of the Members were as courageous politically as they are physically. Then the people would have more respect for this magnificent body of men. Men who would not hesitate for one moment to charge a booming battery will run like a Molly Cottontail from a political issue. Mr. Chairman, I have had my political grave dug for me many times since I have been in Congress on account of certain votes that I have cast. Some one interested in some measure will tell you if you do not vote for it you will be defeated. But I tell you that if a man who casts an honest, conscientious vote and feels away down in his heart that he is right, goes back and looks the people of his district squarely in the eye and says to them that he could not vote otherwise without stultifying his manhood and his intellectual integrity, he will always receive a favorable response from the people, because the American people love a brave, honest man. [Applause.] I expect this bill to pass by a large majority because the vote will be recorded. If the vote could be by secret ballot and Members voted their real sentiments there would not be as many votes for this bill as there will be against it. I doubt if there will be 50 of us who will vote against the bill as it is; but if the vote could be in secret there would not be 50 votes for it. The gentleman from New York [Mr. Landon] of course will vote for it because it is purely socialistic.

Now, of course, in the time given me I can not discuss every feature of this bill, but I do want to call your attention at the outset to a fact, and in doing so I hope you will kindly excuse me when I refer to the Constitution. I know that in mentioning this instrument to this body I am venturing upon most dangerous ground. While we take a solemn oath here to support the Constitution of the United States, without any qualification or mental reservation whatever, most Members go down and take the oath and forget about it and say, "If it is unconstitutional, the Supreme Court will say so." They thus "pass the buck," to use the slang of the street. Of course, that is not the oath we take. We have no right to ignore the Constitution in this way. We should exercise that courage that the fathers of the Republic expected and hoped we would exercise and thus insure our liberty and the perpetuity of our Government. I do not believe that this bill is constitutional, nor do I feel that as to the legislative provision in it there is a man on either side of this aisle who can convince anyone it is constitutional.

Mr. CLOUSE. Will the gentleman yield?

Mr. Sisson. Yes; briefly, please.

Mr. CLOUSE. Under section 8 of Article I of the Constitution of the United States, does not the gentleman think the Congress would have power to make such an appropriation, in that it is authorized to make appropriations for the defense and general welfare of the United States?

Mr. Sisson. I expected my friend to take refuge behind that clause, for that is the refuge of all who would evade the real purpose of the Constitution and justify every piece of bad legislation; but the Supreme Court of the United States every time it has had a whack at it said that you can not make this clause a grant of power, because if you did you have eliminated the entire Constitution.

Mr. CLOUSE. Will the gentleman yield for one further question? Has not the Supreme Court construed appropriations similar to this in the matter of the boll-weevil situation in the gentleman's section of the United States? [Applause.]

Mr. Sisson. No; the Supreme Court has not decided that the boll-weevil appropriation is constitutional. If the gentleman wants to go into that discussion, I can not do it here, because my time is too limited; but I do not believe many things are constitutional in the initiation of legislation, but if you had the right to make appropriations under what is termed the general welfare, then any legislation would be constitutional if the individual Member of Congress should say, "Well, I think it is for the general welfare." It does not mean thereby that Congress can make legislation for the general welfare unless—one minute, now—unless it has been so expressly provided in the Constitution. [Applause.]

Mr. CLOUSE. Will the gentleman yield for one further question?

Mr. Sisson. I have not the time, I have only 30 minutes. If I had the time there is not a man on this floor I would not yield to, but I have not the time, and there are many things I want to say. While I am on the question let me say to you

that the preamble of the Constitution uses exactly the same words "General welfare," and in the use of that language the court has always said we have got to have the same definition of the same language in every clause wherever it occurs in the Constitution. It can not mean one thing in one place and another thing in another. In the preamble of the Constitution the term "General welfare" is used and is simply a statement of purposes and why the following Constitution was made. It is not then a term expressing a grant of power. It can not be contended that the general-welfare clause then is part of the powers of the Constitution. If so, there is not one of you, be he lawyer or layman, but knows the very moment a court would put that construction upon it then you have eliminated and destroyed the Constitution entirely, because whatever you think is for the general welfare would then be constitutional. [Applause.] Therefore, you would have no Constitution. So I do not believe any lawyer in this House, from whatever section he comes or what his politics, believes that that construction can be placed upon it. Now, I say this much about the constitutionality of this bill and for the justification of my position I could rest it there. No good man or woman would say I should vote for the bill if I so decided. Surely no man would say in this House that when he took this oath he took it with a reservation. Surely no man here will say that in taking that oath he took it with the understanding that the general-welfare clause being part of the Constitution he can vote for anything he pleases and put it under that clause.

Mr. BARKLEY. If the gentleman will yield, two or three years ago my good friend from Mississippi was very much in favor of an appropriation of \$50,000 by the Congress for rural sanitation, and made one of the best constitutional arguments that I ever heard in favor of it. What is the distinction between that and the proposal we now have under consideration?

Mr. Sisson. As a matter of fact, that provision and the provision in relation to good roads—all of those things—originated within the departments, and in this case that the gentleman mentioned it originated in the War Department and was justified originally to keep healthy the soldier. I will say to the gentleman I am not so absolutely certain that all that we do along this line is constitutional, but I do not believe that because one burglar goes and blows a safe open that that is a good reason for everybody to go into the burglary business. [Applause.] Nor do I think that because one man makes a mistake and does a wrong once it justifies everybody else doing wrong. [Applause.] But the original proposition was hung onto that war clause because it would make the soldier healthy; and on the theory you had to make all these camp sites healthy much of that money was spent around camp sites; and I think there was some little reason for hanging that upon it, however slender that thread may be.

Mr. GREENE of Vermont. As Hosea Bigelow said, "Civilization does get forr'd sometimes on a powder cart."

Mr. Sisson. Absolutely. Then I was also amazed at the argument made when men cry aloud, "Why do you appropriate money to take care of your hogs and your cattle? Are you better to them than to your children?" No; but my children are neither hogs nor cattle, nor do I want them to be dealt with accordingly. [Applause.] I have hogs which I want to use for the food of these children of mine. I have some land, and every acre, I hope, will be productive for the benefit of my children.

This is a great Government; but hogs and cattle have no civil rights. They put them in the pen and deprive them of their liberty, and we would not do that with a child. What a specious argument that is to be made here to justify a proposition of this kind. I have heard it so many times that I am sick of it. That is not even good demagoguery. It is not only illogical but is not even good nonsense.

Now, gentlemen, I want to discuss briefly some of the objections that I have to this bill, although the first reason thoroughly justifies my voting against it, whether it justifies anybody else or not, because I think it is unconstitutional.

This bill is simply for a preliminary organization. It is simply the camel getting his nose under the tent. When the Children's Bureau was created \$7,500 was given to it by the executive department out of the executive funds.

The next appropriation bill carried \$25,000, and then there was a deficiency of \$625, I think it was, making \$25,625, or thereabouts. The next appropriation was about \$50,000. They were asking for more. The last item in reference to this matter was \$600,000, which they asked for, and the committee gave them two hundred and seventeen thousand and odd dollars. Those of you who recollect my opposition to that item at first will recall that I stated then that the original \$7,500, paying one salary for the head of the bureau, one for a clerk, and one



for a stenographer, would grow rapidly, and it would not be long before it would be more than half a million dollars.

Now, in the last nine years—I think it is nine; not less than nine—from \$7,500 it has grown to over \$271,000. Now, that is the Children's Bureau. This is another dose of the Children's Bureau. Mark you, there is not one dollar of this that reaches a single child in the United States or a penny that reaches a mother in the United States. It goes entirely, so far as the Federal appropriation is concerned, to the organization of this bureau in addition to the Children's Bureau. What does it mean? Not one single dollar will go to the mother or to the child. It means now that during the life of this bill there will be a lobby of Federal officers around the legislatures of every State in the Union lobbying—lobbying for what? For the State legislature to appropriate money for this purpose. And so you have going out from Washington one of the most dangerous and pernicious lobbies ever originated in the Nation. And to show you, as the good lady from Oklahoma said in her speech, what was in the minds of these people who are now behind this bill, the only thing you have got to do is to go and look at the provisions in the bills that have died.

You will find in these bills that they wanted to go, without the consent of the parent or guardian, into the homes, into the homes of all the people of the United States who had children. Congress eliminated that. They are still lobbying for this bill. You know what was said about the camel getting his nose under the tent. The Arab from experience knows that as soon as the camel can find a hole large enough to get his nose under the tent he will get his whole body under in time. The best place to strangle this thing is now, just at this moment. Let it die here. Because when you shall have organized this institution, and when there shall emanate from Washington all of this influence operating on the State legislatures for the purpose of securing appropriations in order that these Federal employees may have something to do the State must appropriate the money and organize an expensive bureau. When that is done the State, now overburdened with taxes, will be called upon to tax itself to pay for this work. This is an effort on the part of the Federal Government to send out emissaries to State legislatures to lobby through bills in order that this institution created in this bill may justify its existence. Because the only justification for this bill now is to organize this work in the States.

Now, I do not know just where it will end, but is there a man here who believes that this limitation in this bill is going to satisfy those people who are here lobbying?

By the way, I intended to mention that. I have been lobbied but twice since I have been in Congress. All the liquor interests and antili liquor interests, all the interests of that kind that have been concerned, all the so-called big interests in this country have never lobbied me in my life. I have been lobbied but twice, and one time was to vote for woman suffrage; and the other was to vote for this bill. I do not know; there may be a lobby against it. But if a man is trying to put fire in the house, the other man has a right to throw a bucket of water on it.

I think that there is no demand from the people, so far as I know, except the demand originated by the parties who expect to draw these salaries under this bill, and there has been no agitation of this subject outside of them. On the contrary, if you get out among the good mothers, I mean real mothers, mothers who have babies—I am talking about mothers who have a household to look after, who love their husbands; I am talking about real mothers—you will not find them here endeavoring to control Congressmen's votes on this question. As certain as God's sun shines in the universe and gives life and light to us all, just so certain the home presided over by a good mother is life in society. It is the sun, it is the life of this Republic. I am unwilling to have it invaded by the Federal Government or by any of its agents; I am unwilling to have the State legislatures continuously lobbied for money that is to be paid out of the Federal Treasury for very doubtful purposes.

Listen! Another vicious thing in this bill is this, a certain per cent is to be spent in salaries, and in order that they may get their salaries doubled you have got to double the appropriation. In other words, when the appropriation is \$1,000,000, they get \$50,000; when the appropriation is \$2,000,000, they get \$100,000, and so on. And so the lobby must go on. And another thing that justifies its existence for five years is that they have got to lobby faster in order to make this thing good in the States, or else the Government may wake up and say that it will not continue the appropriation any longer.

Whatever my idea may have been about women being in Congress, whatever my views have been on the subject in the past, they have never been shaken until this morning, when the good woman from Oklahoma, with that fine common sense, with

a fine mother sense, with the fine mother instinct, rose up here in opposition to this bill. And I then thought of the prayer that was prayed by Napoleon Bonaparte just before the Battle of Waterloo, as he was marching up and down the council chamber. Knowing what he had to contend with, Napoleon, in that abstracted manner of his, marched up and down the council chamber and threw up his hands and cried aloud, "My God, how scarce are men. God, give us men."

In other words, what Napoleon needed then was men; strong men, men of courage, men of principle, men of convictions, and men of capacity to do the mighty work that he had to do. Knowing, as he did, his need, he was praying for men. And when I looked around this morning and saw that good woman appearing here, pleading for that which is just and right, exercising good sense and mother sense—I mean the old pioneer mother sense, the sense of that kind of a mother that my friend GREENE of Vermont talked about yesterday in his magnificent speech—the sense of the home mother, the mother sense that made Washington and Clay and Calhoun and Lee and Grant and a host of others what they were, I said in my heart, "God bless the old-fashioned mother." Do you not love them? Go out to the spots where they are buried, and there you feel like shedding real tears not only for the mother that brought you into being but for the mothers who made our Republic what it is. Yes; it is mothers of that kind that come here and tell you that they do not want this bill enacted.

I was about to say that if you get in Congress women who are so much better Congressmen than many of us men, if you get women like this good woman Representative that we have here, a woman of rare common sense, I think perhaps two-thirds of us men ought to be turned out and be replaced by women of well-balanced minds, who can not be swept off their feet by propaganda and lobbying. [Applause.]

Now, somebody may ask you what objection you have against the bill. I always answer questions like that by asking, "Will you please tell me what this bill does?" And then they will stand like sheep before the shearers—dumb. Why this bill does not do anything except get ready for an organization, get ready for a campaign in the States, to lobby all the legislatures in this country, to get the States to connect them up with the mothers and the children.

This Republic has done well heretofore. I believe that there is nothing that raises a child so well as a good home. Well, they say there are some homes that are not what they ought to be. Well, as bad as such homes may be, they are better than any bunch of political men and women and the gang around it. [Applause.] No; the thing that made America great was the fact that we had confidence in the citizen. It was urged as a reason why this Government would fail that the people were incapable of thinking and making a government for themselves; that there had to be a superinduced force brought to bear upon them. I am going to continue to believe, and I think I am warranted in doing it, that that government is the best which leaves the citizen where he takes care of himself and where in the community we appropriate money out of our own treasury for the services that we need to have performed. The weakest man on earth is the man who has had crutches under him all his life. I do not believe that men are made strong in that way. I believe they are made strong by wrestling with difficulties. The young man who is made strong by grappling with difficulties, who does it when he is a young man, will succeed in life by reason of the strength he has acquired. The distinguished ex-Speaker of the House, the gentleman from Illinois [Mr. CANNON], in his boyhood and youth had to contend with difficulties, and those struggles with adversity helped to make him the strong man that he is. I do not believe that a man is strong where he is born with a silver spoon in his mouth except in rare cases. The boy that is strong in shaping the destiny of the Nation now is the boy who was born in poverty and who struggled against adversity, because those very struggles made him strong and powerful; those struggles made him great and influential.

That is the kind of men who in the last analysis have directed the destinies of this Republic. This Republic is safe and safe only so long as we preserve the local self-governments and home influences, and so long as we let those alone shape the church, the schoolhouses, and the family life, and the life of the neighborhood. That is what makes all people great, and upon that bedrock was founded this Government. The idea then was that the States should deal with the family, that the States should deal with the individual, with the school, and that outside of that the Federal Government, removed from local influences, should deal only with the States with reference to their concerns with each other and with foreign nations. The idea was that the Federal Government was



to protect all of the States, and for that purpose it was given an Army. The purpose of the Federal Government was not to destroy the States, but to preserve the States in all their rights. The States erected this Federal Government in order that they might be preserved in their rights.

I am not uneasy about the State governments being destroyed by armies; I have no uneasiness about that. But what I am uneasy about is that you are going to bribe from the States all the rights they have got by the illegitimate use of Federal money. [Applause.]

Mr. CRISP. Mr. Chairman, will the gentleman yield there for a question?

Mr. Sisson. I do.

Mr. CRISP. Of course, I know the gentleman has given this matter very mature study, and that he is very sincere in the statements he makes. Does the gentleman contend that under this bill any agent, either State or Federal, appointed under it would have the right to go into a home where the head of that house or the woman of the house objected to it?

Mr. Sisson. No; I will tell my good friend from Georgia that the bill specifically provides that that shall not be done. But if the gentleman will study the bills that preceded this he will find that those other bills did not contain that prohibition, and that was one of the reasons why those bills could not be gotten out of committee. Of course, I do not contend that such permission to invade the home is contained in this bill. If it were, I am sure the gentleman would not vote for it.

Mr. LONDON. Mr. Chairman, will the gentleman yield?

Mr. Sisson. Yes.

Mr. LONDON. The law which created the Children's Bureau contained a prohibition against entering the home without the consent of the head of that house or of the mother or father.

Mr. Sisson. Yes. I happened to be here when that bill was enacted.

Mr. LONDON. That is in it.

Mr. Sisson. I know that, but still you could have in that bureau all these agencies here.

Another thing. I am not so sure that these propagandists will not go to the States and urge them to pass laws to let them get in, and that while the Federal Government has no right to butt in, they will say to the States, "You ought to have the right," and they will say, "You go ahead and get that right, and we will go and look at these mothers when they are enceinte. We will be there when the baby is born." I do not know where it will end.

Mr. LAYTON. Will the gentleman yield for a question?

Mr. Sisson. Yes.

Mr. LAYTON. Nothing has been developed yet, either in any speech or in writing, to show that the propagandists for this measure have ever abandoned their ultimate purpose.

Mr. Sisson. I think that is true also. You will find that this bill is so drawn that if the States shall so warrant you may invade the homes of the people, and the people whose homes are going to be invaded are the poor and helpless, not the strong and rich and powerful; and the excuse will be that they are not needed there.

Mr. CRISP. Does not this bill expressly state that if any State provides that the employees created under this act can go into a home over the objection of the head of the family that State shall not participate in any Federal fund?

Mr. Sisson. I think that is like impeachment. I think it is like a ghost. I do not think anybody is afraid of that.

In conclusion, Mr. Chairman, I desire to say that this is no time for such legislation as this, even if it were good legislation, for our States are now overtaxed. The people everywhere are overburdened with taxes. This bill will in a few years add millions upon millions of taxes upon our people if it succeeds. The burden may get so great that the people will go to any excess to throw it off. I beg you to think of our overburdened taxpayers and have some pity upon them. Do not pass this bill. [Applause.]

The CHAIRMAN. The time of the gentleman from Mississippi has expired.

Mr. Sisson. I am sorry, Mr. Chairman.

The CHAIRMAN. The gentleman from Massachusetts [Mr. Winslow] has 2 hours and 5 minutes remaining, and the gentleman from Kentucky [Mr. Barkley] has 1 hour and 35 minutes remaining.

Mr. Winslow. Mr. Chairman, I yield to the gentleman from Indiana [Mr. Sanders].

Mr. Sanders of Indiana. Mr. Chairman, this measure, known as the maternity bill, which is proposed by the committee, appears in the committee amendment as one entire bill. All discussion of other bills has nothing to do with the question of the measure that is before the House, and after all it is a very simple proposition. The Children's Bureau, organized by

Congress, which has had its duties enlarged by appropriations from time to time, all made by this Congress and other Congresses, found in its investigations that there was an alarming loss of life in maternity and infancy. This appeared from the statistics of the Census Bureau of the United States. It appeared also from statistics compiled by eminent authorities in Johns Hopkins University and Columbia University. It was discovered that a number of States were becoming active, and that where those States became active in providing the needed measures infant mortality and maternal mortality was reduced 50 per cent; and anyone who will read the hearings that are printed can not help being convinced that, upon the most authentic reports, such is the result.

So the Congress of the United States was faced with a condition of great mortality in infancy and maternity, and the question was presented as to whether there was a remedy. If that condition exists and there is a remedy at the hands of the National Congress, and it is within the power of the National Congress to apply the remedy, then it is the duty of this Congress to provide it. We have provided a remedy in this measure by appropriating money to be administered in the different States. We had the right to choose the method. We could have provided Federal machinery to effectuate this remedy. We could have created the Federal machinery in every State of this Union, but we did what I think was the wise thing. We took the machinery already created in the States and provided for the creation of similar machinery in the States which did not have it, and authorized the appropriation of the money to the States to carry on this work. There can be no question that when this work is carried on the result will be the saving of the lives of many babies. Dr. Baker, who has been praised by Members of Congress from New York as not only a great doctor but a woman of very high character, has devoted her life to this public work. Her testimony was very convincing.

Right here, Mr. Chairman, I want to pause to say that I resent the charge made that a person employed by the United States Government or by the State government does not often render service of the greatest value to the country, regardless of the fact that that person may be paid \$2,000 a year or some other salary that is not commensurate with his ability. The gentleman from Delaware [Mr. Layton] would abolish the Health Bureau as it is now constituted, because he says under the present plan that bureau has no way of really rendering service. Yet it ought to be remembered that it was the Public Health Service which, at great sacrifice and loss of life to the individuals who were employed, discovered the cause of yellow fever and the remedy, and if I had the time in the 15 minutes allotted to me, I could cite many instances of that kind.

William Travis Howard, of Johns Hopkins University, in a work written by him, testifies that the maternity death rate in the United States is more than double the Swedish maternity death rate and 120 per cent higher than the English death rate. He says:

These rates, although calculated by a method more favorable than that used in comparative tables, and in which stillbirths are not taken into account, are probably unparalleled in modern times in a civilized country.

That is a quotation from a pamphlet entitled "The Real Risk. Rate of Death to Mothers from Causes Connected With Childbirth."

The testimony is that 50 per cent of these losses are from preventable causes. That is the situation.

Now, is it constitutional for the Federal Government to deal with the subject? No one has raised a serious constitutional question. Shall we afford the remedy? The fight that has been made against this bill has been against straw men they have set up and not against the provisions of the bill. The gentleman from Mississippi [Mr. Sisson] says that he voted against woman suffrage. That is true with practically all of the gentlemen who, up to date, have been against the bill; the gentleman from Texas, Mr. Black, the gentleman from Vermont, Mr. Greene, the gentleman from Massachusetts, Mr. Walsh, and the gentleman from Mississippi, Mr. Sisson, all belong to the group of men who were opposed to woman suffrage, and the only organization I have found that is making any real fight against the bill is the organization opposed to woman suffrage. If any other organization comes forward, they say it is propaganda and refuse to follow. But if it is the antiwoman suffrage organization, whenever they hear the clarion call you see these gentlemen march out, line up, and forward march. The gentleman from Mississippi intimates to-day he is inclined to think that he may have been mistaken when he voted against woman suffrage a few years ago. If the gentleman from Mississippi votes against this bill, he will be on the floor of the House two or three years hence and be inclined to think that he was mistaken when he voted against this measure. [Laughter.]

My genial friend from Delaware [Mr. LAYTON], a very able, useful Member of the House, always on the floor, gets excited about this bill. Under ordinary circumstances he deals with a measure in a logical way, but you saw how excited he became about the bill yesterday, and with great vigor said that this was a measure for birth control in disguise. Of course there is not anything in the measure to indicate that because the measure specifically says that it is "for the purpose of co-operating and promoting the welfare and hygiene of maternity and infancy." There is nothing in the act, not a line or a syllable of that kind. He reads that into it and would convince the membership that they must vote against it because, forsooth, it may bring about birth control.

Mr. LAYTON. Will the gentleman yield?

Mr. SANDERS of Indiana. I will yield.

Mr. LAYTON. I want to say that I do not think that I was any more vociferous in my speech than is the gentleman from Indiana now. The propaganda behind this bill was open and aboveboard. When it first appeared before the country and went before the Senate it stood for certain things which they advocated all over the country. Has the gentleman got any information that the original propaganda has been changed and that they have abandoned their original purpose?

Mr. SANDERS of Indiana. Yes; and I will bring the best proof in the world, the proof that on November 1 the gentleman from Delaware himself said in his speech:

Is it desirable to have an overwhelmingly large population in America? Would not this be a curse of heritage to future generations instead of a blessing? Is it desirable to have a population so large as to parallel the conditions now existing in China and India? In this connection let me assert that it is a serious question whether the increase of the population of the world, which is now unquestionably going on by reason of the wonderful achievements of science, preserving and propagating human life, will not result sooner or later in the fiercest and most savage conflicts that the world has ever seen in a struggle for existence because of a lack of food. Seriously, is there not some virtue, some real reason in nature's law—the survival of the fittest? In fact, is not this law imperative, inescapable, beneficent, and founded in the highest of Divine wisdom—the law of evolution—the survival of the fittest being a necessary condition precedent to the working of this law? For instance, in America here, is there any doubt that we are what we are as a people altogether because of the application of this natural law to our forefathers, to those early pioneers—to those men and women who confronted life with all its dangers and perils and hardships with a dauntless courage which nothing could dismay, knowing that the establishment of this Nation, the conquering of this continent, was for the strong and not for the weak; knowing that on no adventurous journey could a weakling go; knowing that in the supreme contest the weakling necessarily would go to the wall?

The gentleman yesterday says, "Do not vote for this bill, because it is birth control in disguise," and November 1 he said, "Do not vote for this bill, because you are going to save the lives of so many babies that when they grow up they will step on each other's toes." [Laughter.]

I insist, Mr. Chairman, that there is not a single Member who has arisen on the floor to oppose this bill who has taken the bill in his hands and pointed to a line or a paragraph or a section that will bring about any such result as the opponents contend would be brought about. It is claimed that it is socialism. It is governmental activity and just as much socialism for the State or a municipality to carry on the work as it is for the Federal Government. What is meant is that it ought not to be done by the Central Government. Well, we have centralized powers in the Federal Government, and that is as inevitable as the rising sun. We will continue to do so.

Mr. LAYTON. Will the gentleman yield?

Mr. SANDERS of Indiana. Well, I have only 15 minutes and the gentleman has used an hour and a quarter on the bill.

Mr. LAYTON. When did the gentleman from Indiana hold a secret conference with my friend from New York [Mr. LONDON]?

Mr. SANDERS of Indiana. If the gentleman from Delaware means to say that because the gentleman from New York [Mr. LONDON] favors this bill, every other Member of the House should vote against it, I am afraid that it would put us in a ridiculous position, because the gentleman from New York supports about nine-tenths of the bills that pass the House. [Laughter and applause.]

Afraid of socialism! It is not a question of socialism; it is a question whether the Central Government should do it. We represent the Government and face a serious condition that can be remedied, and are we to shirk our duty in applying the remedy? We can not say to the States that have not done this that the babies of those States shall continue to die at a greater rate than they do in 17 countries other than America. It is our responsibility and we can not shirk it. [Applause.]

The CHAIRMAN. The time of the gentleman from Indiana has expired.

Mr. CLOUSE. Mr. Chairman, I ask unanimous consent that the time of the gentleman be extended for me to ask him a question.

The CHAIRMAN. The time for general debate has been fixed by the House, and the Chair can not entertain that request.

Mr. COOPER of Ohio. Mr. Chairman, I yield five minutes to the gentleman from Kansas [Mr. TINCHER].

Mr. TINCHER. Mr. Chairman, I do not anticipate that the complications exist in respect to this measure that have been pictured. In the first place, most of the States are doing this work in a limited way, and some in an extensive way. My own State, as usual, is one of the advanced States in this regard, and this bill does not go as far as our own State law. I think the reason for a portion of the opposition to this bill was properly voiced here yesterday by a gentleman who admitted that he was afraid that the great State of New York would pay for the saving of a baby in Georgia or Alabama. Another reason for opposition to the bill is very properly voiced in the speech of the distinguished gentleman from Delaware [Mr. LAYTON], which has been circulated more than any speech within my recollection in this Congress—furnished free to any Member of Congress who would circulate it under the distinguished gentleman's frank, ever since it was made—a speech the careful reading of which discloses an advocacy of birth control, a thing which is absolutely un-American. I imagine that behind that speech is the fear that the great State of Delaware, one of the great taxpaying States of the Union, will have to pay a portion of her taxes to some other State in this great work, which even the distinguished gentleman himself does not condemn.

I was much interested yesterday afternoon to hear the distinguished gentleman from New York [Mr. KINDRED] and the distinguished gentleman from Delaware [Mr. LAYTON], both doctors, hold a sort of mutual admiration society in respect to a Dr. Baker, of New York. They told of the great work that Dr. Baker was doing in New York City in enforcing a law of this kind. From that talk I thought that Dr. Baker was the very last word. Then recollecting somewhat my reading of the hearings in the matter the name became familiar to me and I asked the gentleman from New York [Mr. KINDRED] whether or not she was not an advocate of this bill. Oh, yes; and then almost immediately she became all wrong. They stood here for about five minutes in a mutual admiration society of her wisdom and ability and then they condemned her in one minute because they said she was almost fanatical.

I have carefully examined the bill S. 1039 as amended by the House Committee on Interstate and Foreign Commerce, have gone into the matter to the extent of examining the Senate hearings, speeches made in the Senate, the House hearings, the reported bill in the Senate, and the reported bill in the House. There is not any complication concerning this law. There have been a great many speeches and wild statements made concerning it that are unwarranted by the facts.

Under existing law this Congress appropriates money every year; take, for example, what goes to the State of Kansas and is expended jointly by the Government and the State to prevent disease, and to cure disease, and to assist in the development of the live-stock industry. There is no Federal cooperation, however, with the department of health in Kansas for the protection of maternity and infancy.

Of course, it is easy to set up an imaginary bugaboo in reference to the bill and shoot at that imaginary enemy; however, there is none such in the bill. I listened with considerable interest to a long, carefully prepared speech of my colleague and friend, the gentleman from Delaware [Dr. LAYTON], denouncing this measure. After listening to that speech I read the measure again, and I now invite any Member that is at all in doubt on this question, before being moved by the eloquence of the gentleman from Delaware, to take the time to read the measure advocated, as I understand it, by the unanimous report of the Committee on Interstate and Foreign Commerce.

This bill does not encroach upon the rights of the States, but assists the States in the work of guarding its maternity and infancy interests; it does not encroach upon the rights of the parents or guardian, but insures the right of the parents and guardian to their individual views as to social ethics, insures to them their preference as to schools and medicine. To my mind, to say that the care and protection of maternity and infancy are matters that should be cared for by voluntary associations is entirely wrong. First, the testimony before the committees discloses that we are weak in this regard. Finding that to be true, Congress can not afford to waive it aside, to say we will permit the voluntary associations to care for this branch of humanity. Other nations have approached this matter from every angle imaginable. This committee has not adopted the method of any other nation, but has, in my judgment, profited by the experiences of other nations to work out a measure that is in every way superior to the methods adopted by other nations. These



different systems vary, and the study of them has undoubtedly been a great help to the committee in this matter.

Mr. Chairman, I am glad to be a citizen of the country that is a leader in a movement for a league of peace for all nations. I am glad that we are about to realize world peace. I am glad that the world is about to decide to join with us in the cessation of the expenditure of the people's money for the preparation for war and the destruction of the human race. This bill would perhaps necessitate an expenditure of a small portion of one day's expense on the part of the Army or Navy in the ordinary preparation and maintenance for the destruction of human life. Surely, the American people will compliment this committee, and this Congress, and are to be congratulated, that we are ready to spend this small pittance, not for the destruction of life and property, but for the protection of maternity and infancy.

Next Thursday is Thanksgiving. There is considerable consolation and feeling that we can give thanks for the practical assurance of a naval and military holiday, that the boy scout of to-day will not be the victim of militarism of to-morrow; let us add to that, for the mothers of America, consolation that a small portion of that former expenditure is to be used for the betterment of humanity.

Mr. BARKLEY. Mr. Chairman, I yield 15 minutes to the gentleman from California [Mr. LEA].

Mr. LEA of California. Mr. Chairman, several times in the course of this debate it has been stated that this bill provides for doing for the individual what he should do for himself. From that premise the inference is drawn that the Nation, assuming the burden and responsibilities of the individual, will cause him to lose self-reliance and that he will weaken and deteriorate. Thus, it is argued, the tendency will be to destroy the texture and strength of the Nation. As I understand the bill, it provides for no such thing. This bill, in my conception, is primarily an educational measure. It intends that scientific authorities, supported by the Government of the United States, shall avail themselves of the most scientific and reliable information in the world in respect to the care of mothers and infants. That information is to be sent out to the States and to the people of the country so that eventually the most useful and efficient methods of protecting child life and mother life shall become the common knowledge of the women of our country. No one can doubt that in doing so we would immeasurably add to the welfare of the Nation. It is not doing for the individual what he can do for himself.

This country through the Agricultural Department instructs the farmers of the country, for instance, how to cultivate the land to preserve moisture in the semiarid sections. We secure the best information available in the world in order that we may give it to the farmers. The Government does not pretend to drive the team or tractor that cultivates the soil. If we did that, we would be doing for the individual what he must do for himself. We simply educate the farmers of the country how to become more efficient and more successful and more useful to the Nation. We give them the knowledge that in their hands is power. It avails them nothing unless they use it.

There are statistics showing that the United States holds a rather discreditable position among the nations of the earth in its failure to save motherhood and child life. I shall not stop to debate those statistics. There is one great fact that no man will question, and that everyone knows: This Nation is permitting a great and useless destruction of child and mother life, which is preventable, because of ignorance in handling one of the most common problems of the race. Because it is common we fail to perceive that it is of great moment to mankind. This bill will at least tend to improve that situation. It will do it in two ways. In the first place, the tendency of the measure will be to provide the people of the Nation with the more efficient methods of controlling and promoting the welfare and protection of child and mother life. In the second place, no one will contend that it will not inspire a more widespread interest and intelligent effort in that same great cause. When we pass this bill we contribute to preserving child life in this Nation. Every child that we save is not only an economic asset to the Nation but we conserve the highest purposes of humanity in protecting and promoting the welfare of the child. That child is the mother's most sublime experience, the father's greatest inspiration, and ultimately the source of the Nation's renewal.

Our great school system of education—and this is a system of education—is not founded on the idea that we are educating the individual for the individual's sake. We do not take money from the pockets of the taxpayers of the country and educate another man's child for the benefit of the individual alone. We take it from the taxpayers of the country to educate the individual under the thorough conviction that the individual will

in return give back to organized society a full compensation. Better-equipped men and women are necessary for the upbuilding and support of the Nation.

Mr. LAYTON. Mr. Chairman, will the gentleman yield?

Mr. LEA of California. Certainly.

Mr. LAYTON. The gentleman approves of this as a matter of education?

Mr. LEA of California. Yes.

Mr. LAYTON. A fractional sort of education. Do I understand, therefore, that he would go the whole hog and stand for a nationalization of education under Government auspices?

Mr. LEA of California. I would not. I do not think it necessary nor advisable.

Mr. LAYTON. Why not?

Mr. LEA of California. Because primarily this is a function of the State. It is a real condition that confronts us to-day. The facts are indisputable that in a large portion of the Nation this work is very largely neglected. Our people are suffering. Lives are being sacrificed. I am in favor of this aid to inspire a greater effort on the part of the States to conserve the lives of our mothers and children.

Mr. LAYTON. Really the gentleman does not mean to say that there is some new, sudden, appalling national condition of mortality for puerperal women or new-born children in the face of the fact that in the last 30 years statistics prove that under the medical profession there has been an enormous saving in both?

Mr. LEA of California. I have no such conception. The fact that the people of this country are more secure of life than formerly is an additional reason why we should give support to this measure. If we have accomplished some, we may accomplish more. It will increase our ability to secure such results with the assistance of the Federal Government.

Mr. MOORE of Virginia. Will the gentleman yield for a question?

Mr. LEA of California. I will.

Mr. MOORE of Virginia. Is it not true the great outstanding policy expressed in this bill is to invigorate States in respect to the matter of guarding the health of the people, and that policy is only an extension of what the Federal Government is already doing and has been doing for several years through the agency of the Public Health Service, and doing it as notably in the State of Delaware and in the State of Mississippi, the State of our friend [Mr. Sisson], as in any other two communities of this country?

Mr. LEA of California. That is absolutely true. This act provides that not exceeding \$50,000 be spent by Federal agency in one year. This money is to be spent in accordance with the practices of the Children's Bureau. It is provided for six years. Practically all of this money given to the States is to be spent upon plans initiated by the States. The primary purpose is simply to inspire the States to achieve better results.

#### PROVISIONS OF THIS BILL.

There has been much misunderstanding as to the terms of this bill. Perhaps I could do no greater service in this debate than to attempt to place in the Record a summarized statement of its provisions. The general purpose of this act is declared to be cooperation "in promoting the welfare and hygiene of maternity and infancy." The specific provisions for the enforcement of this purpose are to be provided by plans proposed by the States. The board of maternity and infant hygiene must approve those plans provided they are "reasonably appropriate and adequate" to accomplish the purpose. The amount of money this act authorizes from the Federal Government is only a drop in the bucket. No man will contend this amount of money will be sufficient in itself to meet the problem. But it is sufficient greatly to stimulate the States of this country to assume their proper burden in this matter.

Of the funds authorized two different classes of appropriation are prescribed. The first is that class of appropriation that is to be equally apportioned to the States. For the current year that amount is \$10,000 for each State, or \$480,000; for each five succeeding years it is to be \$5,000 to each State, or \$240,000.

The second class of appropriations is called "additional" appropriations, which will consist of \$1,000,000 for the current year and not exceeding \$1,000,000 a year for the five succeeding years. This sum of \$1,000,000 shall be disposed of annually as follows:

\$5,000 to each State	\$240,000
Not exceeding 5 per cent for the administration of the Children's Bureau	50,000
The balance according to population of the States to which distributed	710,000
This will make the maximum Federal appropriation authorized by this bill during the next six years	7,680,000

## ADMINISTRATION.

The Children's Bureau is charged with the administration of the provisions of this bill. The Chief of the Children's Bureau is the executive officer of its administration.

Sufficient reason for the selection of the Children's Bureau as the executive agency for the administration of this act is the fact that it is an existing and successfully operating bureau of the Government that has already had nine years' experience in this class of work.

The duties of the Children's Bureau were defined in the act of its creation, adopted in 1912, in this language:

The said bureau shall investigate and report to said department upon all matters pertaining to the welfare of children and child life among all classes of our people, and shall especially investigate the question of infant mortality, the birth rate, orphanage, juvenile courts, desertion, dangerous occupations, accidents and diseases of children, employment, legislation affecting children in the several States and Territories. \* \* \* The chief of said bureau may from time to time publish the results of these investigations.

The Children's Bureau has already developed much of the information that will be given to the country through the operation of this bill. That bureau has a child hygiene division in charge of a physician of recognized ability, with practical experience in the handling of the problems of infancy and motherhood.

The Children's Bureau is under the Department of Labor and is subject to the supervision of the Secretary of Labor, who, under the provisions of this bill, is required to make a full account of the administration of this act and the expenditures authorized therein, in his annual report.

## BOARD OF MATERNITY AND INFANCY HYGIENE.

In order to guard against arbitrary control and give additional assurance that this act will be handled in a practical and efficient manner by the Federal Government, our committee has included a provision for a board of maternity and infancy hygiene, consisting of the Chief of the Children's Bureau, the Surgeon General of the United States Public Health Service, and the United States Commissioner of Education. This board is given specific and limited authority, as follows:

It is the duty of the board to pass upon, approve, or reject plans submitted by the States for carrying out the act. If the plans submitted by the States are "reasonably appropriate and adequate," they shall be approved by the board and the State agency submitting the same so notified.

The board has power to withhold payment to any State whose agency has not properly expended the money paid it by the Federal Government or the money required to be appropriated by such State for the purposes of this act. Before such payment is withheld, the chairman of the board is required to give notice to such State agency, stating wherein the State has failed to comply with the requirements of this act. The State agency has the privilege of appealing to the President from such ruling of the board. The final action in such case would be determined by the President.

## DUTIES OF THE BUREAU.

Certain duties are conferred upon the Children's Bureau under the provisions of this act. It must estimate the amount, not exceeding 5 per cent, or \$50,000, of the "additional" appropriations, necessary for administering the act and certify the same to the Secretary of the Treasury.

The bureau shall make the apportionment of the funds provided by the act.

The bureau shall also certify to the Secretary of the Treasury and to the State treasurers the amount apportioned to each State for the year.

The bureau is authorized to employ persons, purchase supplies, and pay traveling and other expenses it deems "necessary for carrying out the purposes of this act." In other words, the bureau is the Federal agency that is primarily clothed with discretion in the administration of this act, so far as the Federal Government is concerned.

The bureau is also authorized to make "such studies, investigations, and reports as will promote the efficient administration of this act."

Within 60 days after each appropriation is made and thereafter as conditions warrant the bureau shall ascertain the amounts appropriated by the States accepting the provisions of this act and certify to the Secretary of the Treasury the amount to which each State is entitled.

Such certificates shall be authority for the Secretary of the Treasury to make payment to the States, in accordance with such certificates.

A specific limitation is placed on the authority of the representatives of the Children's Bureau by denying them the right to enter a home or take any child over the objection of a parent or person having its custody.

## REQUIREMENTS OF THE STATE.

The States qualify for participating in the benefits of this bill by complying with certain requirements prescribed by this act, as follows:

First. The State must qualify for the ordinary appropriations authorized by this act by accepting its provisions and designating or creating a State agency with powers to cooperate with the Federal Government.

Second. The State must appropriate a sum equal to the "additional" appropriation paid it by the Federal Government for the year "for maintenance of the services and facilities provided by this act."

Third. The State must submit to the bureau, through its agency, "detailed plans for carrying out the provisions of this act within the State."

Fourth. The State agency must make reports, "concerning its operations and expenditures," as required by the bureau.

## LIMITATIONS ON USE OF FUNDS IN THE STATE.

Certain limitations are placed on the use of the funds in the State, as follows:

First. The plans submitted by the States must provide that no agent in carrying out the provisions of this act "shall enter any home or take charge of any child" over the objection of the parent of such child or person having its custody.

Second. Federal moneys paid the State shall not be used to purchase, rent, or repair buildings or equipment or to pay maternity or infancy pensions.

Third. The bureau may, with the approval of the board, withhold a certificate showing the State entitled to a payment whenever it shall be determined that the State agency thereof—has not properly expended the money paid to it or the moneys herein required to be appropriated by such State \* \* \* in accordance with the provisions of this act.

The above are, in substance, the only provisions of this bill. The plan is, in substance, for the Federal and State Governments to cooperate in an effort to promote the welfare of infant and mother life in an administrative as well as a financial way. The interest of the one is not inimical to the other. Enactment of this measure can not be expected to usher in any phenomenal improvement in the social and hygienic conditions of maternity. But we may reasonably hope that it will inspire a material improvement in conditions, in a more widespread knowledge and practical application of those things necessary to make motherhood safer and the infant more secure in its right to live.

Mr. NEWTON of Minnesota. Mr. Chairman, I yield 25 minutes to the gentleman from Illinois [Mr. GRAHAM].

Mr. GRAHAM of Illinois. Mr. Chairman and gentlemen of the committee, I prefer not to yield until I have said what I have to say. My time is limited.

Mr. Chairman, no other bill since my service in this body began has been more discussed than this one, and never, I believe, has one been more misunderstood. Because of the general interest of the public in the subject, I shall, Mr. Chairman, go somewhat extensively into the history and extent of this proposed legislation.

There was agitation for Federal aid and encouragement in maternity and infant hygiene during the Sixty-sixth Congress, and hearings were had before the proper committees of the House and Senate, but without any action being taken by the Congress. In the Republican national platform of 1920 appear these words:

The supreme duty of the Nation is the conservation of human resources through an enlightened measure of social and industrial justice. Although the Federal jurisdiction over social problems is limited, they affect the welfare and interest of the Nation as a whole. We pledge the Republican Party to the solution of these problems through national and State legislation in accordance with the best progressive thought of the country.

We endorse the principle of Federal aid to the States for the purposes of vocational and agricultural training.

Wherever Federal money is devoted to education, such education must be so directed as to awaken in the youth the spirit of America and a sense of patriotic duty to the United States.

A thorough system of physical education for all children up to the age of 19, including adequate health supervision and instruction, would remedy conditions revealed by the draft and would add to the economic and industrial strength of the Nation. National leadership and stimulation will be necessary to induce the States to adopt a wise system of physical training.

The public health activities of the Federal Government are scattered through numerous departments and bureaus, resulting in inefficiency, duplication, and extravagance. We advocate a greater centralization of the Federal functions, and in addition urge the better coordination of the work of the Federal, State, and local health agencies.

The Democratic national platform of the same year stated:

We urge cooperation with the States for the protection of child life through infancy and maternity care, in the prohibition of child labor, and by adequate appropriations for the Children's Bureau and the Women's Bureau in the Department of Labor.



In the inaugural address of President Harding, he said, in part:

We want the cradle of American childhood rocked under conditions so wholesome and so hopeful that no blight may touch it in its development.

Again, in his message to Congress of April 12 last, he said, in part:

I assume the maternity bill, already strongly approved, will be enacted promptly, thus adding to our manifestation of human interest.

While this matter was being considered by our committee, on September 30 last I communicated with the President by letter, asking whether altered conditions had changed in any way his views already expressed on this bill. In answer I received the following letter, which I have been authorized to use, if I so desire.

OCTOBER 5, 1921.

MY DEAR MR. GRAHAM: The President has seen your letter of September 30 and has asked me to make reply and say that he has already expressed himself relating to the maternity bill, and he thinks your quotation of his expression as presented in your letter is quite correct. He does not think that any new expression is, therefore, necessary, and does not think the situation calls for a special message on the subject. The President has said on several occasions that he has spoken of his favorable attitude, and he has had no occasion to change his mind in that regard.

Yours, sincerely,

GEO. B. CHRISTIAN, JR.,  
Secretary to the President.

On April 21, 1921, Senator SHEPPARD introduced this bill in the Senate, where it was finally passed on July 22, there being but seven votes recorded against it in the Senate on roll call. It then came to the House Committee, where it has received the most careful and painstaking hearing and attention.

I believe I am within the facts in stating that this bill has received the indorsement and hearty approval of all but a very minor portion of the women of the country. The vital and important matters involved in this proposed legislation have made a very forceful appeal to them, and they have insisted and do insist upon some legislation embracing the general principles contained in this bill.

In any consideration of this matter, therefore, it is obvious that both political parties are committed to this sort of legislation; that the present administration is committed to this program; and that at least one-half of our citizenship is demanding such legislation, together with a very respectable proportion of the other half.

The bill as presented to us by the Senate was very unskillfully prepared. The House Committee, as will be observed, rewrote it and incorporated into it many safety provisions and qualifying amendments. As amended and before the House it provides, in brief, as follows:

It authorizes the appropriation for the current fiscal year of \$480,000, which is to be distributed among the States, \$10,000 to each State, for purposes of organization, and \$1,000,000 to be apportioned to the States according to population, with a minimum of \$5,000 to each State, and which \$1,000,000 must be matched by the States. After the first year the same amounts are appropriated, except that the \$480,000 is reduced to \$240,000. These appropriations are to cease in five years after the present fiscal year. It will thus be seen that the possible maximum appropriations authorized in six years are \$7,680,000, and that the total tax burden imposed by this measure is slightly over 1 cent a year on each inhabitant of our country.

The Children's Bureau in the Department of Labor is charged with the administration of the act, subject, however, to the action of a board known as the board of maternity and infant hygiene, consisting of the Surgeon General of the Public Health Service, the Commissioner of Education, and the Chief of the Children's Bureau, which board has the approval of the plans of the States and the sole power of withholding funds from any State.

Not to exceed 5 per cent of the additional appropriations of \$1,000,000 a year, or a maximum of \$50,000 a year, can be spent for administrative purposes, and none of the moneys appropriated can be used for the purchase or maintenance of any buildings or equipment, nor to pay any maternity or infancy pension or benefit.

Any State can avail itself of the provisions of the act or not, as it chooses. If it cares to, it appropriates enough money to match the Federal appropriation required to be matched and prepares plans for the work, which are submitted to the board for approval. The State can use such agencies as it desires, but if it has a child welfare or child hygiene division in its State board of health, it must use that agency.

No agent of the State or Federal Government can enter any home or take charge of any child against the objection of its parents, or those having charge of the child, and the express reservation is made that nothing in the act may be construed

as limiting the power of the parent to determine what treatment or correction shall be provided for a child.

If a State fails to properly expend the moneys allotted to it, further payments to it may be withheld by the board until this failure is corrected, reserving, however, to the State, a right of appeal to the President. Finally the bill provides:

This act shall be construed as intending to secure to the various States control of the administration of this act within their respective States, subject only to the provisions and purposes of this act.

Thus indicating in the most direct manner possible the congressional intent to secure to the States a free hand in the method and means of carrying on this work.

Naturally, the first inquiry on the consideration of this measure is, Is it necessary? Does any condition that exists in our country to-day call for such legislation? This question in itself raises two inquiries: First, is there such a condition of maternal and infant mortality in this country as to call for the active assistance of governmental bodies; and, second, if such governmental aid is needed, should the Federal Government engage in such activities. These are questions that have been widely discussed and require definite and direct answers.

The first inquiry, it seems to me, is fully answered by the fact disclosed in the hearings. The fullest opportunity was given by the committee for all who desired to be heard on this bill to make such statements as they desired. Among other statements of facts made to the committee were certain statistics of maternal and infant mortality in the various civilized countries. Tabulated statements appear in the committee hearings, pages 16, 17, 28, 29, 38, 240. The witnesses who gave these statistical facts were Dr. Philip Van Ingen, clinical professor of diseases of children, College of Physicians and Surgeons, Columbia University, New York, and attending physician, children's department, Bellevue Hospital, New York; Miss Julia Lathrop, former Chief of the Children's Bureau in the Labor Department; Dr. S. Josephine Baker, director child hygiene division, New York City board of health; and William Travis Howard, dean of the department of vital statistics of Johns Hopkins University.

The statistics given by these witnesses seem to agree in general. They show a most surprising condition, and are these, in brief: In 1919, the last year for which mortality statistics are available, 10½ per cent of all the women in the United States who died between the ages of 15 and 45 died from causes connected with childbirth, and the proportion of such deaths has been slowly but surely increasing since vital statistics have been available in this country. This statement is confirmed by such good authority as Dr. J. Whitridge Williams, professor of obstetrics at Johns Hopkins University, and Dr. Louis I. Dublin, statistician of the Metropolitan Life Insurance Co.

When one considers these statistics he can not help but be genuinely concerned. The birth registration area of the United States, where by law births are recorded, comprises 22 States and the District of Columbia, with an estimated population of 58.6 per cent of all our population. In this area, in 1915, 6.1 mothers in each 1,000 births died; in 1916, 6.2; in 1917, 6.6; in 1918, increased largely by the influenza, 9.2; and in 1919, 7.4; the percentage increased 1.3 to each thousand in five years. In 1918 alone we lost over 23,000 mothers in childbirth. Most of these deaths were preventable.

Is this abnormal or unusual? It is. Most of the countries of Europe have for a long period kept these vital statistics which we have as yet but partially kept. We are thus much better enabled to compare our condition with conditions in other countries. The results of such comparison can not help being unpleasant and mortifying to us. Our percentage of maternal mortality is well shown by the following table:

Maternal mortality rates per 1,000 births.

(Rates for latest available year up to 1919.)

Italy (1915) (Anuario Statistico Italiano, 1916)	2.2
Norway (1915) (Ann. Int. de Statistique, Tome II, 1917)	2.7
Sweden (1915) (Annuaire Statistique de la Suède, 1919)	2.9
The Netherlands (1919) (Ann. Stat. du Royaume Pays-Bas, 1919)	3.4
Prussia (1914) (Stat. Jahrbuch für den Preussischen Staat, 1915)	3.5
Japan (1916) (Mouvement de la pop. de l'Empire du Japon, 1916)	3.5
Finland (1916) (Annuaire Statistique de Finlande, 1918)	3.6
Hungary (1915) (Ann. Int. de Statistique, Tome II, 1917)	4.0
England and Wales (1919) (Ann. rep. Reg. Gen. England and Wales, 1919)	4.4
France (1913) (Ann. Int. de Statistique, Tome II, 1917)	4.6
Australia (1918) (Off. yearbook Commonwealth of Australia, 1919)	4.7
Ireland (1918) (Ann. report Registrar General of Ireland, 1918)	4.8
New Zealand (1919) (Stat. Dominion of New Zealand, 1919, vol. 1)	5.1
Spain (1915) (Anuario Estadístico de España, 1917)	5.2
Switzerland (1915) (Annuaire Statistique de la Suisse, 1916)	5.5
Scotland (1919) (Ann. rept. Registrar General for Scotland, 1919)	6.2
United States (birth-registration area) (1919) (United States Birth Statistics, 1919, and Mortality Statistics, 1919)	7.4

There is hardly a country of any consequence in Europe or Asia where it is not safer to become a mother than in the United

States. Even in countries where we have thought, perhaps, that the standards of hygiene and public welfare were not so good as our own, we find a better condition in this essential matter than in our own.

The evidence also shows almost an equally serious condition as to infant mortality. Within the first year after birth one out of every ten babies born in the United States dies. The United States ranks eleventh among the principal countries of the world in infant mortality, New Zealand, Australia, Norway, Sweden, Denmark, Switzerland, Ireland, the Netherlands, England and Wales and Scotland each having a less rate. About 200,000 babies die each year in the United States less than 1 year of age. In the year 1919 it is a startling fact that of all the babies under 1 year of age who died, 47.4 per cent were under 1 month of age and 33½ per cent under 1 week of age. The proportion of infant mortality under 1 year of age has also been increasing. I quote Dr. Van Ingen:

Not only has the death rate under one month not improved, but the proportion of deaths under one month has steadily increased throughout this country. We find there is a slow but steady increase in the proportion of infant deaths which occur during the first month of life. It has been proven by medical men that those deaths among children under 1 month of age, the majority of them, at any rate, are due to causes acting through the mother on the child before it is born. That is the reason for advocating prenatal care. To repeat, it has been shown without doubt that the deaths of babies under 1 month of age are almost entirely due to causes acting on the mother before the baby is born.

These statistics are not seriously controverted. Full opportunity was given those who opposed the bill to be heard. No one, however, gave any facts to the committee tending to impeach the figures I have just given. Dr. Charles E. Humiston, president of the Illinois Medical Society, who appeared and testified at length before the committee, stated that he took issue with the statistics quoted, but gave no figures to demonstrate their fallibility. The obvious conclusion, therefore, is that the mother and infant mortality figures I have quoted are exact.

Everyone appearing before the committee, without exception, admits that this condition can be very greatly bettered by the dissemination and teaching of maternity and infant hygiene.

In New York City 13 years ago there was established a bureau of child hygiene. Since that bureau was established the rate of mortality of mothers in childbirth has steadily decreased. To illustrate, the last available figures show that as compared with other American cities the annual maternal death rate, based upon 10,000 births, was 70.71 for Boston, 64.89 for Baltimore, 61.48 for Philadelphia, and 46.11 for New York City. When this bureau, maintained by the city of New York at a total expense for last year of \$900,000, began its labors 144 out of every 1,000 babies died within their first year; to-day out of the same number but 85 die. This indicates a saving of 72,000 baby lives in New York City alone in 13 years.

Even the most bitter opponents of this measure admit that intelligent instruction in the hygiene of maternity and infancy will be of vast benefit and greatly better conditions. I quote from the testimony of Mrs. Albert T. Leatherbee, representing the Massachusetts Antisuffrage Association, of Boston, Mass., who vigorously opposed the bill:

I think that the work which is being done by the health authorities of the respective large cities is a very excellent work. As I understand that work, and I presume it is the same as it is in Boston, it is largely a matter of clinics and a matter of advising people who come in and apply for advice.

Dr. Humiston said:

Now, the reason of this—and I do not wish to be misunderstood or cross-examined with the idea in view that the medical profession in any way antagonizes the purpose—it is this bill which we wish to meet.

An editorial from the Journal of the American Medical Association of June, 1921, states in part:

All will agree that the objects sought, namely, the care of maternity and infancy and instruction in the hygiene of maternity and infancy, are in the highest degree commendable. There can not be too much knowledge or too much instruction of the right sort on such vital subjects. There are, however, serious objections to the methods proposed.

Dr. George W. Kosmak, editor of the American Journal of Obstetrics and Gynecological Society, opposing the bill, said in part:

Now, I am not bringing forward that point now to controvert the good opinion which has been developed in favor of prenatal care, etc. As physicians, we can not deny that prenatal care has succeeded in reducing the morbidity and mortality in childbirth to a large degree.

I am therefore led to the conclusion, both by the result of practical experience and by the consensus of opinion of those who are qualified to speak on the question, that these facts exist: First, our rate of mother and child mortality is higher than in other nations similarly circumstanced; second, that we can to a large degree prevent this if we care to do so; third, under the supervision of proper governmental agencies these conditions have been and can be greatly ameliorated.

If this work should be done, by what governmental agencies should the work be undertaken? Should the work be conducted solely by States or local municipalities at their own expense and upon such plans as each may prefer, or should there be cooperation between the Federal and State Governments in the work?

It must be obvious that if the work is to be entirely successful it should be done upon some general, standardized plan, varied according to the peculiar needs of each community. Such standardized work is always more efficient and economical. The interest involved, namely, the preservation of the lives of our mothers and babies, is a national one and not a local one. In such matters our dual system of State and National Government has presented considerable difficulties in the past. In preserving the mutual functions of both State and National Government it has been found necessary in recent years to formulate new methods of National and State cooperation not heretofore utilized when national life was simpler and our problems not so involved.

The Constitution provides:

The Congress shall have power to lay and collect taxes, duties, imposts, and excises, to pay the debts, and provide for the common defense and general welfare of the United States. (Art. I, sec. 8, Constitution.)

Under that constitutional sanction we have found it desirable in many instances to appropriate sums of money to be used together with certain sums appropriated by the States, to accomplish some purpose of national moment. By this means the various States are stimulated to engage in certain activities resulting in general good, which otherwise would not have been undertaken, and in a uniform and efficient way. I know of no other constitutional way in which this cooperation between State and Federal Government in times of peace can be had except through the medium of an appropriation such as I have mentioned. This cooperation, when practiced, has been highly successful.

Mr. CONNALLY of Texas. If the gentleman will permit, I would like to ask the gentleman to tell me briefly what is the idea of the method that is going to be adopted to correct the maternity situation? What is the bill going to do?

Mr. GRAHAM of Illinois. I shall shortly get to that.

The question has been asked just what work will be done if this bill becomes the law. The work done will be almost entirely educational. I believe the work now done in New York City is fairly typical of the kind of work to be done generally. It is well described in the testimony of Dr. Baker, head of the Child's Welfare Bureau, who has been so highly eulogized by the gentleman from New York, himself a physician [Mr. KIN-DRED]. She says:

The Sheppard-Towner bill advocates, as I read it, the exact type of work that we have been carrying on in New York and which is responsible for this enormous reduction in the maternal and infant death rate. It consists of the employment of trained nurses, the establishment of baby health stations or child welfare centers, and the employment of physicians for consultation work. The work is mainly educational; it is almost entirely preventive. The women come to us early in their period of pregnancy and are taught how to take care of themselves. We do not take care of actual sick cases at all; we teach personal hygiene with the largest adaptation possible of the proper environments, and mitigate as far as we can the social and economic maladjustments that so often cause ill health. We can do a good deal to change the effect of bad environmental conditions.

It has been said by those opposed to this bill that it is socialistic and paternalistic. If this be true, so is the cooperation between States and Nation in the Federal road system, in Federal rehabilitation of industrial cripples, in Federal agricultural university extension work, in Federal aid for the control of contagious and infectious diseases in live stock, and in flood control. In each of these sums from the Federal Treasury and sums from the State treasury are used to cope with certain conditions or dangers national in their scope. Does anyone here raise his voice to question the wisdom of such measures? If we did not deal nationally with pests such, for instance, as the cotton boll weevil or the foot-and-mouth disease, individual States would be helpless and their material wealth destroyed. If we did not aid and assist in the construction of good roads, there are communities that for a hundred years to come would have their prosperity and usefulness as a part of this great Nation impaired. If the Nation does not take reasonable steps to stimulate and encourage the work in the various States, scores of years will pass before some communities undertake such work. Once show the States the way and awakened public opinion in these States will compel its continued use. If, sirs, it be socialistic to adopt measures which all admit will conserve our principal national asset, our mothers and children, then, sirs, let us be socialistic to that extent. [Applause.]

Yet it is said by this and like measures local self-government is destroyed. Such is far from the case. The bill as rewritten by the House committee plainly secures to the respective States



control of the administration of the act within their respective States, and the only supervision of any kind that can be exercised is the general supervision of the plans of the State. However, this right of approval can not be exercised in an arbitrary way. The bill as rewritten expressly provides in section 8 that if the plans "shall be in conformity with the provisions of this act and reasonably appropriate and adequate to carry out its purposes they shall be approved by the board." Thus the State has a free hand in using such methods as it may desire in carrying on this work in its own way, so long as it carries out the general purposes of the act, namely, the betterment of the hygiene of mothers and infants.

But there are those among us who insist that there shall be no interference with the rights of the States. No one can go further than I in his desire to preserve inviolate the right of local self-government. For this I have always stood and for this, I trust, I shall continue to stand. But, sirs, we should not forget that we are also a nation, one and indivisible, and with all the inherent rights and powers of a nation. I can not and will not concede that in the essential, yea, fundamental matter of the welfare of our women and children the Nation may not constitutionally and properly function.

The claim is made that the sanctity of the home is to be violated by Government agents, who shall enter these homes unasked and interfere with and supplant parental control. The most casual reading of the bill will disclose that every step that is taken must be with the approval of the parents and because they wish it to be done. Whether the methods of instruction provided shall be utilized by any State or any prospective or actual mother is a matter of free choice for such State or such mother. I believe in the sanctity of the home, and so long as I have a tongue to speak or a hand to strike with I shall defend it. The home is the basis of our established society. In no degree is the sanctity of the home invaded by this act, but rather is the opportunity given to those responsible for the maintenance of the home to obtain useful and intelligent information which may help the home conditions.

Mr. J. M. NELSON. Will the gentleman yield?

Mr. GRAHAM of Illinois. Yes.

Mr. J. M. NELSON. The gentleman is on the committee, and I know he is informed, and I would like to know this: Is there anything to prevent a State agency from helping in an emergency either with a doctor or with food?

Mr. GRAHAM of Illinois. Not at all. The States can do as they please about it.

Mr. J. M. NELSON. There is no prohibition?

Mr. GRAHAM of Illinois. No.

Some considerable opposition to this bill is expressed by a part of the medical profession, although the following resolution was adopted by the American Medical Association at its last meeting in June, 1921, at Boston, Mass.:

*Resolved by the house of delegates of the American Medical Association. That it approves and indorses all proper activities and policies of the State and Federal Governments directed to the prevention of disease and the preservation of the public health.*

[Applause.]

No one can have a higher regard for the medical profession than I. No profession has done more to make human life more tolerable and more to make our race contented and efficient than has the medical profession. I would be loath to raise my voice for anything that would supplant in any degree the physicians of the country in their honorable and useful work. But this bill does not do so. It provides for no medical care, but for instruction in hygiene only. It will result in a more active cooperation between those who teach and the physicians of the community. It will, because of proper counsel, lead to the employment of physicians by prospective mothers in very many cases where such employment would not otherwise have been made.

The House has provided that the Surgeon General of the Public Health Service, one of the leading representatives of the medical profession of the country, shall help pass upon the plans for the work; the work must also be done by the health department of each State, invariably a medical department, if there be an appropriate bureau in such department. The physicians of the country need not be apprehensive of the effect of this measure upon their profession. Its enactment into law will help them in their work and open new paths of usefulness for them to travel. Similar mother and child welfare departments are conducted by some of the large cities, such as New York and Boston. I think I am safe in saying there is not a physician in any of these cities but who earnestly and wholeheartedly indorses the continuance of the valuable work these departments are now doing. I do not believe the physicians of the country will be willing to place themselves in opposition

to any measure that gives promise of the betterment of the health of any part of our people.

Some time ago there was a proposal made to discontinue the appropriation for this work in New York City. Immediately every medical society in New York City protested vigorously against such action and great processions of women formed to march to the city hall to voice their disapproval of this proposal.

Finally, the charge is made that this bill rests on sentiment only. I think I have demonstrated that it rests upon a sound and substantial foundation other than sentiment. If I were to say, however, that in its consideration I have divested myself of all sentiment, I should not speak the full truth. I confess, sirs, that we can not forget the mothers who went down into the dark shadows and in pain and suffering brought us into the world. Many of us, with clenched hands and anxiety unspeakable, have waited to catch the first gasping cries of our children as they were born. Some of us know what it is to see a mother taken into the eternal beyond with the cries of her little, forlorn ones following her into the mists. If, my colleagues, we may alleviate the burden of pain and suffering placed upon womankind, if we may conserve the lives of these mothers and babies and thus add to the material happiness of mankind and the strength of our Nation, no Federal legislation we may adopt can be of more permanent national value. [Applause.]

Mr. Chairman, I yield back the balance of my time.

Mr. LEA of California. Mr. Chairman, I yield 16 minutes to the gentleman from Alabama [Mr. BANKHEAD].

Mr. BANKHEAD. Mr. Chairman and gentlemen of the committee, I am glad to give to this measure my whole-hearted and unreserved support. I have heard in the course of my experience here debates upon a great many measures of vital interest and concern to the people, but I do not believe that I can recall any measure pending before this House upon which there have been made more specious and ad hominem arguments than have been made against the proposed bill.

Now, gentlemen, what is the situation with which the House is confronted in dealing with the facts as disclosed by the testimony before the Committee on Interstate and Foreign Commerce? Are those behind this bill merely seeking to put a mere sentiment on the statute books of the country, or does the evidence disclose that we are confronted with a practical proposition involving not only sentiment but also a vital economic situation in the proposed measure?

I do not propose in the time I have to attempt to answer the alleged arguments that have been made as to the unconstitutionality of this act, because I do not believe any convincing argument has been proposed. Certainly there are a number of precedents along the same line of Federal activity which tend to justify the assumption, at least, that this measure is entirely constitutional. But, as I say, we are presented with a startling situation as developed by the evidence with reference to infant and maternity mortality in the United States of America.

Now, gentlemen, what is in a large sense the function of our Government? The Constitution, as I say, gives the right to deal with the general welfare and common defense of the country, but there is another very clear announcement of the purposes for which governments are instituted among men, and I invoke the spirit and letter of the Declaration of Independence which actuated our fathers upon these propositions when they declared that—

*We hold these truths to be self-evident. That all men are created equal; that they are endowed by their Creator with certain unalienable rights; that among these are life, liberty, and the pursuit of happiness. That to secure these rights governments are instituted among men, deriving their just powers from the consent of the governed.*

What comes first in the category of those essential prerogatives for the preservation of which the Government was established? The life of the people of the Government. And we find by these disclosures here that we have an unnecessarily large mortality among the mothers, and among infants, especially, who are under 1 year of age, in this country. I hold in my hand here the hearings upon this proposition in which it is shown by evidence which I assume is authoritative that so far as maternal mortality is concerned the United States has a greater death rate than New Zealand, Austria, Spain, France, England, Wales, Japan, Norway, Sweden, Scotland, Switzerland, Ireland, Hungary, Prussia, the Netherlands, and Italy. The ratio of infant mortality under 1 year of age discloses the same startling facts.

Now, gentlemen, I submit for your earnest consideration that this is an undisputed proposition, and we are aiming to put upon the statute books legislation affecting the public welfare, going to the proposition of conserving the very life of the Nation at its source, and I say to you it is not only a sentimental but it

is a practical proposition of the profoundest significance that should challenge the attention of the Congress of the United States. [Applause.]

Can we do anything to remedy this situation? That is what is sought to be done by this proposed legislation. Gentlemen, I want to say to you that I have had some personal observation of the beneficent effects of the activities of the Public Health Service in my own district, in my own home county, along lines not of actual medical treatment by the physicians of the Public Health Service but by the very same kind of activities which are sought to be put into effect by this bill, the disclosure to the people of educational and instructive facts that have been garnered by that great bureau in their observations and investigations, so that the people of my home county had the benefit of those lectures and of those pamphlets and of that information, which gave them great and scientific direction and information as to the conservation of their health. And after those gentlemen had visited that county and made a survey and visited every home in it, the succeeding year showed a great reduction in illness and in the prevention of communicable and infectious diseases in the county. We are seeking by this bill to enlarge that theory of governmental assistance to the States for the benefit of the people all over the United States of America, to preserve the lives of thousands of mothers and infants each year.

Mr. HUDSPETH. Will the gentleman yield?

Mr. BANKHEAD. I will.

Mr. HUDSPETH. Valuing the gentleman's opinion as a lawyer, I want to ask him what similar measures have been passed by Congress to the one that is under consideration here?

Mr. BANKHEAD. Well, I will say to my friend a number of them have been cited with reference to the Federal aid to the States, as to the principle that is invoked. The Smith-Hughes educational act, going directly in the public schools of the country, gives State aid. The gentleman will recall the bill providing financial assistance to the States for the construction of public highways. The gentleman will recall the Smith-Lever extension act, under which the agricultural extension agents are doing splendid work all over the country. And, as a matter of fact, the Public Health Service in a large measure has been cooperating under Federal appropriation with the State authorities for the protection of the public health of the people. The country has contributed out of the public lands a tremendous amount to the agricultural and mechanical colleges. And if I had time I could cite a number of precedents along the same line of activity.

Mr. FESS. And there was the bill for the rehabilitation of the industrial cripples.

Mr. BANKHEAD. That was an act I hesitated to mention, because I had the honor of introducing that bill originally in this House, and it was subsequently passed under the name of the distinguished gentleman from Ohio [Mr. FESS].

Now, gentlemen, as I say, a number of specious arguments have been made against this bill. They talk about the sort of anticipated dangers that might arise in the future if we passed this bill, because the original proponents of a measure of this sort have advocated possibly some radical and unwise provisions, but which have not been incorporated in this bill. There has not been a bill of this kind passed by this Congress during my service here that has been more careful in safeguarding the rights of the State officials and of the States than this bill. In terms, it specifically prevents any Federal interference on the part of the Government or by any of its agents under this act, but provides only for Federal leadership and stimulates cooperation on the part of the States in this great humanitarian process of undertaking to save, if it is possible, a tremendous percentage of the unnecessary deaths of women and children in this country.

Gentlemen, I think the Congress of the United States owes something out of a sense of elementary gratitude to the women of this country along the line proposed in this bill. [Applause.]

Mr. GRAHAM of Illinois. Mr. Chairman, I ask unanimous consent to revise and extend my remarks in the Record.

The CHAIRMAN. Is there objection to the gentleman's request?

There was no objection.

Mr. SANDERS of Indiana. Mr. Chairman, I make the same request.

The CHAIRMAN. Is there objection to the gentleman's request?

There was no objection.

Mr. COOPER of Ohio. Mr. Chairman, I yield 10 minutes to the gentleman from New York [Mr. REED].

The CHAIRMAN. The gentleman from New York is recognized for 10 minutes.

Mr. REED of New York. Mr. Chairman and gentlemen, this important subject has been presented so ably and so clearly by the chairman of this committee and by those who have spoken during this debate that I hesitate to try to add anything of value to the arguments in favor of this bill. Some years ago a statesman and scholar in this country made this statement:

When the educated, industrious, temperate, thrifty citizen is as prompt and zealous and unflinching in duty as the ignorant and venal and mischievous, or when it is clear that they can not be roused to their duty, then, but not until then, if ignorance and corruption always carries the day, there can be no question that this Government has failed. But let us not be deceived! While good men sit at home, not knowing that there is anything to be done, nor caring to know, half persuaded that this Republic is the contemptible rule of a mob, and secretly longing for some splendid and vigorous despotism, then remember that it is not a government mastered by ignorance; it is a government betrayed by intelligence.

Recently the right to vote was given to women in this country, and almost immediately those splendid women who have been thinking on these vital social and economic questions were aroused to a realization that they would have the opportunity to translate their thoughts into action, to translate their ideas with reference to certain vital civic, social, and economic questions into legislation that would work for the benefit of the women and children of this country. They refuse longer to permit the most vital problems of motherhood and childhood to be mastered by ignorance or betrayed by intelligence. I do not hesitate to say to you, gentlemen, that at this very minute there are more women devoting careful thought to these long-neglected social, civic, and economic questions than has been given to them in the same length of time before in the history of the Nation. [Applause.] And it is time for us to listen.

I have heard the proposition ridiculed on this floor, and the assertion has been made that the statistics with reference to the loss of life during childbirth are inaccurate. Well, the women of this country believe in those statistics, for the tragedy of the facts come under their observation year in and year out in almost every community of any size.

It has been shown that 23,000 mothers die during childbirth in the United States in a year. This awful toll is an economic question, my friends, as well as a sentimental one. It is not necessary, however, to decide this question on the basis of sentiment. It is an economic as well as a sentimental and humanitarian social problem. Every time a mother dies in childbirth it means not only heartaches, it often means that little folks are left alone to battle on; it means a community loss. It means sometimes the breaking up of a home, the loss of a home, and the placing of the children in an orphan asylum. These are economic questions that bear heavily upon the community and upon the men and women who have to suffer because of it. Usually those burdens fall most heavily upon those least able to bear them. It is a burden that bears most heavily on the shoulders of labor, because the mother and children often feel the pinch of unemployment and financial stress.

They say that 250,000 babies lose their lives through neglect during a year. You say I am appealing to sentiment. My friends, it can be reduced to an economic basis. It has been demonstrated beyond doubt that it costs only \$5 to save a baby, but costs \$50 to bury it. You need not take into consideration what it means when the little white hearse draws up to the door, you men who have not gone through that experience, but you business men who insist that this is simply a sentimental appeal on my part may take your pencils and multiply 250,000 by \$50 and you will have \$12,500,000 a year loss to the United States.

I want you to take those figures home, my friends. I have heard men go wild when they were discussing in this House the African horse disease, the foot-and-mouth disease, tuberculosis among cattle, the tick fever, the cattle scab, and hog cholera every time appropriations are requested for the eradication of these diseases from cattle, sheep, hogs, and horses. Take the appropriations during this year. This Congress has appropriated \$992,500 for the eradication of one disease alone among the cattle of this country.

We pose as a great country with a great civilization, the leader of the countries of the world in the higher achievements of national life, and yet, think of it, we stand seventeenth, we stand at the foot of the list in the care of mothers and babes among those countries that have been enumerated upon the floor of this House. All that the Federal Government is doing now for the women and children of this country, according to sta-



tistics, is to appropriate about 5 and five one-thousandths of 1 per cent for the work of aiding the women and children of this country. We are spending \$200,000 a year to look after the be-nighted reindeer up in Alaska.

Mr. GRAHAM of Illinois. Mr. Chairman, will the gentleman yield?

Mr. REED of New York. Yes.

Mr. GRAHAM of Illinois. Has the gentleman figured that this appropriation, if made in this bill, will amount to a little over 1 cent to each individual in the United States per year?

Mr. REED of New York. I did not know it, but I thank the gentleman for the information.

It might be well for you men who have been talking about the number of mothers and the soldiers in this great World War to bring home to your minds another situation. In this great Republic of ours a very thorough investigation has been made with reference to the school children of this country, and this investigation shows that this appalling situation exists in this great free land of ours:

At least 1 per cent—200,000 of the 20,000,000 school children in the United States are mentally defective.

Over 1 per cent—250,000 at least—of the children are handicapped by organic heart disease.

At least 5 per cent—1,000,000—have now, or have had, tuberculosis, a danger often to others as well as to themselves.

Five per cent—1,000,000 of them—have defective hearing, which, unrecognized, gives many the undesired reputation of being mentally defective.

Twenty-five per cent—5,000,000—of these school children have defective eyes. A majority of these children have received no attention.

About 25 per cent—5,000,000 children—are suffering from malnutrition, and poverty is not the most important cause of this serious barrier to healthy development.

From 15 to 25 per cent—3,000,000 to 5,000,000—have adenoids, diseased tonsils, or other glandular defects.

Adenoids and diseased tonsils make backward pupils and interfere with the child's general development and health.

From 10 to 20 per cent—2,000,000 to 4,000,000—have weak foot arches, weak spines, or other joint defects.

From 50 to 75 per cent—10,000,000 to 15,000,000—have defective teeth, and defective teeth are more or less injurious to health.

Seventy-five per cent—15,000,000—have physical defects which are potentially or actually detrimental to health.

Now, my friends, the good women of this country were not unmindful of the call for soldiers when war was declared. When the call came, these mothers of the Nation gave the choicest jewels of their heart to their country. They laid them freely on the altar of the Nation, and now the strength of this Republic depends on the citizen of the future. I believe that this great Republic should throw its protecting arms around motherhood and childhood, to the end that the citizens of tomorrow, when they take up public duties, when it comes their time to assume leadership in public affairs, will be able to discharge their duty as becomes American citizens. [Applause.]

And, my friends, we can draw a little picture here. It has been painted in the words of the poet. There are some who see our problems through pessimistic eyes, and there are others who see them through a very different lens. A certain poet has asked the question—

Sad man, sad man, tell me, pray,

What did you see to-day?

I saw the unloved and unhappy old waiting for slow, delinquent death to come;

Pale little children tolling for the rich, in rooms where sunlight is ashamed to go;

The awful almshouse, where the living dead rot slowly in their hideous open graves.

And there were shameful things:

Soldiers and forts, and industries of death, and devil ships, and loud-winged devil birds,

All bent on slaughter and destruction. These and yet more shameful things mine eyes beheld:

Old men upon lascivious conquest bent, and young men living with no thought of God.

And half-clothed women puffing at a weed, aping the vices of the underworld.

Engrossed in shallow pleasures, and intent on being barren wives.

These things I saw.

(How God must loathe his earth!)

Glad man, glad man, tell me, pray,

What did you see to-day?

I saw an aged couple in whose eyes

Shone that deep light of mingled love and faith

Which makes the earth one room of paradise

And leaves no sting in death.

I saw vast regiments of children pour,

Rank after rank out of the schoolroom door,

By Progress mobilized. They seemed to say:

"Let ignorance make way;

We are the heralds of a better day."

I saw the college and the church that stood

For all things sane and good;

I saw God's helpers in the shop and slum

Blazing a path for health and hope to come;

And true religion from the grave of creeds

Springing to meet man's needs.

I saw great Science reverently stand

And listen for a sound from Borderland,

No longer arrogant with unbelief,

Holding itself aloof,

But drawing near and searching high and low

For that complete and all convincing proof

Which shall permit its voice to comfort grief,

Saying, "we know."

I saw fair women in their radiance rise

And trample old traditions in the dust.

Looking in their clear eyes,

I seemed to hear these words as from the skies,

"He who would father our sweet children must

Be worthy of the trust."

Against the rosy dawn I saw unfurled

The banner of the race we usher in—

The supermen and women of the world

Who make no code of sex to cover sin.

Before they till the soil of parenthood

They look to it that seed and soil are good.

And I saw, too, that old, old sight, and best—

Pure mothers with dear babes at the breast.

These things I saw.

(How God must love his earth!)

It is God's helpers in the shop and slum and the mothers of this country who are blazing a path for health and hope to come. It is true religion springing to meet man's need and finding through this legislation an agency for a higher order of service to the women and children of this Republic. I am glad of this opportunity to support this splendid measure. [Applause.]

Mr. BARKLEY. Mr. Chairman, I yield 15 minutes to the gentleman from New York [Mr. LONDON].

Mr. LONDON. Mr. Chairman, I am sorry that our aggressive physician Member is not here. I would have liked to have a little discussion with the gentleman from Delaware, Dr. LAYTON, who is so insistent in his opposition to this bill. I do not know how any physician, taking that word in its higher sense, can oppose a bill calculated to spread the knowledge of hygiene. It is reported that the Chinese deduct a certain amount from the salary of the family physician every time any member of the family becomes ill. They proceed upon the theory that it is the duty of the physician to prevent illness.

The progress of our civilization, if we have any, is due to the raising of the general level of education, to the spreading of knowledge. The individual brain has not improved. We have no intellect to-day that is greater than intellects produced thousands of years ago, nor have we added a single ethical conception to the code of ethics of the world. Thousands of years ago the same ethical principles were laid down that are now being advocated by the noblest minds. The only difference between our present civilization and those of the past is that general education has improved, and a larger proportion of the community are in a position to educate themselves than in the past. That is the only difference.

To the extent that fundamental and elementary principles of medical science have become known to the great mass, to that extent have we made real and genuine progress in promoting health. European countries have been fighting the plague, how? Primarily through introducing cleanliness. The clean shirt has done more to do away with the plague than any medicine that has ever been used. It was the spread of hygiene, the science which deals with the rules of health, which systematizes the knowledge of things necessary to promote and to maintain health, which has done away with the great plagues that formerly were the scourge of humanity.

The really scientific man can not be measured by the salary he earns or by the fees he receives. I can not have much respect for a physician who revels in riches instead of devoting his life to the promotion of medical science, the noblest and the most ancient of all sciences. [Applause.] It is the science which teaches men how to rule the forces of nature instead of yielding as the mute animal does.

The difficulty with this bill, however, is that it is an emasculated thing. Its title is misleading. I do not know whether the women reformers want to fool the politicians or whether the politicians are trying to fool the women reformers. It is more likely that everybody is trying to fool everybody else here. [Laughter.] You know we have two classes of women reformers. Parenthetically it should be said about American women that there is a larger measure of intelligence among them than among American men. [Applause.] American men are the cleverest business men in the world. Nobody can beat them. There is no cleverer lawyer than the American lawyer when it comes to the application of a particular set of principles to a certain state of facts. But American women, because they are not absorbed in the business of money making, have more time and are more interested in profound social problems that are

brought to their attention than the men are. But we have two groups of women reformers. One is composed of the sort of women who are tired of their existence. Having attended a horse show and a dog show and a cat show and a diplomatic show they take up intellectuality. [Laughter.] They are very rich and have nothing to do. They follow the latest fashion in the world of social reform. They have enough money to hire good secretaries and they do their studying by proxy. They collect around them all sorts of cranks and are always ready to agitate and to be agitated. I have not much use for that class. Fortunately the great majority of women interested in social work are not of that sort. We have thousands of sincere, earnest students of society who come in direct and constant touch with the sorrows of the masses who are at the bottom of our modern industrial society.

They want to do things to help these children of poverty. Very often they are poor and are compelled to work for low salaries. This class of women has been spoken of with contempt by some people here on this floor. Why, of course, many of them are salaried people. They have to live, and in order to live they must either steal or work. Since they are not railroad financiers they can not steal and they are compelled to work for a living. [Laughter.] The advent of these women is one of the most hopeful signs of our generation.

Some gentlemen have advanced the question of the freedom of science. I am opposed to State control of science, although you will remember that the greatest Democrat of all time, Thomas Jefferson, advocated the establishment of a national university. I draw the line between two branches of science. It is the duty of the State, the duty of the community, to teach each individual the elements of those sciences about which there is no dispute, which can not be contradicted, about which there can be no difference of opinion. Of course, we are all agreed in the United States that the religious question should be eliminated, because in the matter of religion everybody has a right to be a fool or a wise man in his own way. [Laughter.] I believe that the State should keep away from advocating economic or social theories about which there is serious controversy and leave that to the individual. In any event the State should never attempt to prevent any kind of private teaching. But it is the undeniable obligation of the State to equip every citizen with the knowledge of the elementary facts of those sciences about which there can be no difference of opinion, and among them the facts of elementary hygiene. The rules relating to health should be a thing which every human being should know.

But I tell you those who oppose this bill are not altogether foolish; there is a point where hygiene comes in contact with social science, and they are afraid of that. What should an honest physician do who comes to a poor man's family? Instead of prescribing half a dozen powders in unintelligible Latin, he should say in nine cases out of ten, "My dear man, medicine is a humbug; I can not give a prescription. What you need is rest; what you need is better food; what you need is better clothes. Your work is too hard. Conditions in your factory destroy your health. Gather together whatever there is left in you of will and of energy and help improve your condition and the condition of the rest of the people." The Children's Bureau has incurred the hostility of the powerful because it has revealed some of the horrors of our industrial system.

Among the purposes for which the Children's Bureau was organized by the act of April 9, 1912, was to investigate and report upon all matters pertaining to the welfare of children and child life among all classes of our people and to especially investigate the questions of infant mortality, the birth rate, orphanage, juvenile courts, desertion, dangerous occupations, accidents and diseases of children, employment, and legislation affecting children in the several States and Territories.

The bureau has since its organization made a number of exhaustive studies.

The studies have disclosed, among other things, an indefensible state of affairs so far as infant mortality and maternity mortality are concerned.

It appears that this country, instead of being ahead of every other country by reason of the sparseness of its population and of its inexhaustible wealth, is far behind the majority of the civilized countries of the world.

These studies have made clear that infant mortality is largest among the underpaid wage workers of our people. I shall not cite any statistical data. The information is readily available.

The bureau has also been distributing a number of pamphlets written in simple language and containing instructions for feeding the child, for taking care of a baby, for the preparation of artificial food, and similar information indispensable to mothers.

Let me read one of their little pamphlets:

What do growing children need? Shelter. Decent, clean, well-kept house. Plenty of fresh air in the house winter and summer. Warm rooms in cold weather. Separate beds with sufficient bedclothes to keep warm. Sanitary indoor watercloset or outdoor privy. Pure, abundant water supply. A comfortable place to welcome friends. Clean, simple, appetizing, well cooked food. Milk, at least 1 pint a day. Butter or some other form of fat. Cereal and bread. Green vegetables, especially leafy vegetables. Fruit. Eggs, meat, or fish. Clothing, clean, whole garments. Different clothing for day and night, suited to the climate. Change of underclothes and nightgowns at least weekly. A change of stockings at least twice a week. Warm underclothing and stockings in cold climates. Heavy coats, caps, and mittens for cold weather. Shoes free from holes, long, and wide enough.

Read this pamphlet to the directors of the Steel Trust or to the Woolen Trust. How many workers in our principal industries can supply their children with the things declared by this Government publication to be indispensable for normal life and normal growth?

What a mockery this advice is to millions of mothers. How little our social reformers are willing to do to get to the bottom of things and to help bring about a state of affairs where the head of every family should be able by honest toil to supply all the needs of the family.

Can you not see how the defenders of accumulated wealth in this country look at these things? They would not mind promoting a general knowledge of ordinary rules of hygiene; but the trouble is that these rules, if made popular, will bring the people too close to a study of economic and social conditions, and that is something that they can not afford. It is for the same reason that the appropriation for the publication of labor statistics is being reduced.

I have very grave doubt whether the Children's Bureau will be permitted to continue its studies and to make the results public, for telling the truth is a most dangerous thing to the aristocracy of wealth.

The fact is that all this bill does is to make an appropriation to encourage the States in organizing child-welfare work—whatever that work may mean in the various States—and to help coordinate that work.

The appropriation for study and investigation is not increased.

I said in the beginning of my talk that somebody is being fooled by this bill. The bill bears all the earmarks of political cowardice. It is proclaimed to be a bill calculated to protect the infant and the mother. It is nothing of the kind. There is no provision in the bill for anything which could be interpreted as maternity benefits.

Maternity benefits mean medical and financial aid to expectant mothers or mothers, the aid to be given either from a fund maintained by the Government or from funds required by law to be established in the industries employing women. One will find a description of the maternity benefit systems in one of the publications of the Children's Bureau.

The publication is entitled "Maternity Benefit Systems in Certain Foreign Countries." There is not a line in the bill which could be interpreted as establishing or as aiding to establish any kind of a maternity benefit system.

I can readily see why both male and female politicians should insist that this is a bill "for the promotion of the welfare and hygiene of maternity and infancy," or, as the Senate bill chooses to call it, "for the public protection of maternity and infancy." The politicians want people to believe that they keep the promises contained in their national platforms, in very vague language, it is true, about "social welfare" and "social justice."

If they can not give the people the right kind of a law, they can at least give them the right kind of a title of a law.

Deceptive as the bill is, insufficient as it is, I shall vote for it. If it will not accomplish anything else, it will in a measure help facilitate the educational work now carried on to a large extent by the Children's Bureau and the work of spreading the knowledge of elementary things necessary for the preservation and maintenance of life. [Applause.]

[Mr. LONDON was granted leave to extend his remarks in the RECORD.]

Mr. REED of New York. Mr. Chairman, I ask unanimous consent to extend and revise my remarks in the Record.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. WINSLOW. Mr. Chairman, I yield five minutes to the gentleman from Minnesota [Mr. NEWTON].

Mr. NEWTON of Minnesota. Mr. Chairman, this bill is to stimulate the several States in promoting the welfare of maternity and infancy. Its purpose is to materially decrease the mortality rate of American mothers and babies. It seeks to save them from preventable death. Surely such a measure deserves the most fair, careful, and earnest consideration of this



House. It certainly deserves to be debated upon its merits and without passion and prejudice. No measure has arisen during my membership here that has provoked so much interest and discussion. Proponents of the bill have earnestly set forth its benefits while opponents have vigorously set forth their views in opposition. The latter, however, both inside and outside of this Chamber have strayed from the path of legitimate argument in their efforts to defeat this measure. In some instances the opponents have resorted to the grossest kind of misrepresentation. In fact, some of the communications which I have received against the measure are of such a character as to seriously raise the question of their admissibility through the mail. Surely a measure designed to protect American motherhood and to conserve the lives of American babies deserves discussion upon its merits and without the resort to personality and to conscious misrepresentation.

If this bill has merit, what difference does it make if it numbers among its advocates those of another political faith or those with whom we radically differ on other questions of governmental policy? Yet most of the argument—if I may dignify it by that term—against this bill is illustrated by the colloquy between the gentleman from Indiana [Mr. SANDERS] and the gentleman from Delaware [Mr. LAYTON]. In substance the gentleman from Indiana was asked to vote against the bill because the gentleman from New York [Mr. LONDON], a member of the Socialist Party, was among its supporters. Away with such tactics. Debate this bill upon its merits or demerits. The fact is that hardly an opponent has even attempted to discuss the specific provisions of the bill. Instead they have put up "straw men" which they have proceeded to knock down.

I believe that it was John Ruskin who said, "Every child has the right to be well born." Do you men believe in this right? I do. This bill is a step to confirm that right. [Applause.]

America has much to be proud of these days. Yet America in its greatness, with its wealth, glorious history, and inspiring traditions, should not be beyond profiting by the experience of other countries. Statistics show that the United States ranks tenth among the countries of the world in infant death rate. I call the attention of the House to the infant mortality thermometer, showing death under 1 year of age per 1,000 births. The rates are for the latest available years up to 1918 and were gathered by the Children's Bureau. It is found on page 17 of the printed hearings. The standing of the various countries, as there shown, is as follows:

New Zealand, 48 per 1,000 births.
Australia, 58 per 1,000 births.
Norway, 60 per 1,000 births.
Denmark, 75 per 1,000 births.
Sweden, 75 per 1,000 births.
Switzerland, 80 per 1,000 births.
Ireland, 86 per 1,000 births.
Netherlands, 92 per 1,000 births.
England and Wales, 98 per 1,000 births.
United States, 100 deaths per 1,000 births.

These figures apply to infants under 1 year of age.

The figures are even more astounding as to maternal death rates. The thermometer setting forth these figures will be found on page 16 of the hearings. The latest available figures up to 1917 show us to rank seventeenth, with 7 maternal deaths per 1,000 births. Norway, Sweden, the Netherlands, and Italy have less than 3, while England, Wales, and Japan have less than 4. Our maternal death rate is about 100 per cent greater than Great Britain.

These figures call not for ridicule but for earnest thought and action. Their accuracy has been questioned. Their authority has been attacked. Those who controvert them at least ought to submit proof that the figures are erroneous. To merely dispute is easy. If these figures are incorrect, what are the correct figures? If we do not stand tenth and seventeenth, respectively, where do we stand?

A statement has been made that the number of infants under the age of 1 year who died in America during the period of 1917-18, when we were at war with Germany, exceeded the number of American soldiers who were killed in battle or died from wounds received in that conflict. The truth of this statement has been challenged. What are the facts? Our battle casualties resulting in death were about 38,000 in one and one-half years. Our infant casualties under one year during that same period were in excess of 300,000. Such figures astound one. They displease us and are unpleasant to face but they are true. Instead of denying them, it is our duty to ascertain the cause and to change the conditions that produce such figures. That is what this bill is designed to do.

However, disagree as we may about these figures there is one thing that we can all agree upon, and that is that there are both deaths of mothers and babies that are preventable. This

being true is there any problem more worthy of the study and consideration of the representatives of a great people than the devising of ways and means for decreasing these preventable deaths?

When do these deaths generally occur? Of babies dying the first year 47.4 per cent die under one month and 33½ per cent die during the first week following birth. Physicians will say that these early deaths are largely due to the prenatal condition of the mother. This bill is designed to stimulate interest in the States and communities for them to make available needed information and care to these expectant mothers, that not only they but their children may live.

Great work is being done in this country along this line. New York City is probably doing the largest work and New York City is the pioneer in this work. This year New York City expends \$900,000 for work of this kind. This great metropolis has been conducting this work for 12 to 13 years and it has paid. During that time the infant death rate in the city has been reduced from 144 deaths per 1,000 births to 85. This is a reduction of 40 per cent. Is work of this kind worth while? Is it not worthy of being followed? Does it not merit the attention of this Congress?

Yet the gentleman from Delaware [Mr. LAYTON], a member of that great and noble profession whose duty it is to prevent disease and to heal the sick, calls it socialistic and paternalistic. Mr. Chairman, if this work be socialistic then I stand before this House and plead guilty of being that kind of a Socialist. [Applause.]

To-day New York City, by reason of this work, has the lowest infant mortality rate of any of the cities of the whole world. Is there any reason why the rest of the United States should not follow the example in New York? To ask the question is to answer it.

Mr. BARKLEY. Mr. Chairman, will the gentleman yield?

Mr. NEWTON of Minnesota. Yes.

Mr. BARKLEY. And New York is the only city in the United States that has that record with reference to other cities of the world, because it is the pioneer and has carried its work on.

Mr. NEWTON of Minnesota. Yes; and let me compare in that respect the maternal death rate in New York with that of other cities. Out of 10,000 labors the maternal death rate in Boston was 71.01; in Baltimore, 64.89; in Philadelphia, 61.48; and in New York, 46.11.

Mr. REED of New York. And I think the gentleman's attention should also be directed to the fact that there is extreme congestion of population in New York City.

Mr. NEWTON of Minnesota. Yes. This work is there being carried on under very difficult and adverse conditions. There is the greatest congestion there, as everyone knows. Then, there are from 25 to 30 different racial groups to deal with. Furthermore, 81 per cent of the population is of foreign parentage. In addition, it is a big port of entry into this country, for something like 85 per cent of our immigration enters through New York City. These factors combined make a problem. However, under the supervision of Dr. Josephine Baker, this problem is being solved. This Dr. Baker, by the way, appeared in support of this legislation, and the committee gave great heed to her views and suggestions. I commend to you, gentlemen, the reading of Dr. Baker's testimony, which will be found in the printed hearings between pages 1 to 27, inclusive. In my judgment, it was the best argument presented in behalf of this legislation.

Mr. ANDREWS of Nebraska. Is this higher death rate in the city of Boston to be accounted for because of the higher degree of intellectuality in that city?

Mr. NEWTON of Minnesota. The gentleman will have to put that question to some Member from the State of Massachusetts.

Mr. VOLK. Is it not a fact that all of the work in New York City is under the supervision of a physician?

Mr. NEWTON of Minnesota. Yes. I understand it is under the supervision of a physician, and let me say that the Children's Bureau has physicians who will be in direct charge of this work. Let me further call the attention of the committee to the fact that we provide for the administration of this work by the States, and that the work in the States shall be performed by the child hygiene division of the State public-health service. Thirty-six out of forty-eight States now have child hygiene divisions in their public-health departments. At the very outset, therefore, the administration in at least 36 States is placed in a public-health department, which is, of course, under the jurisdiction of a physician.

While New York has been the pioneer and has done such great work, other States have not been inactive. Still others are doing practically nothing with little appreciation of the situation and the result to the Nation of their failure. In my own city the

Child Welfare Society has been doing some fine work along this particular line.

The responsibility of caring for the health of our people rests primarily in the States. There it should remain. This bill does not seek to transfer that responsibility to the Federal Government. While this responsibility is primarily with the States, yet I should say that the Nation itself is not without its duties and obligations in the premises. We have already recognized this fact by establishing a National Public Health Service; by providing for a pure food law and for a meat-inspection service. In the nature of things the death of its mothers and the death of its future men and women concern not only the individual States but the Nation as a nation. For example, if the State of Minnesota should so far forget its obligations to the Union and its duty to its own citizens as to cause the death or fail to prevent the death of any considerable number of its citizens, has not the Federal Government the right to concern itself with that situation and do what it can in a constitutional way to create such an interest in the situation which imperils the welfare of the State as would do away with that peril? To ask the question is to answer it. I can come to no other conclusions, therefore, than that while primarily this problem is for the States, yet the Nation has a present duty to perform which it ought not to shirk; hence the bill before us.

In brief, what does it provide? First, it authorizes during the first year an appropriation of \$1,480,000, at least 95 per cent of which is to be distributed among the several States complying with certain conditions. Of this amount \$480,000 is to be distributed among the 48 States, \$10,000 going to each State. Not to exceed \$50,000 can be expended for administrative work at Washington in carrying out the provisions of the act. The remaining \$950,000, with a minimum of \$5,000 to each State, is to be distributed pro rata among the several States in accordance with their population, providing that the States match this pro rata share by a like appropriation from their own funds. Other provisions somewhat similar are made for five subsequent years.

The bill then provides for the creation of a board of maternity and infant hygiene, consisting of the Chief of the Children's Bureau, the Surgeon General of the Public Health Service, and the Commissioner of Education. It is the duty of this board to pass upon and approve the plan that will be submitted by the States in carrying out the general premises of the act. The administrative features of the act, so far as the Federal Government is concerned, are placed with the Children's Bureau.

The general detailed administration of the act is left with the several States, who are to submit plans such as I have just referred to. The bill contains a number of safeguards, to which I will refer later. It is hoped that by the end of six years the States will not only have matched the Federal appropriation but greatly exceeded it, and that with this increased interest further Federal appropriations will be unnecessary.

This bill is the result of a sincere effort upon the part of the Committee on Interstate and Foreign Commerce to help solve this problem. What are the objections that have been made to it?

First, it is claimed that it is socialistic and paternalistic. I have already referred to this objection, and let me say this, further, if work of this kind is socialistic, then the like can be said of public education and the regulation of public health. Dr. Baker testified that no one claimed that the work that is being carried on in New York City by the municipality is socialistic.

Then it is claimed that the doctors are against this measure. Some are. Many others are for it. Physicians appeared on behalf of the measure and against it when the bill was up before the committee. No physician, however, appeared before the committee bearing any resolution from the American Medical Association which could in any way be construed as against this bill, notwithstanding the fact that this association has had two meetings since this bill or a similar one was first up for consideration before Congress.

Mr. VOLK. Will the gentleman yield?

Mr. NEWTON of Minnesota. I am sorry I can not yield further.

Then it has been urged that this is a birth-control bill. It is true that the opponents have failed to point out any particular provision in the bill warranting this charge. They merely make it in the hopes that some one will believe it. I do not know anyone who has any less use for "birth controlites" than I have. In my judgment they ought to be able to find better use for their time and be in better business. This bill has nothing of the kind in it. It is merely another "straw man," put up by the opposition.

Then, it has been claimed that the passage of this bill would result in the payment of cash to mothers on the birth of a child. I disagree wholly with European systems of maternity subsidies or gratuities. Let that system remain in Europe where it originated; that is the way I feel about it. This bill, however, does not only not provide for maternity benefits of this nature but, on the contrary, it expressly provides against any such payments.

Then, it is urged that the Federal or State officials will by virtue of this act enter the sacred precincts of the home and there drag out the mother or child, or both, for medical treatment or advice. Much propaganda of this kind has been spread throughout the country. There never has been any provision in the bill warranting any such charge. In the present bill there is an express provision to the contrary. The benefits of this act are to those who voluntarily come to receive them. There is nothing which in any way sets up directly or indirectly any system of "State medicine," nor which in any way compels a mother or her child to submit to treatment of any kind or to receive advice from any person whatever.

Finally, it is urged that the bill is unconstitutional. That is a stock argument that has been used against almost every progressive measure since the forming of our Government. It has been urged against every bill designed to interfere with privilege. No progressive measure has escaped this charge. For my own part I refuse to follow these strict constructionists who continually fight against progress. I believe that the provision of the Constitution granting to Congress the power to "provide for the common defense and general welfare" means just what it says. Let me quote in this connection from a decision from the Supreme Court of the United States in the case of South Carolina versus the United States and reported in One hundred and ninety-fifth United States, page 437. In page 448 of the opinion, in reference to the grant of power to the Federal Government, the court uses this significant language with which I am in entire accord:

"Being a grant of powers to a government, its language is general: As changes come in social and political life, it embraces in its grasp all new conditions which are within the scope of the power in terms conferred. In other words, while the powers granted do not change, they apply from generation to generation to all things to which they are in their nature applicable."

Changes are yearly coming in our social and political life, being new conditions which our Constitution is broad enough to provide for.

Mr. Chairman and gentlemen, the hearings disclosed the saving in New York City during the past year by the work contemplated in this bill of lives of 7,000 infants under the age of 1 year. This being not only the saving of 7,000 lives of little ones who will help brighten and cheer that many homes but it means, in addition, 7,000 prospective citizens whose "right it is to be well born," and who, if well born, and permitted to live, will grow up to be strong and vigorous men and women, ready and willing to serve our great Republic in peace or in war, as the need may be.

Mr. Chairman, I can come to no other conclusion from my study of this question that the work commenced in New York City should be extended and enlarged throughout the Nation. That it is the duty at the present time of the Federal Government to meet the situation. [Applause.]

Mr. BARKLEY. I would like for the gentleman from Massachusetts to yield some of his time, as he has more than I have.

Mr. COOPER of Ohio. Mr. Chairman, I yield five minutes to the gentleman from Ohio [Mr. FOSTER].

Mr. FOSTER. Mr. Chairman, I have now listened with interest to the general debate on this bill for more than eight hours. I find the purposes of this bill are: First, to stimulate and assist State efforts to undertake a broader field of activity in an educational way, promoting the economic and social conditions which will improve the health of the mother, and make more safe and agreeable the life of the child. Second, to cooperate with the States by what might be termed the contribution from the National Treasury of a promotion fund, an advancement, to put on foot a proper State agency. Third, to call to its councils the head of the great Public Health Service and the head of our national educational system and with their assistance to administer, through the Children's Bureau, a stimulating and sympathetic interest in the welfare and hygiene of maternity and infancy. Fourth, this interest and education not to be intruded upon, not to be compulsory, not to be directory, but to be given when acceptable, asked for, and approved. Fifth, the field of medicine is not to be invaded; the physician and the trained nurse to remain supreme in their own domain; nor shall the recipient to this public assistance be directed in the employment of any particular medical advice or help.



I have also learned from authoritative sources that more than 23,000 mothers in the United States die every year in bringing their children into existence and that more than 300,000 children in the United States die every year under 1 year of age, and 47 per cent of those that die under 1 year of age die under 1 month of age, and that 33½ per cent of all those who die in that year die under 1 week of age. Should this law materially reduce this death rate, it will prove a blessing. The testimony before the committee was to the effect that more than 50 per cent of those who die under 1 month die from causes connected with prenatal conditions which could have been prevented if ignorance and poverty had been relieved in some way or information brought to prospective mothers concerning the rules of hygiene and good health and proper prenatal care. New York City has been working along these lines for 13 years and the reduction of mortality must convince one that their work has been very effective.

Every American has the right to be born of sound mind and sound body. I shall support this bill because I believe its enactment may tend to make that right an accomplished fact. The draft incident to the recent World War startled all of us with its revelations of our unsound thousands, unsound both mentally and physically. It was then we began more fully to realize that while the Federal Government was spending millions to assist the several States in fighting the boll weevil in the South and the hog cholera in the North it was spending nothing by way of cooperation with the States in reducing our increasing mortality incident to childbirth. We found that the mothers were dying by the tens of thousands and the infants by hundreds of thousands. Can not this loss be decreased by such a law?

Not only that; we found that our death rates are higher than most European countries and that while their death rates were decreasing ours were increasing. If this bill proposed any invasion of the home, any check on the authority of the father and mother, I would not favor it. But it does none of these. It merely attempts to disseminate fundamental principles available for those who wish them. It, as amended in the House, in no sense invades the province of the family physician. We are told that no medical association has gone on record against it.

I have noticed that practically every person who has spoken against the bill also voted against woman suffrage. This may be significant. Inasmuch as my first vote in this House was for woman suffrage, this feature will not disturb me in my support of this bill. Most of those opposing the bill complain because it involves expenditure of approximately \$1,000,000 per year. Well, I favor economy, but let us see. During the first month after the armistice—October, 1918—our Government expended approximately \$2,000,000,000, a sum equal to all the Government expenditures from the beginning of President Washington's first term to the opening of the Civil War. During the last fiscal year ending June 30, 1921, the United States Government expended, in round figures, \$6,000,000,000, a sum about equal to the expenditures of the Government from its very beginning to the end of the Civil War, including the entire cost of the War of 1812 and the Civil War. Think of that. That is the rate at which we were spending money, following the World War, when this Congress convened. And, mark you, 93 cents of every dollar of that vast sum was expended on account of war—expenses of past wars, pensions, compensations, and so forth, and appropriations for future wars. Most of this was necessary. No one would reduce or remove pensions, compensations, and so forth; but while 93 cents of each dollar goes to the purposes and consequences of war, can we not spare a small fraction of 1 cent on each dollar toward saving the lives of our mothers and infants? It has been demonstrated that during our 18 months of actual military engagement in Europe we lost more infants in America than our total casualties were in France. Let us take full and complete care of our soldiers, but while the 93 cents on each dollar is going to war, I maintain that we can well afford to expend a small fraction of 1 cent of each dollar for the removal of this blot from the fair name of American motherhood and childhood. I am ready to support this bill which appropriates for the preservation of life one six-thousandth of the sum we appropriated last year for war purposes. [Applause.]

Mr. VAILE. Will the gentleman yield?

Mr. FOSTER. I yield to my friend.

Mr. VAILE. I am in entire sympathy with the gentleman's views; but does he not think these expenses in defense of the Nation are also expenses in behalf of life and safety?

Mr. FOSTER. I do. I would not reduce the amount necessary for pensions, compensation, and the other necessary purposes, nor would I disarm too rapidly, but I am sure my friend

from Colorado agrees with me that healthy mothers bear healthy children, and with healthy children we shall, in part, have done with the disgrace of inefficiency, as disclosed by our recent draft. Should this bill assist in eventually reducing the death rate of mothers and infants 50 per cent, as it is reliably reported it may, we would at once produce more healthy boys for soldiers and more healthy girls for Red Cross nurses, and at the same time more nearly approximate 100 per cent men and women for the far better pursuits of peace. [Applause.]

Mr. COOPER of Ohio. Mr. Chairman, I yield the balance of my time to the gentleman from Wyoming [Mr. MONDELL].

The CHAIRMAN. The gentleman from Wyoming is recognized for 13 minutes.

Mr. WINSLOW. Mr. Chairman, I yield to the gentleman five minutes.

Mr. MONDELL. I thank the gentleman.

Mr. Chairman, I have been accused of various things at one time and another, but I think I have never been accused of being a radical. I have been accused of being overconservative, even of being a reactionary. What I try to be is one of progressive thought within the speed limit. No man on this floor stands freer to vote his judgment on this bill than I. In the last campaign I declined to say that I was for it, as I have always declined to say I would support legislation until I knew the character of the legislation as presented.

There has been a good deal said here about socialism and socialistic tendencies. Well, we have done many socialistic things, using the term broadly, in America in the past few years. Where I have supported those movements I confess to have supported them with more or less misgiving. I am naturally of a conservative turn of mind, inclined to leave with the people in the communities and in the States in the very largest measure the management of, and responsibility for, their own affairs. I believe it is essential to do that in order to maintain permanently a free government, a people sufficiently trained in the duties and responsibilities of government to be able to maintain a free government. We have progressed far since the old days of the democratic doctrine that the Government was the best that did the least, other than protect the citizen in his rights and maintain order.

I have a notion that if we are to move along paternalistic and socialistic lines, and these are in a certain sense paternalistic and socialistic, we should do it logically. Is it logical to move along socialistic and paternalistic lines only when property is at stake, only when wealth and material resources are to be conserved? I said in the last Congress when we were considering and I supported a bill under which the Federal Government cooperates with the States in the rehabilitation of industrial cripples, and it was opposed on the ground that it was socialistic and paternalistic, that admitting that it was paternalistic and socialistic in a certain sense, can we justify a position under which we shall be paternalistic and socialistic in the matter of the prevention of hog cholera and the eradication of the Texas cattle tick? Is it entirely logical to be paternalistic in the protection from fire of the private as well as the public forests, as proposed in a bill now before the Congress, and in the matter of the control of the boll weevil, the chestnut blight, and the pine blister, in the care of horses and hogs and cattle and sheep, and not in the care of humanity? [Applause.]

Mr. LAYTON. Will the gentleman yield?

Mr. MONDELL. My time is very brief. If I had an hour, as the gentleman had, I would be very glad to yield.

Mr. Chairman, I would like to pursue that line if I had the time, but my time is limited, and let me for a moment pursue another one.

I believe in keeping pledges. I am in favor of keeping promises. I did not make any pledges in favor of this bill. I do not owe my seat here to an announced approval of this legislation. But I imagine there are many gentlemen here whose majority was at least increased by reason of the fact that if they did not, others did for them give approval to legislation along these lines.

I have listened with a great deal of interest to gentlemen on the Democratic side declaiming against this proposition. I wonder if they have read their party's platform. Their platform pledges them to legislation along these lines as clearly and definitely as language can. I read:

We urge cooperation with the States for the protection of child life through infancy and maternity care; in the prohibition of child labor; and by adequate appropriations for the Children's Bureau and Woman's Bureau in the Department of Labor.

The gentlemen who wrote the first part of that must have with prophetic eye had this bill squarely before them. With it before them they could not have written differently.

Mr. BARKLEY. Mr. Chairman, will the gentleman yield?

Mr. MONDELL. Yes.

Mr. BARKLEY. Only two men on this side have spoken against this bill. I hope the gentleman will remark that the Democratic side are not opposed to this bill.

Mr. MONDELL. I hope the Democratic side will vote on this bill in accordance with their platform. The Republican platform is not quite so clear or so definite. The gentlemen who wrote the Republican platform perhaps did not have legislation just like this in their minds' eye, but they had something of the kind in contemplation. I read:

The supreme duty of the Nation is the conservation of human resources through an enlightened measure of social and industrial justice.

And so on and with further details.

The Republican candidate for the Presidency running on that platform amplified it.

Mr. GARRETT of Tennessee. Mr. Chairman, will the gentleman yield?

Mr. MONDELL. If I can get a little more time, I would be delighted.

Mr. GARRETT of Tennessee. I will yield to the gentleman two minutes. I want to ask the gentleman, for information, is it not a fact that a subcommittee presented to the platform committee of the Republican convention a specific, clear-cut indorsement of this bill, and it was refused by the platform committee?

Mr. MONDELL. I do not know; I had nothing to do with making the platform. But I do know what the platform says, and I do know that our candidate during the campaign did refer to legislation of this character, and he went further and spoke more clearly and more definitely than his platform did. And I know also that in his message to this Congress on convening it, the Chief Executive, elected by 7,000,000 majority on the Republican platform, said:

I assume that the maternity bill, already strongly approved, will be enacted promptly, thus adding to our manifestation of human interest.

I do not always follow party mandate, and I do not think anyone should when they believe in their hearts that the mandate is in error; but I certainly do give the benefit of the doubt to the party declaration and to the party promise. We on the Republican side would have been derelict in our duty to our party and to our party's declaration and to the recommendation of the Chief Executive had we not presented this measure at this session of Congress. So far as this side is concerned, I am confident that a considerable number of votes were cast for our candidates with the understanding that the party stood for legislation along these lines.

Are we to keep the party pledge, or are we to quibble over this measure on the ground that it is somewhat paternalistic, when we so frequently take action along paternalistic lines affecting property and resources? I stand with those who desire to move cautiously along lines extending Federal power and jurisdiction and increasing expenditure, but this is a measure intended, purposed, and providing for cooperation with the States with a view to encouraging the States in the performance of those duties that belong primarily to the States. And who shall say that the States have not been derelict in their duty when, as has been repeatedly stated, there are 25 States in which no adequate record is kept of human births? Is it not time that the Federal Government shall lend aid and encouragement and urge upon the States the performance of their duties in the preservation of human life?

In the last campaign there came for the first time in our history into active cooperation in the management of affairs and into voting responsibility the better half of mankind. Do we owe nothing to this new and splendid addition to the electorate? They have unitedly asked this thing; both party platforms have in principle pledged it; the President has specifically recommended it; our best impulses approve it; and in my opinion it is our duty to resolve any doubt we may have and give the measure our earnest support. [Applause.]

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. To whom does the gentleman yield it?

Mr. MONDELL. I yield it back to the gentleman from Massachusetts [Mr. WINSLOW].

Mr. WINSLOW. How much time does the gentleman yield?

The CHAIRMAN. Four minutes.

Mr. BARKLEY. I want my two minutes back if the gentleman returns the time. [Laughter.]

Mr. WINSLOW. Will the gentleman from Kentucky proceed and use some time?

Mr. BARKLEY. How much time has the gentleman?

Mr. WINSLOW. We have an hour.

Mr. BARKLEY. I have only 50 minutes. I can use it. I yield to the gentleman from Georgia [Mr. UPSHAW] five minutes.

The CHAIRMAN. The gentleman from Georgia is recognized for five minutes.

Mr. UPSHAW. Mr. Chairman and gentlemen of the committee, I am supporting this maternity bill, first of all, because it is an honest, earnest step in the direction of the highest possible guardianship of human life and human happiness. Much propaganda against this bill has made the impression that it sends the Government into the home, whether or no, to lay its hands on the mother and child in a spirit of profane interference. But this bill distinctly declares that help can be offered only where the parent is willing.

This bill is not an effort to supplant State functions or parental authority. It simply proposes to stimulate and encourage each to the noblest possible effort.

The liquor traffic was outlawed because it prospered on the destruction of human life and happiness. The highest function of government is not the adjustment of the Nation's commercial machinery, however important, but the development of that citizenship without which all Government activities would refuse to act. There would simply be no government at all if humanity were not in healthy action.

The picture of a government appropriating millions of dollars to develop every phase and form of animal life and plant life for the sake of the health and wealth of its citizens, the tragic picture of a civilized nation spending more than \$90 out of every \$100 for the purposes of war, and, as President Harding said in his notable address at the peace conference, "the scientific destruction of human life," and yet refuse to reach out its hands with a pitiful million a year to help every child beneath the flag to be well born. It is a travesty on the meaning of government. Why, gentlemen, this cry against Federal aid and Federal interference would stop every appropriation by the National Government intended to develop the bodies and the minds of the people.

Mr. VAILE. Assuring the gentleman that I am with him, I desire to ask him if he does not think that expenditures for the national defense are expenditures for the protection of the life of every citizen?

Mr. UPSHAW. I "accept the amendment" of the gentleman from Colorado and thank him for his pertinent suggestion.

Mr. KEARNS. Will the gentleman yield?

Mr. UPSHAW. I yield to the gentleman from Ohio.

Mr. KEARNS. The gentleman has stated that the object of this bill is to save the lives of mothers and children.

Mr. UPSHAW. And to help every child to be well born.

Mr. KEARNS. How is it going to do that? Possibly I will vote for the bill, but I have not heard one man here give any reason why this is going to save the life of one child or one mother. Tell me how it is going to do that.

Mr. UPSHAW. I will answer the gentleman by the attitude and declaration of those who know. I can not go into details in the brief compass of a 5-minute speech, but I will say in general terms that it intends to supply intelligent care where poverty and a lack of information have often caused fatal neglect. But I will say frankly to the gentleman that in addition to other reasons one great reason why I am supporting this bill is because the organized motherhood and womanhood in America are asking for it.

A blind, foolish man said to me the other day: "But the women don't know what they want." Who said so? Who dares to tell them so? Not I. May it please the ————. I refuse to assume the responsibility of telling my wife that she does not know what she wants [laughter], and I advise every gentleman opponent of this bill to follow my safe and sane example. [Laughter and applause.]

I hazarded political criticism in a State where it was unpopular and voted for equal suffrage because of the fundamental equity involved—voted for a governmental recognition of the fact that a woman has just as much sense and just as much patriotism as the man by her side [applause], and now since their political emancipation they come with their first great organized request. Behold those clear-visioned evangelists of human hope and human happiness, the Women's Christian Temperance Union, the women who, like vestal virgins, kept the fires burning on the altar when we blind men said their dreams could not come true. Do not tell them that they do not know what they want. Look at the Federation of Women's Clubs in America representing millions of mothers. Do not tell them that they do not know what they want. The Atlanta Woman's Club has 1,200 clear-headed, patriotic women who know what they want.



To-day I stand with them as they stand in organized power and reach their fair hands to the future in behalf of their less fortunate sisters who crave and deserve the Nation's best for their children and their homes. Let no man forget the helpless state, the measureless worth, and the unspeakable possibilities and potentialities of a new-born babe. Only a child? Only the Nation's beautiful "to-morrow." Only a child? Only the hope or the threat of the Kingdom of God and the kingdom of men! Only a child? Only a spark from Divinity's throne that shall outlive the stars and outshine the sun!

God help my Nation, your Nation, to do its best to help these little "immortelles" of time and eternity to come into their glorious birthright of American opportunity under the best possible conditions—conditions that will make for that physical strength and that mental and moral health that will guarantee the greatest security of the Republic and the highest happiness of the people. [Applause.]

Mr. WINSLOW. Will the Chair kindly state how much time is left?

The CHAIRMAN. The gentleman from Kentucky [Mr. BARKLEY] has 43 minutes and the gentleman from Massachusetts 68 minutes remaining.

Mr. WINSLOW. I yield 15 minutes to the gentleman from Michigan [Mr. MAPES].

Mr. MAPES. Mr. Chairman, in listening to the arguments of some of the opponents of this legislation yesterday and to-day I have felt that Congress and the country ought to be congratulated upon having a few men here, at least, who possess the virtues of moral courage and sincerity of purpose. They admit that they possess those virtues.

There has been a good deal said since this debate started by the opponents of the legislation about the sincerity and the motives of those who are supporting it. I have thought those statements ought not to be dignified by even a reference to them, but I do wish to put over against such statements a quotation from the testimony of Dr. S. Josephine Baker, of New York, whose testimony has been referred to here so many times. She said:

I have heard this bill called socialistic, for instance; but my feeling toward it is that it is not a Socialist, it is not a Republican, it is not a Democratic bill; simply a human bill, a bill of the finest motives of any I have ever known to be introduced.

Much of the discussion has seemed to me to be on a par with that attacking the motives of those who are supporting this legislation. It has been charged that the supporters of it are actuated by all sorts of sinister motives; that they would undermine our system of government and that they favor birth control. I wonder if those who make these charges realize who the good people are who favor this legislation? I will not attempt to name any great number of them. I will mention only the associations and organizations favoring the bill that were represented by one single witness before the committee.

Does anyone here believe that the members of the organizations which I am going to name favor birth control or that they have any other sinister motive in promoting this legislation?

Here are some of them: The American Child Hygiene Association; the American Association of University Women; the General Federation of Women's Clubs; the Girls' Friendly Society in America, which is an Episcopal organization; the National Congress of Mothers and Parents and Teachers' Association; the National Consumers' League; the National Council of Jewish Women; the National Organization of Public Health Nursing; the National Federation of Business and Professional Women; the Women's League for Peace and Freedom; the National League of Women Voters; the National Society Daughters of the American Revolution; the National Woman's Christian Temperance Union; the National Women's State Union League; and the National Board of the Young Woman's Christian Association.

If anybody can name more respectable people supporting any legislation which comes before this Congress, I would like to have him do so.

It is difficult to say anything new, or anything that has not already been referred to, at least since this debate started. All I can hope to do is to elaborate upon or emphasize some of the points that have been made.

The first question which naturally arises is what is the purpose of the legislation. It is stated in the first paragraph of the bill to be to authorize the Federal Government to cooperate with the proper State agency in the different States in promoting the welfare and hygiene of maternity and infancy.

Many Members have asked how it is proposed to do it. I have not heard or seen any better or more concise answer to

that question than that made by Dr. Baker before the committee.

I quote from her testimony as it appears in the hearings:

The Sheppard-Towner bill advocates, as I read it, the exact type of work that we have been carrying on in New York and which is responsible for this enormous reduction in the maternal and infant death rate. It consists of the employment of trained nurses, the establishment of baby health stations or child-welfare centers, and the employment of physicians for consultation work. The work is mainly educational; it is almost entirely preventative. The women come to us early in their period of pregnancy and are taught how to take care of themselves. We do not take care of actual sick cases at all; we teach personal hygiene with the largest adaptation possible of the proper environments and mitigate as far as we can the social and economic maladjustments that so often cause ill health. We can do a great deal to change the effect of bad environmental conditions.

I remember—

She continued—

when this work began in New York City 12 years ago the average number of baby deaths during July and August would range from 1,000 to 1,500 babies a week. For the last five years the average has been from 250 to 300 babies a week dying during those same months.

There has been a good deal quoted from the testimony of Dr. Baker in this discussion, and the justification for it is that New York City has been the pioneer in doing the work in that city that this bill contemplates to have done for the country as a whole, and Dr. Baker has charge of the work there. Dr. Baker's testimony was most interesting and convincing. I wish it might be read by every Member who has any doubt about the desirability of passing this bill.

There are few, if any, who deny that the work authorized by the bill ought to be done. Practically everyone admits that it should be, but they object to its being done by the Federal Government. They are opposed to it, as they say, "on principle." They think the work ought to be done by some State agency or private association. It has been clearly brought out here many times since this debate started that there is no new principle involved in the bill. Congress has been voting Federal aid to the States for many years for a multitude of purposes, such as the elimination of the cotton boll weevil, the foot-and-mouth disease in cattle, hog cholera, the building of roads, carrying on agricultural extension work, promoting vocational education, and in many other ways which will readily occur to the minds of the Members here. If we are going to abandon that principle and stop it, we ought to do it on some other bill than this. Why be so sensitive all at once about the principle involved in a bill which has to do with the welfare of mothers and babies when the same principle has been invoked so many times for these other purposes?

It is said that some members of the medical profession oppose this legislation. Just why a doctor as such should feel that he has to oppose it I have never been able to understand. It seems to me he ought to be among the very first to appreciate the need of it and to support it. For one I do not believe that any considerable number of the medical profession are opposed to it or will oppose it when they understand its provisions. I am satisfied that those doctors who have opposed it are not at all representative of their profession.

In that connection I refer again to the testimony of Dr. Baker before the committee. She stated that the entire medical profession of New York City approved the work being done there along exactly the same lines as this bill proposes, and that the doctors of that city were among the most enthusiastic supporters of it. She said:

I may also say that we have splendid cooperation on the part of the medical profession. I have heard it said that one of the reasons for opposition to this bill is that the doctors are opposed to it on the ground that it would interfere with their practice.

I hold no brief for the medical profession, but because I am a member of it I am extremely sorry to have anything of that sort said about any doctor. I do not believe it is so, because the doctors of New York have been loyally with us; they have been interested in the work, have been helpful, and are anxious to have it continued. Some few years ago, when there was a possibility of the work being given up, owing to a change of administration, the medical societies of the city, the Academy of Medicine, the five county medical societies, and a number of the small groups of medical societies had meetings, and I believe for the first time in their entire careers passed resolutions saying they wanted the work continued, that there should not be any idea of giving up the children's work in the city, because they considered it so valuable. The women themselves came forward and I had great difficulty in stopping two parades of about 5,000 women, one from the East Side and one from Brooklyn. They wanted to march to the city hall and protest against the giving up of the baby health stations and the visiting nurses. The work is never brought to them in any way that has any compulsion about it.

The next question which naturally arises is, Are the people generally, and especially those who receive direct benefit from the work, interested in it? Do they want it?

Listen to what Dr. Baker says on that point:

As far as all of our work for children is concerned, the maternal work, the work for babies, and work for the older children, it is not only welcomed but it is eagerly sought for by the people. We have an

almost impossible situation because we can not take care of all of the mothers and babies that want care and need it. \* \* \* The women usually come to us; we do not go to them, and if we do it is always understood that they want it. My own personal feelings are, of course, that any home is quite as sacred to the inhabitant of it as any other home, and no nurse and no doctor are allowed to go to any house, any tenement, or any apartment without the full willingness and invitation of the people who live there. But these people want our help; they are anxious for it; they are asking for it and want it in far greater measure than we are able to give it to them. So we have not had any opposition from the medical profession and we have not had any opposition from the public. I think—

She continues—

that New York people, after all, are not so different from other people, and as far as I know, wherever this work has been tried, the women have been very glad indeed to get it. I know of no woman who wants her baby to die and I never met any difficulty in doing something which would save her baby, and I want to say that during the years we have worked in New York City we have reduced our baby death rate from 144 baby deaths out of every 1,000 births to 85 deaths.

Some have criticized the bill because the appropriation authorized is too small, that it is inadequate to accomplish any real good. Nobody claims that the appropriation of \$1,240,000 per year is going to do for the country generally what is being done for New York City where \$900,000 is appropriated every year for the work in that city alone; but it is claimed that with that appropriation the Federal Government will be able to stimulate the States and private organizations to do this work which practically everybody says ought to be done, but which is not being done in many rural and other communities throughout the United States.

I voted against some of the amendments to this bill in the Committee on Interstate and Foreign Commerce, but I do not think the bill as reported by the committee has been changed materially or in principle from what it was when it came before that committee. The amendments have made it possible for some people to support the bill who were originally against it, and perhaps have clarified some of its features. It pleases them and hurts nobody. Some of the amendments to the bill prohibit doing things that never were dreamed of being done by the proponents of it. They are as willing to have the amendments go on as anyone else. The two principal things, in my opinion, in the bill are the appropriation and placing the authority to administer the work in the Children's Bureau. The substitute recommended by the committee does not change these two features of the bill. They were in the bill as passed by the Senate and I think they will remain in the legislation when it is finally enacted into law. [Applause.]

The CHAIRMAN. The time of the gentleman from Michigan has expired.

Mr. LAYTON. Mr. Chairman, will the Chair pardon me for making a parliamentary inquiry? I want to ask the chairman of the committee a question. I have not been disposed to delay this proceeding. I am not a filibusterer, I have had abundant opportunity to voice my own views about this matter, but it is a matter of such importance that I do believe that the opposition in this House ought to have recognition for a part of this time. It is not right that free speech should be cut off, and I ask unanimous consent—

Mr. COOPER of Wisconsin. The regular order, Mr. Chairman.

Mr. LAYTON. The gentleman can ask for the regular order, but I shall use my parliamentary rights.

Mr. SANDERS of Indiana. I demand the regular order.

Mr. LAYTON. I make the point of no quorum, Mr. Chairman.

Mr. WINSLOW. Will not the gentleman withhold that?

Mr. LAYTON. Mr. Chairman, I will withdraw the point of no quorum.

Mr. BARKLEY. Mr. Chairman, I yield five minutes to the gentleman from Mississippi [Mr. LOWREY].

Mr. LOWREY. Mr. Chairman, a humorous friend of mine says that a man's mind is like a woman's hair. The less there is of it the harder it is to make up. [Laughter.] My mind is often hard to make up. Ergo—

When this bill was first proposed I was rather undecided as to what my attitude toward it would be. In its original form especially did I see some serious objections to it, and I was much disposed to vote against it. Some changes decentralizing, have come into it, however, and some others doubtless will come; and some change has come in my views as I have considered the bill further and gathered further information.

Henry Clay is credited with saying that if one would succeed in politics he should stand in with the preachers, the newspapers, and the women. From my brief experience I can not say that it is easy always to stand in with all three of these forces. Sometimes when a fellow is trying hard to hold all three views he may let one slip. None the less I am sure the great Kentuckian spoke wisely.

It is strange to me that some gentlemen seem to think that the activity of women in support of this bill gives a presumption against it. In my opinion, while it is not a final argument, it is a strong argument in its favor.

Oh, woman, in our hours of ease,  
Uncertain, coy, and hard to please,  
When pain and anguish wring the brow,  
A ministering angel thou.

It is this ministering-angel spirit that impels woman toward everything humanitarian. And the world ought to have learned in its recent tragic revolt against the materialistic philosophy that the humanitarian element must be taken into consideration. I say to you in all soberness, not as a sentimentalist, not as a masculine feminist, but as a man who has spent the major portion of 30 years in teaching girls and young women, in studying them, and in being taught by them, that this is a premise on which this Congress can afford to act. It is worth while in matters of love, of business, or of politics to have her with you.

In an old book which I used to read occasionally before I got into politics I found an interesting little story about an unjust judge "who feared not God, neither regarded man," but when a woman got in behind him he came across. With all his recklessness he was at least wise enough to regard the widow's right. If any of you politicians get the woman folks in your district deeply stirred against you, you will come to sympathize with him. Instead of quoting Sir Walter Scott you will be quoting a certain William Tecumseh Sherman. [Laughter.]

In small things it may be true that woman is moved by sentiment rather than by reason, but I say to you that in matters of deeply human interest she is impelled by peculiar intuition and sagacity. She often goes straight to a wise and righteous conclusion, more sure than a man could reach after days of investigation, reasoning, and philosophizing. Every married man knows that, if he is only candid enough to admit it. If any man in this presence denies it, I divine he is, perhaps, one of those four unfortunates in the Texas delegation or some other forlorn bachelor who has little happiness in this world and little prospect for the next. [Applause.]

Bishop Hoss used to tell a story like this: Down at the foot of the Tennessee mountains lived a Methodist preacher. In the course of time he got somewhat rattled on his doctrinal views and joined the Baptists. After preaching for the Baptists for a while he quit them and joined that denomination which the profane of the community called "Campbellite." A year later he had undergone another complete reversal, and was found in the ranks of the Universalists preaching the no-hell doctrine with great enthusiasm. But when a man starts going down there is no telling where he will stop. There came a hot political campaign, and he quit preaching and went to stump-speaking. Not only that, he forsook the party of his fathers and joined the Republicans. One day a group of men sat about the village store discussing this fallen evangel, and some of them in their bitter criticism seemed rather inclined to leave off the dis—. But a charitable farmer who had known and loved him in his blameless days came to his defense with the remark, "Now, fellows, don't be too hard on him. If you didn't believe there was any hell, you might be a Republican, too." [Laughter.]

Well, if I did not believe in a future reckoning, I do not know what I might do, but so long as I believe in a hereafter I shall at least keep my faith in woman.

The gentleman from Nebraska [Mr. REAVIS] spoke the other day of a prospective casualty list on the Republican side that would look like war. Some of us remember the slaughter of Democrats in November a year ago when you Republicans slew Democrats as recklessly as Samson slew the Philistines and with the same instrument. [Laughter.] But all previous slaughters will look like children's tea parties when the politicians really incur the righteous wrath of American womanhood.

But to lay all joking aside and look at the matter seriously. The Federal Government has cooperated with the States in founding and maintaining agricultural and mechanical colleges, and the cooperation has been to advantage. It has cooperated with the boards of health in promoting sanitation and suppressing disease among men and animals, and no one will dispute the good that has been done. It has cooperated in matters of flood control and the reclamation of lands underwatered and overwatered, and millions of productive acres, with thousands of prosperous homes, have been added to the land. It has cooperated in the building and maintaining of highways; in the eradication of the cow tick, the boll weevil, the pink bollworm; and in dozens of other ways. There is no possible way to estimate the good that has been done—material, moral, and intel-



lectual—by the county and home agent work, initiated, to a large extent, and guided by the Department of Agriculture. And in all of this there has been no overcentralization and no paternalism.

There is no blinking the fact, gentlemen, that such a step as this maternity bill contemplates must be taken carefully and deliberately in the full light of experience. But we have already demonstrated that laws can be so framed as to avoid the evil. The Federal Government must stimulate to activity; it must not itself undertake the activity. It must place on the workbench of the States and their communities an unfinished work, place it there in such a form as to inspire and stimulate the people themselves. It must show the way and then quietly relinquish the leadership. I say that such has been done, and I believe that this bill in its present form provides an acceptable machinery for doing such again.

It has been said that this bill is too general; that it provides nothing definite. It seems to me that therein lies its acceptability. I should oppose and I believe the people would oppose cash payments to mothers—commercializing motherhood, as it were, or any direct, official supervision of the mother and her child. That would be intolerable. The work proposed by this bill is educational, and therefore the terms of the bill must be somewhat general and elastic. The Constitution of the United States succeeded because it was elastic. All the enduring forces of civilization, of religion, business, and social relationships have been elastic. Were this bill rigid, mathematical, scientific, I think I should oppose it. But as it is I very greatly believe that it ought to pass and most heartily give it my support. [Applause.]

Mr. WINSLOW. Mr. Chairman, I yield 25 minutes to the gentleman from Iowa [Mr. TOWNER].

Mr. BARKLEY. Mr. Chairman, I yield 20 minutes to the gentleman from Iowa [Mr. TOWNER].

The CHAIRMAN. The gentleman from Iowa is recognized for 45 minutes.

Mr. TOWNER. Mr. Chairman and gentlemen of the committee, I hope not to occupy the time, and I shall be just as brief as it is possible. There are a few things to which I desire to call the attention of the House which perhaps have not been fully discussed already. The progress of this bill legislatively, briefly is as follows: The bill was introduced in the last Congress but received committee action so late in the session that it was impossible to give consideration to it in the House or in the Senate. As it was reported favorably in that Congress it was reintroduced in the present House in the form in which it was amended in the last Congress. It was introduced in the Senate as well, and, after consideration in the Senate, passed that body by an overwhelming majority, only seven votes being recorded against it. It then came before the House committee. Extensive hearings were had and it was finally reported as it is now amended. So far as I am concerned I am perfectly willing to accept the bill as it has been amended by the committee. There are some changes that I would not myself have approved, but they are not vital changes, and the objects of the bill can be carried out, I am quite sure, and great good accomplished under the present bill. For instance, the committee inserted a limitation of five years, which is somewhat unusual. I think perhaps that the membership of the committee under the circumstances were justified in placing that limitation in the bill, and so far as I am concerned I am perfectly willing to accept the limitation, because if this legislation does not justify itself within five years it does not deserve to remain on the statute books, and if it does certainly there will be no question in the mind of the Members of Congress as to what their duty will then be. Therefore I cheerfully accept the amendment of the committee.

Gentlemen, the origin of this legislation is found in the organic act creating the Children's Bureau. Members of the committee will remember that we had for a great many years preceding the organization of the Children's Bureau the Public Health Department of the Government, but in 1912 Congress in its wisdom took this action. It passed a law creating the Children's Bureau and said this regarding its duties:

Said bureau shall investigate and report to said department (Labor) upon all matters pertaining to the welfare of children and child life among all classes of our people, and shall especially investigate the question of infant mortality, the birth rate, orphanage—

And so forth.

In specific language it was made the duty of the Children's Bureau to investigate these questions, to report upon them, to advise the Congress and the people of the country regarding them, to initiate legislation if it thought best to better the conditions that they found existed; and the Children's Bureau did make this investigation. They made careful investigations not only regarding what had been done in this country but what

had been done in other countries with regard to child welfare and the mortality of infants and of mothers from maternal causes.

With this information before them they came before Congress with a proposition to establish a law such as you have under consideration to-day, to make effective the very duties that were imposed by Congress upon the Children's Bureau. What were the conditions that they found existing in the United States of America? I ought not to repeat what has been so well said, and my only excuse for doing so is for the sake of emphasis. These statements of conditions have been disputed, but never successfully. The fact is that we are seventeenth among the nations of the world with regard to maternal mortality and that we are very far down in the rank among the nations with regard to infant mortality. This is true, notwithstanding the fact that we ought to be first among the nations of the world with regard to these matters.

It is true that there are more homes that are sanitary and cleanly in the United States than anywhere else. It is true that we are the strongest and the most healthy people in the world, or we ought to be; but we are careless and indifferent regarding these things. We have not taken pains with regard to them. We have not had the stimulation of Government regarding them. A few years ago like conditions existed in England, and what did she do? At first they appropriated \$11,000 for the purpose of ameliorating conditions with regard to the maternal and infancy death rate in that country. In a few years that appropriation was increased to £200,000. The last appropriation of this current year by Great Britain for this purpose was over two and one-half million dollars, and Great Britain has but half the population which we have and not one-tenth of the resources which we have. And still we stand with a maternal death rate of about eight out of every thousand, while Great Britain has reduced her death rate within the last few years to four. She stands among the first and the best nations of the world. That is what activity under governmental inspiration and governmental help can accomplish.

We did not content ourselves with finding out what had been done in other countries, but an investigation was made with regard to what had been done in this country. The work in New York City has been referred to, and it is a most commendable accomplishment. There in that great city of over 6,000,000 people they undertook to reduce the death rate, which was 144 babies out of every thousand that died within the first year. What have they done? Within the years that have transpired under the administration of the new law and the constantly increasing support of New York City, financially and in every other way, they have reduced the mortality to 85 officially in 1919, with a large influenza mortality increasing the rate, and the head of that bureau says that this year it will show a reduction to 65. From 144 deaths per thousand they have gone down to 65.

Every single medical authority in New York City admits that this was accomplished by the very work contemplated in this act. [Applause.] Dr. Josephine Baker, coming before the committees of Congress as she has on two or three different occasions, says that she is very much interested in this work and that she wants to see it carried over the United States. She has said in the hearings before the committee that this legislation has the same object in view they have in New York and will accomplish the same results if it is carried anywhere in the United States of America that have been accomplished in New York City.

Then we had the testimony of Dr. Ellen C. Potter, who is in charge of the division of child hygiene in the health department of Pennsylvania. She came before the committee and testified as to the work they were doing in Pennsylvania. She said the work accomplished, which was only instituted two or three years ago, had been marvelous. She said it had reduced the death rate of the mothers more than one-half and the death rate of the babies at least as much so far as the work had been put in operation. Dr. Van Ingen and others confirmed this testimony.

Gentlemen, there is no question regarding conditions that exist and there is no question regarding the remedy. These facts can not be controverted. Now, what are we going to do about it. Are we not going to do our duty; are we going to neglect to give the stimulation that will bring about nationwide work of this character in the United States? Pennsylvania has spent a large sum of money in its cooperation, in carrying on this work with its local centers, and their legislature has already made the necessary appropriation to carry out the purpose of this bill when the General Government does its part. [Applause.]

I understand there are other legislatures that have passed authorizations which will allow their governor to accept the provisions of this act. Gentlemen, there is no question about the desirability of this legislation. It has been said on this floor that the medical profession is opposed to this legislation. I deny the truth of this charge. The testimony taken before the committee does not bear out the assertion. Dr. Josephine Baker states that when it was proposed to do away with that work in New York the five medical associations in that city took occasion to earnestly protest against its abandonment and declared it to be a good work and in every way approved it. You can not find a reputable physician in the city of New York who does not support this work. The director of the division of child hygiene of the State of Pennsylvania came before us and stated that the medical profession there are supporting it. She says physicians who can command much more for their service go out for \$1.50 a day to further the success of this great work. That shows whether the profession, when they understand it, are or are not in favor of it. The fact is that these associations that have passed resolutions—and there are two or three of them—say in their resolutions that they believe the work ought to be placed under the control of the Public Health Service of the United States instead of the Federal bureau. But they take pains to say that they approve of the work and believe in its necessity, and that the General Government should take part in it. [Applause.] The Public Health Service of the Nation has done magnificent work in this country, and, so far as I am concerned, I shall support it in its work in the future as I have in the past. I do not blame the Public Health Service of this country, the National Public Health Service, for wanting to do this work. Its heads came before the committee and said they thought they could do it better than anybody else.

I do not blame them for that. But they admitted that the character of this work, while they thought it ought to be under their direction, was not strictly medical; indeed, was in small part medical in its nature. They admitted that the work of the Children's Bureau has been satisfactory in so far as it has gone. They admitted finally on the last day of the hearing that, rather than raise any question regarding whether or not this work should be carried on, they would withdraw, and they did withdraw in a specific, personal letter sent by the Secretary of the Treasury, under which the Public Health Service was working, to the Secretary of Labor, under which the Children's Bureau operates, all objections to the passage of this legislation. [Applause.] They also said that they would cooperate with the Children's Bureau in carrying out the terms of the legislation.

Now, gentlemen of the medical profession, what more could be wanted? I admit that the Public Health Service has the right to desire it. It is a good and wonderful thing, and they see its possibilities, but the Congress of the United States, when the Public Health Service was already in existence, did not commit this work to them. The Congress of the United States, and now the law of the United States, has expressly said that the Children's Bureau should carry on this work. And thus what we are doing is in harmony with existing law, and in harmony with the almost universal sentiment of the women of the United States who ask that the Children's Bureau shall be continued and supported. And more than that, coming as they do with their mother hearts to this Congress, knowing from personal experience what this awful loss of human life means, knowing as they do that if the proper work to prevent it is done, such as is contemplated under this law, more than half of all these babies that die in one year can be saved, is it strange that the mothers of the United States should desire this legislation? Is it remarkable that almost every women's association in the United States is asking at your hands that you should pass it?

Mr. J. M. NELSON. I notice that Dr. Kelley estimated from her experience in New York that 15,000 mothers and a hundred thousand babies could be saved each year under this bill. Has the gentleman found any verification of that startling estimate?

Mr. TOWNER. The verification is found in what I have already told you. We know what has been done.

Mr. COCKRAN. I was about to ask the same question. What justification is there for the statement that this infant mortality can be reduced one-half by the passage of this legislation?

Mr. TOWNER. By the fact that within your own city, I will say to the gentleman from New York, you have reduced the total death rate from 144 to 65 this year. That is one thing. And wherever this work has been done—there never has been any place where this work has been done in individual localities but what the same result has been accomplished.

Mr. COCKRAN. What other localities besides New York?

Mr. TOWNER. I wish I could give them.

Mr. J. M. NELSON. Los Angeles and St. Louis.

Mr. TOWNER. They exist, and if I had time I could give them to you.

Mr. LAYTON. Will the gentleman answer one question?

Mr. TOWNER. I will be glad to do so.

Mr. LAYTON. Is it not a fact that the figures upon which you base this reduction of mortality began with the year in which the "flu" prevailed in New York City?

Mr. TOWNER. Oh, no, sir. This began with the institution of this legislation and the creation of this department. I think it was—

Mr. LONDON. It was 12 years ago.

Mr. LAYTON. Your comparisons were with 1918?

Mr. TOWNER. That was the influenza year. It was based on 1919, the year following.

Mr. LAYTON. Are your figures based on the United States census?

Mr. TOWNER. They are.

Mr. LAYTON. No; they are not.

Mr. TOWNER. O yes they are, Doctor.

Mr. LAYTON. I will show you that they are not.

Miss ROBERTSON. Does the gentleman think the amount of money allowed for the sparsely settled districts of our country will be sufficient to accomplish what \$900,000 does in the city of New York? Is there any adequacy whatever in this appropriation?

Mr. TOWNER. I thank the Representative from Oklahoma most sincerely for calling my attention to that matter. The evidence is, and it is found within the hearings on this bill, from those who have gone into the question carefully, that with the initial appropriation by the General Government, as soon as the work is instituted and State appropriations are added to it, and local appropriations are added to that, it may be twenty times as much finally as the General Government gives. I will give you some facts here from the testimony of persons who appeared in behalf of your ideas on this bill. This was the statement that was made by the Public Health Service. That service was given \$50,000 for rural sanitation work.

They expended it in almost exactly the manner that is contemplated in this bill. They wanted to do it so as to show that they could do it, and they did it magnificently well. They put into it 27 counties in the States. Here is the record that they make in their official report regarding the expenditure of that money: Forty-four thousand dollars was expended by the National Government. To that was added by the States \$67,000. I omit the smaller figures.

Mr. ANDREWS of Nebraska. Mr. Chairman, will the gentleman yield?

Mr. TOWNER. Yes.

Mr. ANDREWS of Nebraska. What States?

Mr. TOWNER. Alabama, Mississippi, and North Carolina, and others. They selected one or two counties, a couple of counties, in each State. Mind you, the original appropriation was \$44,000 by the General Government. To that was added by the States \$67,000. To that was added by the counties \$126,000. To that was added by the municipalities \$47,000, until the total was \$314,000, when the initial appropriation officially was only \$44,000. [Applause.]

That is the way the work is taken care of. That is why even a small appropriation from the National Government will accomplish wonders, because it stimulates the States into activity. The appropriation of the State stimulates the localities into activity, private contributions are added, and soon the local associations are enabled to organize and carry on the work.

Mr. ROSE. Mr. Chairman, will the gentleman yield?

Mr. TOWNER. Yes.

Mr. ROSE. Is it not a fact that the State of Pennsylvania from the inception of this work in the State has increased its appropriation in almost every succeeding legislature?

Mr. TOWNER. That is true.

Mr. ROSE. Showing that the work is approved and meeting with success?

Mr. TOWNER. Yes. It shows that the States can take care of this work after it is instituted. I think if we wanted to be mean about it, at the end of five years we could discontinue this appropriation and the work could be carried on by the States, because they would not withdraw their support of it, because of its value.

Mr. FESS. Mr. Chairman, will the gentleman yield?

Mr. TOWNER. Yes.

Mr. FESS. The gentleman will remember that in the discussion of the Smith-Hughes Act facts were given showing that in the land-grant colleges, where the Government money to be



given was to be proportionate to the amount expended by the States, the States are appropriating nineteen times as much as the National Government.

Mr. TOWNER. Yes. The estimate is that it will be \$20 to every dollar appropriated by the Federal Government.

Mr. FESS. That is by the local interests?

Mr. TOWNER. Yes.

Gentlemen, do you suppose the States would make large appropriations from their treasuries if they found that this work was valueless? Do you suppose the municipalities would carry on this work if it were not valuable? What is being done in scattered counties throughout the United States of America? The people are carrying on this work by private subscriptions and supporting a Red Cross nurse in attempting to carry on this character of work. The serious difficulty is that after the stimulus and excitement and patriotism of the war, that put a Red Cross nurse in every county in Iowa and in many of the other States, interest dies, because it must be supported by private subscription. It is certain that it will not be extended and can not be supported unless the work is organized as we desire it under the terms of this bill.

Mr. ANDREWS of Nebraska. Mr. Chairman, will the gentleman yield?

Mr. TOWNER. Yes.

Mr. ANDREWS of Nebraska. Will not the cooperation of the Federal Government in this work bring to every State the best method pursued in any of the States?

Mr. TOWNER. I have not any doubt about it.

Let me say this, gentlemen: There is not a big man in the medical profession in the United States who has studied this question, there is not a big man that knows what it is, who would put himself on record as opposed to this character of work. [Applause.]

Mr. LAYTON rose.

Mr. TOWNER. I do not mean any personal application, I assure the gentleman.

Mr. LAYTON. I want to say to the gentleman—I want to say this, that you are not acquainted with the big men in the medical profession. [Laughter.]

Mr. TOWNER. No; I am not; but I seem to know more about them than the gentleman from Delaware does. [Laughter.]

Mr. LAYTON. No; I speak for my profession unanimously in my State; yet you are standing here making unqualified statements.

Mr. TOWNER. I do not know what your State has done, but I do know what the American Medical Association has done, and I do know what the American Gynecological Association has done. I do know what the big medical men of New York City and this country have done, and I hope the gentleman some day will come in here and say he is sorry he once had a mistaken idea about the proposition. In that day I hope the gentleman will say, "I made some opposition to it in the days gone by, but now my enlarged knowledge of the subject matter and my duty to my constituents demand that I shall support this legislation." [Laughter.]

Mr. LAYTON. I will do it just as soon as I get in line politically with my friend from New York [Mr. LONDON]. [Laughter.]

Mr. TOWNER. Oh, Doctor, you do not have to do that.

Mr. LAYTON. Yes; I do.

Mr. TOWNER. You think you do. There is a great deal of difference between the two propositions.

All the opposition practically that there has been to this bill has been because somebody said that because somebody else that supported the bill was in favor of free love, or birth control, or some other bad thing, therefore everybody who supported this bill, the thousands and millions of good, home-loving, church-going women in the United States were desirous of securing such iniquitous legislation. What a ridiculous proposition that is!

Mr. LONDON. Mr. Chairman, will the gentleman yield?

Mr. TOWNER. Yes.

Mr. LONDON. Will the gentleman from Delaware begin beating his wife because I treat my wife well? [Laughter.]

Mr. TOWNER. I think that is a sufficient answer to the question.

But, gentlemen, you and I are not going to take the opinion of any man that is not based—the opinion of any man that we know is not based—upon facts and experience. That is what tells in these cases. Where has this work been instituted and then abandoned? Tell me of a single instance where they have initiated this work and then refused to carry it on, where they have made appropriations for this work and have not increased them year by year. Does that indicate that this legislation

is of no value? I have no feeling of sympathy, and only of contempt, for those men who in view of these facts cast opprobrium upon legislation of this character and with coarse jokes seek to discredit it. [Applause.]

Mr. GRAHAM of Illinois. Mr. Chairman, will the gentleman yield?

Mr. TOWNER. Certainly.

Mr. GRAHAM of Illinois. I want to refresh your memory with some facts. When there was some talk here a while ago about discontinuing the appropriations for the work in New York, petitions came from every woman's society in the city and women formed in processions and marched to the city headquarters in protest of that action.

Mr. TOWNER. Yes; and the supporters of the hygiene work in the city had to dissuade them from going to the mayor and demanding that some action should be taken.

Mr. FESS. Will the gentleman yield for a question?

Mr. TOWNER. Certainly.

Mr. FESS. In the previous legislation for Federal aid there was a provision to accept contributions from outside agencies, if it were desired.

Mr. TOWNER. Yes.

Mr. FESS. That was omitted in this.

Mr. TOWNER. I rather think it ought to be omitted, and I can tell the gentleman why. It is not expected that the expenditure of money shall be carried on by the Children's Bureau. It is to be turned over to the States, and they will expend it. I think, perhaps, it would be improper for the Children's Bureau to accept contributions. The States may accept such contributions, and will doubtless do so. In fact, the work will be largely dependent on such contributions being made. There is no question at all that these associations of women and church associations approve this legislation. I got a batch of telegrams yesterday from every division of the Young Women's Christian Association in the United States of America asking the Congress to pass this legislation. All the women's organizations favor it, with one notable exception, the still existing but absolutely useless committee or organization for the purpose of opposing woman suffrage. [Laughter.]

Mr. BANKHEAD. I was out of the Chamber for a few moments. Has the gentleman discussed the present attitude of the United States Public Health Service with respect to this bill?

Mr. TOWNER. Only that I have called attention to their letter. The letter of the Public Health Service was to the effect that they withdrew opposition to this bill; that they did not ask that it be transferred to them; that they would support the Children's Bureau and cooperate with them in the administration of the law. I do not think anything more could be asked. Other means might be used, but we have already decided by congressional action that we would turn this work over to the Children's Bureau.

Gentlemen, this is not a work that is like the ordinary work of a legislator. It is not the casting up of accounts. It is not the consideration of dollars and cents only. It is the consideration of human life. Every man of you, if you knew that a single baby's life were in danger out here, would risk your own life to save it. You would drag from under the wheels of an oncoming car a child and rescue it even at the risk of your own life. Yet you have the opportunity here by legislation to save the lives not only of one but of thousands of children. There is no question about that. This is not a mere idle statement. It comes as near being a demonstration as anything that we could possibly do here in the Congress of the United States.

If this act is passed, and I believe it will be by this Congress at this present session, most, if not all, the good women of the United States will rejoice. They will feel that a great step has been taken for the welfare of the mothers and children of America. I am glad to say that the support given to this bill by such men on the minority side as the gentleman from Kentucky [Mr. BARKLEY], who is the ranking member, has been wonderful in its efficiency toward securing the accomplishment of this result. [Applause.] I remember that not one single Democrat on the committee voted against the unanimous favorable reporting of this bill. And those men on the Republican side who have so loyally assisted, sometimes giving up their own ideas, not what they considered vital but what they would have preferred, giving them up in order to strengthen the bill and to assist in its success, I desire to thank them. I desire to thank the chairman of this committee, who gave to those who supported the bill and to those who opposed it, although he had pronounced sentiments himself upon it, as fair a hearing as was ever given by any committee in the Congress of the United States. [Applause.]

There is only one thing lacking, gentlemen, and that is the favorable report of this Committee of the Whole and the favor-

able action of the House, in which I am sure the Senate will acquiesce, and then we may say we have done something at least to make this country a little better and safer place in which to live.

Gentlemen, do you remember that poem of Browning's in which he says that when he sailed out from the Mediterranean Sea to the Atlantic and for the first time in his life saw Gibraltar and Trafalgar he cried out—

Here and here has England helped me,  
How can I help England?

Gentlemen, may we not with unanimity to-day, thinking of all the glorious accomplishments of the past, in our own fair land, say, "Here and here has America helped me! Thus will I help America!" [Applause.]

Mr. MAPES. Mr. Chairman, I ask unanimous consent to extend my remarks in the RECORD.

The CHAIRMAN. The gentleman from Michigan asks unanimous consent to extend his remarks in the RECORD. Is there objection?

There was no objection.

Mr. WINSLOW. Mr. Chairman, will the Chair announce the remaining time?

The CHAIRMAN. There are 32 minutes remaining.

Mr. BARKLEY. How much remains for this side?

The CHAIRMAN. The gentleman from Kentucky has 19 minutes.

Mr. BARKLEY. Mr. Chairman, I yield to the gentleman from Texas [Mr. BUCHANAN].

Mr. BUCHANAN. Mr. Chairman, I quote from the Democratic platform adopted at San Francisco:

DEMOCRATIC PLATFORM—WELFARE OF WOMEN AND CHILDREN.

We urge cooperation with the States for the protection of child life through infancy and motherly care, in the prohibition of child labor, and by adequate appropriations for the Children's Bureau and the Women's Bureau in the Department of Labor.

All political parties, if within their power, should perform their platform pledges and thereby keep faith with the people. This has been the time-honored doctrine of the Democratic Party.

The pending bill complies with the declaration of the above plank of the Democratic Party. Personally in my campaign for reelection I declared that I would carry into effect, so far as possible, every demand of the Democratic Party platform. Therefore I am bound by my word and by party declaration to give my support to this maternity bill.

Mr. Chairman, there are objections to all Federal appropriations which contemplate a like appropriation by the States and cooperation between Federal and State Governments in expenditures of the appropriations to obtain the desired result. This method is not businesslike, uneconomical, and, in many instances, coercive of the rights of the sovereign States of this Union, bringing about a blending of State and Federal rights which is contrary to the genius of our dual and complex form of government.

These cooperative appropriations involve a double overhead expense, in that they require Federal employees to direct and follow the expenditure of the Federal Government and State employees to direct and follow the expenditure of State appropriations, when the same could be accomplished more economically, more efficiently, and with more dispatch by either the State or the Federal Government. But as all of these activities under our constitutions come within the reserved rights and powers of the respective States, it would be more appropriate for each State to undertake the performance of this character of duty. But this cooperation seems to have become a settled policy of the Federal Government and has been practiced for many years on other subjects.

The Federal Government appropriated millions to cooperate with the States in the destruction of insects that attack corn, wheat, fruit, cotton, tobacco, and other products of the soil. We have appropriated millions to cooperate with the States in stamping out the foot-and-mouth diseases of cattle, hog cholera, and so forth, and many other subjects, which it is unnecessary to mention.

The Federal Government has appropriated millions to cooperate with the States in the reclamation of semiarid and swamp lands, but as I view it it is more important to our Nation to save the lives of the babies within it than it is to destroy the tobacco worm. It is more important to our Nation to save the lives of the mothers of our country than it is to stamp out the foot-and-mouth disease among cattle or kill the ticks thereon. Therefore, just so long as the National Government cooperates and makes appropriations to aid States on any other subjects, then just so long will I enthusiastically and cheerfully support the Federal appropriations for the

proper care and education of the motherhood and babyhood of our land.

No aspect of civilization presents a more urgent demand for consideration. Nothing can appeal with more force or is more cherished by true American sentiment than is our care for the motherhood and childhood of the Republic. No legislation can be more timely or more in order than an act for practical relief of the motherhood of our country, which has been for months before this House for consideration and should have had our immediate and emphatic indorsement by unanimous vote, and our action is due now as soon as possible, that, with the utmost dispatch, we may wipe from our minds the miserable odium that haunts us and stains our character and dulls our sense of national honor.

The theme of mother and child is so sanctified and full of tenderness that it is difficult to stifle emotion and to treat it with dispassionate reserve.

The ages are replete with incident and event illustrative of human infirmity in its depraved as well as in its most commendable qualities. As far back as tradition goes or history can reach the mother and her child stand as the magnetic symbols of love and beauty. No epic is more striking or sweeter than the story of the perilous birth and rescue of the mighty leader and lawgiver of Israel, as told in the Book of Exodus in the Old Testament Scriptures.

I think the mother of Moses and Pharaoh's daughter must have been the first association to realize the practical value of our modern conception of care and mercy as proposed by this humane legislation. That whole narrative is interpreted to reveal and forecast the story of the cross, the most stupendous circumstances of time. It centers about the manger and the miracle of the Babe of Bethlehem, and it designates the immortal conceptions of Da Vinci and Raphael and Michelangelo and Rubens and Titian. Our own modern school of art would "pale their ineffectual fires" but for the matchless symbolic personalities of Holy Writ. But for Sarah and Hagar in the wilderness and Jethro's daughter and the Marys and Marthas and Magdalenes and the women at the tomb and the long line of devotees to "the true, the beautiful, and the good," no Madonna would grace our art galleries, no "Last Supper," no "Ring of the Angelus," or other great production of the artists would adorn our home. And if our domestic lives were untouched by such inspiration it would be impossible to compute the low grade of morals and manners to which we would have sunk from the sheer lack of cultivation and refinement.

And this humane measure, which awaits our legislative approval, would have no place on the calendar but for the evolution of the ideals that appeal throughout the world of Christian civilization and righteousness.

I can not conceive of the sordid failure of any patriotic American, of any true man, to indorse and to champion this belated opportunity to relieve and to care for the women and children of America. It is no sudden alarm sounded to rouse us to defend against a surprise or to meet an unexpected danger. No stricken *Titanic* calls for the heroic sacrifice of self in that noble example that pleaded for the safety of "the women and children first" and sink with those who sink in the swirling waters.

I can not see the need of argument to convince us of so plain and momentous a duty. It is so self-evident and the call is so imperative that we may confidently assume the favorable and cordial cooperation of this representative body.

And the historic instances that reflect so painfully on the human race and so shocks the very soul of humanity are recounted that we may clearly see the scope and wickedness of our sensibility. And the memorial works which have illuminated genius and beautified our lives are cited that we may be fired with a noble determination to honor ourselves in doing justice to that class of our loved ones whose relationship admits of no opposition. I am no dreamer and am not moved by the visionary. We are not indifferent, but the idealism that weaves "the insubstantial fabric of a dream" has too long lulled us into the apathy of inaction and criminal neglect.

The cross as the significant and universal emblem of our Christian civilization. The infamous edict by which the King of Egypt sought to avoid the increasing influence and power of the Jewish people through the destruction of their child life is plainly related to the awful "slaughter of the innocents," the unholy scheme which was to defeat the reign of Christianity. The King of Egypt and Herod the King of Judea are forever odious as the chief actors in that drama of atrocious cruelty, so vindictively staged to destroy the lives of children, and to support and advance the reckless partisan purposes of that dark day. Truly, "without controversy great is the mystery of godliness." And well it is that our creed must rest on mys-



tery, for if it were a transparent scheme, it would not require a moment's consideration to fire the ambitious spirit of man to attempt its management and control its policies. It has been observed that Napoleon Bonaparte would have usurped omnipotence itself if he could have comprehended "the divinity that shapes our ends."

God knows we are not insensible to the virtues that belong to strong and sensible men, but a fearless and frank self-examination will show us that we have stultified ourselves most stupidly, and avoided our plain duty at the expense of the motherhood and childhood of our native land. Our own self-knowledge convicts us of a well-nigh unpardonable sin. Our consciences accuse us. But under the stimulus of such spurs I am confident that we will respond to the call that will never down until we have atoned for our guilty mistreatment of the bone of our bone and the flesh of our flesh.

The question is a very practical and comprehensive one. The fact that it is so appealing and full of the tragic pathos that will ever gather at the bedside of the mother and her newly born babe, clothes it with exacting interest. The most critical demand that can call upon humanity is at our door. There can be nothing more real, nothing more material, nothing more practical. No phase of life is more apparent—none so imperative; and the conditions are common enough and powerfully calculated to drive us to distraction as we confirm their significance, and realize the harrowing bitterness of our supine failure. We have inexcusably permitted the dearest and most dependent classes of our people to writhe in unimaginable misery, with no adequate effort to relieve the prevailing distress. We have, comparatively, no system by which we can meet this constantly recurring crisis in the lives of women and children.

No adequate plan of cooperation ameliorates the suffering or resists the tremendous tide of death which annually decimates the helpless and sweeps to untimely graves, by the thousands, the queens of our household and their precious offspring.

At the outset of investigation we run across the amazing announcement that 23,000 American mothers are annually sacrificed upon the funeral pyre of our burning neglect and that by a large per cent the remorseless destruction could have been reduced.

Again, as part and parcel of the same deadly "dance of death," more than 250,000 babies under the age of 1 year are flung annually to the remorseless maw of our devouring sloth. I know it is not meanness. I do not dare to believe it to be indifference. It must be attributed to our human infirmity. It was Lord Byron whose genius for expression weaves poetic beauty into an immortal refrain and speaks a trenchant truth in the lines—

Oh Love, what is it in this world of ours  
That makes it fatal to be loved? Ah, why  
With cypress branches do we wreath our bowers  
And make our best interpreter a sigh?  
As those who dote on odors pluck the flowers,  
And place them on their breasts but place to die,  
So the frail beings we would fondly cherish,  
Are placed within our bosoms but to perish.

The appalling death rate of maternity and infancy, verified by the United States Census, must be estimated by periods to enable the mind to grasp the overwhelming facts. If we compute for 50 years of our national prosperity the great aggregate of American mothers and their infants who have gone down into the valley because of prenatal ignorance and insufficient care and destitution during childbirth, we are horrified at the enormous destruction.

The 23,000 mothers alone who died last year from the fatalities of childbirth swell to a total of 1,150,000 for the last half century of our national life. The 250,000 infants, which is our annual contribution to the remorseless harvest, reaches the astounding figures of 12,500,000 babies who are sacrificed every 50 years. Add the number of mothers and infants who perished during the last half century, and we find the incredible aggregate of 13,650,000 premature deaths, thousands of them from sheer neglect; and that was during the most prosperous 50 years of the Republic.

And by the indisputable testimony of our most eminent specialists this shocking array of suffering and death and incalculable loss could have been largely avoided and materially reduced. That is the urgent and unavoidable problem to be solved and which appeals to this legislative body with the most commanding force.

The mass of testimony and the authentic character of the matter is recited in the hearings before the Committee on Public Health and Quarantine of the United States Senate, and also before the Committee on Interstate and Foreign Commerce of the House of Representatives, Sixty-sixth Congress,

They are more than ample in every way to substantiate the claims of this act.

Repeatedly, and from every angle, the distressful details of suffering and fatality, with incontestable data, are herein minutely reported. These congressional hearings are open to all who will read them, and there can be no excuse for ignorance. The entire disgraceful showing is a public proclamation and accessible to everyone.

Before these committees our most eminent authorities have testified, as well as our most expert specialists, whom we easily recognize. Before the Senate committee were the following:

Dr. Anna E. Rude, director of hygiene, Children's Bureau, Labor Department, Washington, D. C.  
Miss Julia Lathrop, chief division of hygiene, Children's Bureau, Labor Department, Washington, D. C.  
Sir Arthur Newsholme, school of hygiene, Johns Hopkins Hospital, Baltimore, Md.  
Dr. J. Whitridge Williams, chief obstetrician.  
Miss Annie Martin, ex-chairman, National Woman's Party, Reno, Nev.  
Mrs. Josephus Daniels, Democratic national committeeman, Washington, D. C.  
Mrs. Henry W. Keyes, representative for New England maternity and infancy, Washington, D. C.  
Mrs. Ellen Yost, legislative representative, National Women's Christian Temperance Union, Washington, D. C.  
Mr. W. F. Bigelow, editor Good Housekeeping, New York City, N. Y.  
Miss Alta Elizabeth Dines, supervisor of maternity work, New York City, N. Y.  
Dr. Joseph Baker, director division of child hygiene, New York City, N. Y.  
Mrs. Maude Wood Park, president Women's League of Voters, Washington, D. C.  
Miss Mary Stewart, national Republican executive committee, Washington, D. C.  
Mrs. Whitman Cross, chairman advisory committee, Children's Bureau, Department of Labor, Washington, D. C.  
Mrs. Thomas Kelly, general secretary National Consumers' League, New York City, N. Y.  
Dr. Richard A. Bolt, general director American Hygiene Association, Alameda County, Calif.  
Mrs. St. Clair, representative D. A. R., Washington, D. C., and others.

And to the following testified before the House "Committee on Interstate and Foreign Commerce":

Dr. Edgar L. Hewitt, member State child welfare board, Santa Fe, N. Mex.  
Mrs. Wilton P. Higgins, president National Mothers and Parents-Teachers' Association, Worcester, Mass.  
Miss Elizabeth Fox, public nurse and Red Cross worker, not a Red Cross representative.  
Rev. Kaiko Akano, pastor Kawaiahae church, president of the Christian Endeavor Association, Hawaii.  
Miss Jeanette Rankin, ex-Member of Congress, Montana.  
Rev. John O'Grady, secretary National Conference Catholic Charities.  
Dr. Hugh S. Cumming, Surgeon General United States Public Health Service.  
Dr. Taliaferro Clark, in charge of child-welfare field work, United States Public Health Service.  
Dr. L. L. Lumsden, in charge of cooperative health, through rural sanitation office, United States Health Service.  
Mrs. Rufus M. Gibbs, president of the Maryland Antisuffrage Association and representation.  
Dr. J. W. Sheveschewsky, assistant surgeon general, Division Scientific Research, United States Public Health.

Each and all of these officials and workers testify in favor of the act, and their knowledge and experience justifies the position they take.

Dr. Anna B. Rude, director Division of Hygiene, Children's Bureau, United States Department of Labor, Washington, D. C., says:

Other countries show markedly lower death rates of babies and mothers in childbirths. It is safer to be a mother in 14 important foreign countries than in our own country. About one-half of all infant deaths occur within six weeks of birth, due chiefly to the condition of the mother and the lack of proper care during pregnancy and confinement. Such deaths are not decreasing because mothers do not yet have the skilled care and advice they need. Such care must be made available through prenatal clinics, maternity hospitals, maternity care in the home, children's health centers, and a system of public-health nursing adequate to reach every mother and child. This neglect leads not only to thousands of preventable deaths but to lowered vitality and permanent ill health for thousands of women and infants who survive.

Miss Julia Lathrop, chief of the Children's Bureau, Department of Labor, Washington, D. C., states, quoting from the hearings of the Senate committee:

The bureau find that many other civilized countries exhibit more favorable records of maternal and infant deaths than does the United States as a whole. Rural isolation, civic neglect, low incomes, and ignorance are the chief causes and accompaniments of high infant mortality in the United States.

The statement of the well-known Jane Addams coincides with that of Miss Lathrop, and she adds:

I do not believe that the United States Congress will contend that we can not afford to give to the American mothers and children at least as good care as England is now giving to English mothers and children.

Dr. John Whitridge Williams, chief obstetrician, Johns Hopkins Hospital, Baltimore, Md., is illuminating as he discourses

on the subject of which he is an acknowledged authority. He declares that—

Forty-five per cent of all women dying in childbirth in this country succumb to infection, and 25 per cent die from toxemia or eclampsia.

He testifies that—

We are seventh in the list of countries of the world so far as mortality in childbearing is concerned. In other words, six other countries show much better results than ours.

The unimpeachable evidence of these experts and workers can be amplified a hundredfold and are strengthened by data impossible to contradict.

To this expert testimony it is important to note that the influential editor of *Good Housekeeping*, W. F. Bigelow, of New York City, has published the personal and official indorsement of practically the entire list of the governors of the United States. Their favorable responses make it a representative demand by the people.

The 34 State and national organizations named by Dr. Rude, together with many individual advocates, which swell the universal cry, endow this belated movement and this atoning measure with the sanctity of an oath.

Of course, no principle of our consecrated doctrine of local self-government should suffer. That it does not do so we are amply assured by the text of the act itself, which so guardedly speaks and specifies against any usurpation of the rights of the States. The words of its title are exacting when it provides expressly for a "method of cooperation between the Government of the United States and the several States." Any cooperation of the Federal and State Governments is obviously a mutual understanding and can not be violative of the constitutional prerogative of any constitutional principle.

The overwhelming demand and the self-evident necessity for the most adequate and efficient service leave no righteous ground for opposition to this most benevolent measure. It is bound to become the law, and it is certain to be cherished everywhere and for all times as most humane and Christian.

And the training of a child for responsible life, to be effective, must begin long before its birth. The fatherhood and motherhood of noble offspring should antedate the hallowed precincts of the altar. All the facts of character and blood should be known and should be invested with the righteousness of a birth guaranteed when the bonds are solemnized and sanctified by the pledged pledges of honor, that the deathless fidelity of devoted love shall sanctify a holy union.

I am no ethnologist, but the common experiences impress us with the important facts of our reproductive life. Every human life is justly due the right of a creditable parentage. Following the union which multiplies and replenishes the earth by divine sanction and command, the prenuptial and prenatal existence is by every consideration entitled to the most attentive and fostering care. The mother is imperatively a charge for studied and exacting regard, and, more than any object of human concern, should have unremitting affection and the most unselfish service of sacrifice and skill.

Throughout the whole period of peuri-culture, from conception and including the entire fetal life, until the infant child is clasped in the arms of its pain-stricken mother, it is menaced by peril; and in the twinkling of an eye the delicate embryo may follow the fate of millions who have never reached the light of day nor made the transit but to perish.

And the mother herself, tossed and racked upon her bed of incessant danger, by the merest accident or neglect, may hearken to the relief guard that waits by every such couch to convoy the emancipated spirit to its haven of eternal rest.

It is ours to watch these crucial interests and to conserve and mold as we may the plastic material of manhood and human destiny.

But the fiscal side of the subject is important and commanding. The cash required according to the terms of the act is to be a sum which by regular increases will finally reach an annual appropriation of \$4,000,000. The sum of \$10,000 for each of the 48 States, which aggregates a total of \$480,000, is the initial contribution of the Federal Government. If acceptable, it cooperates with the State authority for the benefit of the maternity and infancy emergencies of that State and to relieve its distressful conditions.

The United States authority appropriates the amount. The State, at its own option, accepts and applies and controls whatever sum is committed to it for the specific purposes of maternity and infancy relief within its own territory. It is conceived in the spirit and sense of bestowing a great benefaction, and under the best studied system of checks and balances devised for a circumspect and fair administration of a sacred trust, it is not likely to fail.

The necessity for such relief as this measure will provide is not local nor sectional. It is nation-wide and is an answer to

an appeal from the whole people. No limitation in any narrow or sordid respect has been entertained or suggested. The entire movement has been broad and catholic in spirit, and has been dominated by the sentiments of benevolence and generosity; and mercy and love fire the soul of its sympathies regardless of selfish or contemptible thought.

Mr. BARKLEY. Mr. Chairman, the gentleman from New York [Mr. COCKRAN] suggested that he would like a little time, and if he now desires, I will yield him 10 minutes.

Mr. COCKRAN. Mr. Chairman, I acknowledge gratefully the courtesy of the gentleman from Kentucky. I did not desire any time for myself, but I do think that it would not be fair if the position of the opponents of this measure were not defined before the conclusion of the day's debate. Everybody who has been granted time, with two exceptions, has spoken in favor of the bill. And every speech has betrayed radical misapprehension of the grounds on which many of us must oppose its enactment. Rather than let the debate close without some attempt to explain the attitude of its opponents I will, although entirely unprepared, endeavor to state it as my contribution to the discussion.

With the desire professed by all proponents of this bill I am in full accord. If this measure would do what these gentlemen claim for it, or half of it, or one-tenth of it, or any of it, I would be among its most enthusiastic advocates. My objection to it is that instead of being the most effective method of checking infant mortality it is likely to prove the least effective method. I do not think anybody who believes in this system of government can dispute the correctness of that position.

What is the essence of this government? Now, gentlemen, I hasten to assure you I am not going to set up any constitutional objection to the bill or to make any criticism of it based on merely abstract principles. When the late Thomas B. Reed was leader of the minority he once remarked that whenever anybody says a bill is unconstitutional that means that he does not like it. If this bill, constitutional or otherwise, possess one-half or any proportion of the merits claimed for it I would be the first to disregard constitutional subtleties and put it on the statute book. In fact I hold it to be our duty to pass measures that are clearly for the public benefit even though there should be grave doubt about their constitutionality. For there is no way to determine the constitutionality of any measure except by enacting it into law and then submitting it to the test of judicial decision.

The substantial objection to this measure is that it puts on the Federal Government a duty which under the theory of our Constitution belongs exclusively to the State. Not merely do I believe it belongs to the State by the letter of the Constitution but also by the highest interests of the people. I believe this duty should be left with the State because I believe it can best be performed by each locality. It is a commonplace to say that the Federal Government is organized to deal with matters affecting the States as such—the general welfare of them all—the relations of each State to all the others, and the protection of the whole Union from any form of external attack or danger, while the State is organized to regulate the relations of each person with all others constituting the population.

The individual life of each citizen is a matter that is to be affected so far as legislation may interfere with it by action of the State alone—that is to say, by the locality in which he dwells. This Government is built upon the principle that the locality is better qualified and better disposed to protect the citizen in the enjoyment of his essential rights and to serve him in all matters of social welfare than the Nation. If you transfer jurisdiction over matters affecting the intimate life of the individual from his own locality to the Nation at large, the result will be most dangerous to the security of this Republic. If the daily lives of persons in New York may be affected vitally by action, or by the opinions which lead to action, of persons in Oklahoma, and vital conditions of life in Idaho may be determined by people in New York, a form of tyranny must necessarily result which will be the worst ever known, the tyranny of masses who not merely are ignorant of the matters with which they are dealing but who can not possibly be informed of them. Nothing but confusion leading to disaster could follow such a subversion of our political system.

Mr. CHANDLER of New York. Will the gentleman yield?

Mr. COCKRAN. No; I have not the time. If the gentleman could give me more time I would yield to him gladly for a colloquy.

I want to place this aspect of the pending question before the committee with some degree of fullness in the very brief time at my disposal. The gentleman from Iowa who has concluded a very forcible argument in support of this measure it seems to me has made a most conclusive argument against it.



He said that New York City of itself and by itself has attained in the matter of checking infant mortality the standard of efficiency which it is hoped by this bill to establish in other parts of the country where no provisions whatever to deal with this grave danger had been made. Now, I submit to this committee that it must establish a most dangerous precedent if the Federal Government steps in and says to all communities that have neglected to establish necessary precautions against preventable mortality among mothers and babies that the Federal Government will take an important part of the task off their hands for no other reason than that they have refused to perform any part of it themselves. If there is any meaning in this legislation, it is that cooperation of the States with the National Government in taking these measures absolutely essential to the safety of the population is to be purchased hereafter by gifts of money from the Federal Treasury. If such a declaration be made by deliberate action of this Congress, and this bill becomes a law, then I say not merely will you have taken a step that must cause deep demoralization but you will have practically abolished this system of government and substituted for it another and a radically different system—that is the distinction between paternalism and democracy.

The essence of democracy is that when persons are left free to control their individual lives they will regulate their affairs wisely and in a manner to produce results for themselves and for the community vastly better than if they were subject to control from outside, whether that control be exercised by saints, by angels, or by paternalistic government. It is a sound principle of government that you can no more bring the elements of effective government into a locality from outside its limits than you can bring an effective vital organ into a man's system from outside his body. There is nothing vital in democracy except the belief that the people of every locality can do for themselves everything necessary to advance their welfare much better than any distant government, however well disposed, can do it for them. In this country we have had over a century and a quarter of experience which seems to vindicate that doctrine. It is the first time in all human experience that the capacity of a people to govern themselves better than any other force or body could govern them—that is to say, the vital principle of democracy—has been vindicated on the surface of the earth. And now, behold! we find its most triumphant vindication; the success—the marvelous, shining success—the city of New York in checking infant mortality made the excuse and the argument for discarding and overriding the system of allowing the locality to deal exclusively with a matter affecting it so vitally and substituting for it a totally different and irreconcilable system.

Mr. Chairman, I am not dealing with abstractions. If, I repeat, it could be shown that this system now proposed of mixed authority, of divided jurisdiction—this attempt to stimulate wholesome action in the States by bribes from the Federal Treasury—could afford better prospects of preserving child life and limiting the perils of pregnancy than the system of trusting the safety of mother and infant to wholesome action stimulated by the necessities and interests of society as they are conceived and understood by the people of each locality, I would be voting for it with a vengeance. But because I believe, with the gentleman from Vermont [Mr. GREENE], as he pointed out in his eloquent address yesterday, if this bill becomes law it will be the entering wedge to other legislation of similar character I am, with a vengeance, opposed to it. That the purpose of this measure and of its supporters is of the highest I have not the slightest doubt. But vicious proposals are most dangerous when supported by virtuous but misguided men. Paternalism, which is tyranny, never started in proposals which were deliberately vicious, and it was never established by bad men. It always came into the world commended to the approval of people by the virtue of an individual who advocated or embodied it or by the delusively attractive quality of some such proposal as this. Paternalism, or tyranny, could not have found a foothold if at the beginning it did not work well. But in time it always turned to evil, inevitably and irresistibly. It may be that this measure will work well for a while. And there lies the chief danger of it. Its success would inevitably open up the pathway to every kind of interference by the Federal Government in the most intimate and domestic affairs of the citizen.

If this sublime function of motherhood can be made the subject of national legislation in any way, what is there that can be considered beyond its scope? I do not object to any assumption of authority by the Federal Government which it can exercise better or even as well as the State government, but I think it must be self-evident that this great Federal Government, stretching over the entire country, by its very nature can not possibly deal with matters which concern a locality as effec-

tively as the State or a smaller body whose nature and dimensions enable it to enter with some degree of sympathy into the domestic details of every family.

By such an unwise and unwarranted exclusion of Federal authority, you are not merely perverting the character of your Government, but you are seriously endangering the security of every family in every State of the Union. The function of motherhood is God given. It has been exercised during all the centuries that have gone before with steadily expanding security. And in the fullness of time and of accumulated experience it has produced this glorious common people that has never been paralleled for virtue or intelligence upon the face of the earth.

Paternalism has been tried. It has governed the world almost universally until within the last few generations. Has it ever produced a nation like this? Democracy has this people for its fruitage, its crown, its glory, the triumphant vindication of its excellence. But democracy depends for its value, for its very life, upon the fiber, the capacity, the virtue, the merit of the individual.

If the individual can not be trusted to form the opinion of the locality he inhabits on wholesome lines, and thus lead it to effective action for protection of all men, women, and children, then democracy is a failure, and it must disappear from the earth which it encumbers. But all the experience of this country shows that the people, the masses—the sum of the individuals composing the population—are always sources of the most wholesome purposes and the most patriotic measures. And now with all these results of popular intelligence multiplying all around us, now that they are actually garnered into this democratic Government which blesses us with abundant prosperity and offers promise of unlimited improvement to all mankind, are we by reason of that very success, by reason of the fact that in our greatest city, the greatest city of all the world, the locality has shown supreme capacity to deal with such a grave problem as checking infant mortality, to overthrow the authority of that locality or at least to divide its authority with another power or government to deal with these matters? Are we through insidious bribery to effect a division of jurisdiction, when in the very nature of things jurisdiction to be effective must be single and must be in the people chiefly concerned in its exercise. [Applause.]

The CHAIRMAN. The time of the gentleman from New York has expired.

Mr. WINSLOW. Mr. Chairman, I yield 10 minutes to the gentleman from Wisconsin [Mr. J. M. NELSON].

Mr. J. M. NELSON. Mr. Chairman, I shall not undertake to reply to the torrent of eloquence of the gentleman from New York [Mr. COCKRAN], who has just spoken. If I had the ability, I have neither the time nor the inclination to repeat the arguments that we have listened to to-day so fully, arguments which clearly prove to my mind that Mr. COCKRAN's position is wrong. But I have strong feelings with reference to this bill; and I would feel that I had not done my duty if I did not contribute my voice to its passage, as well as my vote.

When I look at the purpose of this bill, I have to be for it. Its title says it is "to promote the welfare and the hygiene of maternity and infancy." Could there be a nobler purpose than to protect the lives and the health of the babies and the mothers of the land? Some scoff at the idea of legislation of this kind, and say that it is of no value, as the gentleman from Delaware [Mr. LAYTON]; but is that the fact? Are not life and health to be held above wealth?

Mr. LAYTON. What did I scoff at?

Mr. J. M. NELSON. The gentleman denounced it as unnecessary. He could see no good in it.

Mr. LAYTON. Is that scoffing?

Mr. J. M. NELSON. Perhaps the gentleman was not among the scoffers, but he certainly could see no value in it.

Mr. LAYTON. I do not even scoff at the idea of its being done in the States now.

Mr. J. M. NELSON. The gentleman from Delaware has had his time. I have only 10 minutes. When it comes to property interests, as has been pointed out, we are very lavish with our millions, spending them for the benefit of hogs and cotton and fruit trees and trade and commerce. But life, the life of the mothers and the babies, is human life not of equal value with things? I know that practical-minded man up to this moment has said that a law of this nature is unnecessary, socialistic, and a wasteful expense. But women, now come into their own, have sounded another note. That note comes from the vibrations of the human heart. It is the note of love, the mother pleading for her own life when she gives birth to a child and pleading for the life of her babes. Congress is at last going to listen to that voice and say by this legislation that human life

and health shall be held of equal value, to say the least, with that of animals; that babes and mothers shall be equal to hogs and horses and cattle in the eyes of the law.

The eloquent gentleman from New York [Mr. COCKRAN] drew a very dreadful picture of this bill's interference with the proper function of the Nation and the States. But he is arguing after the fact. I am on the Committee on Roads, and I know well the argument for national aid to good roads. National appropriations are made lavishly to promote good roads for purposes of markets and joy riding. These are the only purposes. We appropriate nearly \$100,000,000 for this year alone for building and repair of roads. We are asked to appropriate a little more than a million dollars for protection of mothers and children. As the Nation stimulates in one direction, we propose to stimulate in another, only this is a much more worthy, a much nobler purpose.

Had I the time I could show that it is the same principle so far as stimulating the States are concerned. And do not the States stimulate the counties and the cities? Is that wrong? Can not the Nation, when it finds a great purpose, also stimulate the States? I know the policy generally can be attacked on strong grounds, but if Congress can aid States to build roads Congress can aid States also to save the lives of mothers and children. If the principle is right as to property, it can not be wrong when applied to human life.

Now, another thing. Opponents of this measure refer to the wasteful expense. They are weighing expense against life and health. The idea is shocking. Let me give you, briefly, some figures. I am not going to burden you with them. Let me call your attention to Dr. Baker's testimony. She has served under nine administrations in New York City; has had over 10 years of practical experience in administering this kind of a law. She has computed figures for the Nation, for the States, and for her own city, gathered carefully. The figures given us today so fully by Judge TOWNER back her up. She believes that the organization set up in this bill will save annually the lives of 15,000 mothers and 100,000 babies. What does that mean for the 5-year period? Seventy-five thousand mothers and 500,000 babies saved.

The cost for that 5-year period would be a little more than \$7,000,000. For every \$1,000,000 we spend we will save 15,000 mothers and 100,000 babies. Stated more in detail, that means this: That every \$83 expended will save one mother and six babies. How are we going to vote on this question? Are you going to listen to this plea for dollars and cents? This plea to save \$83 and lose a mother and six babies? Which is the waste, the waste of this money or the waste of these lives? All a man has will he give for life, if it is his life or that of his wife or his child. This argument of the gentleman from Delaware [Mr. LAYTON] was made long ago. It is the old argument of the silversmith, Demetrius, who made shrines for the goddess Diana of Ephesus. When he found the Apostle Paul was preaching the gospel of love and denouncing idolatry, he called the associated craftsmen together and said, "Ye know that by this craft we have our wealth." So the gentleman from Delaware, Dr. LAYTON, calls the medical fraternity's opposition to our attention. He says that if we listen to the voice of the women we will have to reckon with the doctors. As others have said, I say, the doctors are no less public-spirited than any other profession, but the main objection to the enactment of this bill, nevertheless, has come from the medical fraternity.

Mr. LAYTON. What is your profession?

Mr. J. M. NELSON. Well, I am a lawyer.

Mr. LAYTON. Would you go to a blacksmith to attend to a case in court?

Mr. J. M. NELSON. I was going to follow the illustration further of the silversmith Demetrius and his coworkers against Paul's propaganda to save life, but for the sake of answering you—

Mr. LAYTON. You referred to the medical profession. Are we not better qualified—

Mr. J. M. NELSON. This bureau in charge of this law will get the best medical aid and information possible, will take the best medical advice, will gather the best skill that is available in this country and the world, and will take it to all localities.

Mr. LAYTON. They have not done so.

Mr. J. M. NELSON. They will do it.

Mr. LAYTON. But they have not done it.

Mr. J. M. NELSON. They are not going to neglect the doctors. On the contrary, I think you will find the doctors will be for this law enthusiastically when they see it in operation, because mothers will be advised when to consult the doctors, and when they have the funds they will help them get the

doctors and not neglect them as now. It seems to me, so far as a few are back of the opposition to this bill, they are consulting their selfish fears rather than the nobler impulses of their hearts. [Applause.]

Mr. Chairman, I ask unanimous consent to extend my remarks in the RECORD.

The CHAIRMAN. The time of the gentleman has expired. The gentleman asks unanimous consent to extend his remarks in the RECORD. Is there objection? [After a pause.] The Chair hears none.

Mr. BARKLEY. Mr. Chairman, I yield the remainder of my time to the gentleman from Virginia [Mr. DEAL].

The CHAIRMAN. The gentleman from Virginia [Mr. DEAL] is recognized for seven minutes.

Mr. DEAL. Mr. Chairman and gentlemen, it is not my purpose to consume your time with an expression of my thoughts, but in view of the many loose statements that have been made concerning this subject outside of the Congress, and some statements that have been made upon this floor, I desire to present for your consideration some statistics submitted by the Bureau of Census of the Department of Commerce, which I believe have not been quoted so far in the discussion.

It has been stated that the mortality rate among children of this country has been very high, ranking, I believe, among the nations of which we have record, 17. I find on page 31 statistics comprising 28 nations of the world which have been gathered and compiled. Among these nations we find the lowest mortality rate in New Zealand. I believe they only comprise statistics of the white race and not of the aborigines.

Mr. LAYTON. What year is that for?

Mr. DEAL. That is for the year 1919, the last the Government has submitted. In Australia the same condition obtains. The Netherlands, however, seem to rank second, the mortality rate of New Zealand being 56.6 in 1,000; the Netherlands, 57 in 1,000. It comes second. Norway comes third, with 64; Australia fourth, with 69.2; Sweden fifth, with 75.

Mr. LAYTON. As to Australia, does that include the aborigines?

Mr. DEAL. That does not include the aborigines.

In the United States we find 86.6, which appears from these records to rank as sixth, and not seventeenth, among the nations in the mortality rate among children.

Now, among the nations that have had maternity laws for many years, notably Germany, Austria, and Hungary, we find that the mortality rate in Germany for the year 1914, the last that was available, to have been 158 in 1,000, as compared with 86.6 in America, with no maternity benefits. We find that Austria had 189, as against 86.6; Hungary, 263, more than four to one, and these nations were the first to enact benefit laws primarily, we assume, for the purpose of building up their population as a defensive measure. Even England, which may be compared more nearly with our own country, and which has had maternity laws in existence for a number of years, had a death rate in the year 1918 of 97 as against 86.6, and France 112.2. This would indicate that, without maternity benefit laws in this country, we rank among the first in the lower rate of mortality, and if we take into consideration our colored population, as compared with New Zealand and Australia, it is fair to assume that we would rank very close, if not quite, with those countries. [Applause.]

Now, on page 7, we find—

Mr. LAYTON. Will the gentleman excuse me a moment?

Mr. DEAL. Yes.

Mr. LAYTON. You are reading from real statistics?

Mr. DEAL. I am reading the statistics of the United States Census Bureau.

Mr. LAYTON. Gathered by the Federal Government?

Mr. DEAL. Gathered by the Federal Government.

Mr. LAYTON. And not statistics that are placed before the committee hearings by irresponsible people?

Mr. DEAL. Not statistics that are placed before the committee by irresponsible people.

Mr. LONDON. The gentleman—

Mr. DEAL. Pardon me; I would be glad to yield, but I will ask the gentleman to excuse me.

Now I have endeavored to obtain the United States Census Bureau statistics as to the mortality rates among mothers in foreign countries. This I have been unable to do. There seemed to be no statistics available; certainly not in the United States Census Bureau.

By the way, in the hearings before the House committee we find a chart in which the United States is placed as the highest in maternity death rate of any country probably in the world. They have given the names here, but they have not named all



the countries. It appears, however, to be the highest of any country. I can not say as to the accuracy of that statement, but I do want to say that of the 24 States and the District of Columbia in which births were registered in the year 1919, there were 1,373,438 births recorded. It is fair to presume that many births were not recorded because of the newness of the laws and the fact that the people were not in the habit of registering; and then, too, in the rural districts there were many instances in which physicians were not called, and it is fair to assume that many births were not registered.

The CHAIRMAN. The time of the gentleman from Virginia has expired.

Mr. DEAL. Will the gentleman from Massachusetts yield me one minute?

Mr. WINSLOW. I haven't it, I am sorry to say.

Mr. DEAL. The point I wished to make was that the maternal deaths for 1919, being 17,800 and assuming a mother for each birth, the death rate was 1.29 per cent, instead of 7.4 per cent as stated in testimony before the committee, thus placing the United States among the very lowest in mortality rate, both in maternal and infancy; hence there is no necessity for S. 1039.

The CHAIRMAN. The time of the gentleman from Virginia has expired.

Mr. WINSLOW. Mr. Chairman, may I inquire if the time of the gentleman from Kentucky [Mr. BARKLEY] has been exhausted?

The CHAIRMAN. It has been fully exhausted.

Mr. WINSLOW. I yield 20 minutes to the gentleman from Illinois [Mr. DENISON].

The CHAIRMAN. The gentleman from Illinois is recognized for 20 minutes.

Mr. CLOUSE. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. CLOUSE. Does that exhaust all the time for debate?

The CHAIRMAN. It does not. It leaves two minutes.

Mr. CLOUSE. At this time I ask unanimous consent to extend my remarks in the Record on the bill under consideration.

The CHAIRMAN. The gentleman from Tennessee asks unanimous consent to extend his remarks in the Record. Is there objection?

There was no objection.

Mr. DENISON. Mr. Chairman and gentlemen, I do not know what the purpose was of those who were first responsible for the beginning of this legislation, but those who have stated here that the purpose of the bill now under consideration is to take from the States the activities which they are now engaged in with reference to infancy and maternity welfare and to undertake them by the Federal Government are looking at the question through a distorted mind, or at least through a distorted vision. I think I can speak for the committee who have reported the bill, at least to this extent, when I say that the purpose of this bill is not to launch the Federal Government itself into promoting better conditions connected with maternity and infancy, but rather the purpose is for the Federal Government to do what it can do in this small way to encourage or stimulate the State governments or the local governments to do it.

Now, if this bill would launch the Federal Government into this activity I would not approve it or support it. But I do not think it is intended to do that, and I do not think it will have that effect or that result.

The fundamental question which the bill presents to the House to decide is whether or not the Congress should approve the purpose of the bill. If we approve the purpose of the bill I do not think the provisions of the bill could be improved upon in order to carry out that purpose. I think all of us must have had brought to our attention the fact that the tax burdens of the people for the maintenance of charitable and penal and reformatory institutions have been increasing tremendously; increasing, in fact, out of proportion to the increase in population. Those who have studied this subject claim that if conditions surrounding life at its source can be corrected and improved, if the sanitary and hygienic and economic and social conditions can be made better for the homes of the country when those who are to be the future citizens first come into life, we will make better citizens of the children; if this can be done, and if we can make better and healthier children, we will have better citizens.

It is upon this theory that the proponents of this bill have urged its enactment into legislation. I do not know whether this can be done or not, but that is the theory of it, and it is claimed by a great many good people who have studied the subject that it will have a tendency in that direction; and in view of the fact that there are so many in the country who

think this, and who have urged legislation along this line, the committee thought that we were justified in going this far for the time provided in the bill in order to do what the Federal Government can do to accomplish what ought to appeal to all of us as a worthy purpose.

Now, at the risk of being tedious, but in order that the viewpoint of your committee may be fully understood by the Members of the House, I want to say just a few words with reference to the legislative history of this bill. The bill was first filed with us on June 29, 1918, bearing Miss Rankin's name and the number 12634. It was sent to the Committee on Labor, where it rested quietly until the close of the Sixty-fifth Congress. In the early hours of the Sixty-sixth Congress—in December, 1919—the bill was again brought before Congress by our distinguished colleague, the gentleman from Iowa [Mr. TOWNER], and the junior Senator from Texas [Mr. SHEPPARD], and the bill was christened "the Sheppard-Towner bill."

It was thereupon sent to the Committee on Interstate and Foreign Commerce of the House, where it slept.

In the Senate it was, on October 20, 1919, sent to the Committee on Public Health and Quarantine, where, if there is anything at all in the name of the committee, it ought to have remained longer than it did. But, on the contrary, that committee on June 2, 1920, reported it back to the Senate as S. 3259. It passed the Senate December 16, 1920, was sent over to the House, and sent to the Committee on Interstate and Foreign Commerce on December 20, 1920. That committee gave it some treatment and returned it to the House with a favorable recommendation on January 28, 1921. No action was taken in the House before the 4th of March, and thus ended the second Congress after the baby bill first made its appearance in the world.

Early in April of this year the Sixty-seventh Congress was convened in extraordinary session. On April 12 the President addressed the joint session of the House and Senate on the state of the Union.

Here let me pause to state that immediately after this bill was born there began a propaganda for it that was Nation-wide. The Hearst publications espoused and proclaimed it. The governors of every State were appealed to and many responded favorably. Magazines and newspapers were subsidized. Eminent paid publicists wrote lurid arguments in its favor. Women's clubs, the churches, religious organizations, women's patriotic organizations, and others were appealed to. The woman's suffrage organizations, having accomplished their purpose of amending the Constitution, were still organized, had plenty of money, were all dressed up with nothing to do and no place to go. They clasped this baby bill to their bosoms and rushed on to Washington. The militants among them established headquarters here in the shadow of the Capitol and have remained on the job. The Members' offices have been literally filled and refilled with letters, telegrams, petitions, and publications in favor of this bill.

I venture the assertion that there has been enough money expended for telegrams, letters, postage, publicity, lectures, speakers, lobbyists, and every other conceivable kind of propaganda for the passage of this measure to pay the bills for a doctor and nurse for every baby born in the United States in the past 12 months.

Efforts were made to get favorable declarations for it in the national platforms of both great political parties. And finally Mr. Harding during his campaign for the Presidency was caught in the general round-up, roped, and branded as an advocate of this bill by a public declaration in its favor.

And so, Mr. Chairman, when the President on April 12 addressed the Sixty-seventh Congress on the state of the Union he thought it advisable to officially commend to us the baby bill. He did so in the following words:

In the realms of education, public health, sanitation, conditions of workers in industry, child welfare, proper amusement, and recreation, the elimination of social vice, and many other subjects, the Government has already undertaken a considerable range of activities. I assume the maternity bill, already strongly approved, will be enacted promptly, thus adding to our manifestation of human interest.

On the 11th of April last this bill was again filed by Messrs. SHEPPARD and TOWNER. At this end of the Capitol as H. R. 2366 it was sent to the Committee on Interstate and Foreign Commerce. In the Senate, as S. 1039, it was sent to the Committee on Education and Labor and by that committee reported back to the Senate on May 20. Later it was considered by the Senate, passed on July 22, sent over to the House on July 25, and referred to the Committee on Interstate and Foreign Commerce.

So, Mr. Chairman, this bill has been before three different Congresses. It has been considered by two different Senate committees and favorably reported three times. It has passed the Senate twice. It had been considered by two different com-

mittees of the House and favorably reported twice. This, in brief, was the history of the bill when it was referred to your Committee on Interstate and Foreign Commerce the third time early in the present session.

During all the time that the bill has been before Congress the Members, and particularly the members of the committee to which it was referred, have, as I have stated, been propagandized in every conceivable manner from all parts of the country by those who were interested in its passage. And there seemed to be no serious opposition to it. But since the present Congress convened serious opposition has arisen and increased and organized, and the members of the committee have been strenuously besieged by both those for and against the bill.

Right recently the physicians of the country seemed to have discovered that such a bill was pending and becoming alarmed apparently at the provisions of the bill as it was introduced have been actively indicating their opposition to it. The committee held further hearings so that all who were interested either for or against the bill might have an opportunity to present their views. We have given the bill the most thorough and careful consideration. More consideration and time in fact than its importance would seem to justify. For this the committee has been criticized by some, and unjustly, I think. In view of the wide interest manifested both for and against the bill, the committee thought that it should be seriously and carefully considered.

So we have subjected it to the most thorough scrutiny. We have with patience searched all its provisions for the virtues which its friends claim for it and for the dangers which its enemies attributed to it. We have analyzed it, turned it over and over again, X-rayed it, and cross-examined both those who advocated and opposed it. We have stripped it of all its provisions which the committee thought might conceal any of the dangerous purposes which those who are opposed to it profess to see in it, and have rewritten in as brief and plain terms as could be found those provisions which the committee thought embodied the virtues which its friends claimed for it.

The result has been that the committee struck out all of the Senate bill after the enacting clause and now presents to the Senate an amended bill which all of the committee were willing to report and which a majority of the committee at least feel is entitled to your approval.

The friends of this measure claim that the mortality of mothers and infants at or about the time of childbirth exceeds by far that of any other of the civilized countries. Statisticians and others who have given great study to this subject appeared before the committee and gave substantial evidence in proof of that claim. The purpose of the bill, as stated by its friends, is to stimulate and encourage greater interest and more efficient efforts on the part of the State and local governments in maternity and child welfare and hygiene, by means of Federal legislation and appropriations. It must be admitted that there are some of the States who are already doing splendid work along this line and, therefore, need no stimulation or encouragement from the Federal Government. On the other hand, it must also be admitted that there are many of the States in which very little, if anything, is being done in an intelligent or efficient way to reduce or minimize the rate of mortality among mothers and infants at the most critical time of life. If Congress can, by appropriate legislation, be the means of stimulating and encouraging a greater interest on the part of the local and State governments in more intelligent efforts in behalf of maternity and infant welfare and hygiene, it has seemed to the committee that we would be fully justified in enacting such legislation.

In theory I am opposed to the Federal Government undertaking any activity which can as well or better be undertaken by State or local governments, and I should be absolutely opposed to this bill if it involved any undertaking on the part of the Federal Government to itself enter into the activity which this bill purports to encourage.

The bill as originally introduced would commit the Federal Government to active participation in maternity and child-welfare work, but those provisions of the bill have been eliminated and the bill as amended and now before the House does no more than its friends claim is its real purpose; that is, it undertakes by means of an appropriation from the Federal Treasury, appropriately distributed among the different States, to stimulate and encourage the States themselves to appropriate like amounts and intelligently undertake increased activity for the welfare and hygiene of mothers and children.

The bill, of course, makes no appropriations whatever. It authorizes by law certain appropriations and leaves it to the judgment of the Committee on Appropriations and the Congress whether or not the appropriation authorized by it shall

hereafter be made. It authorizes the appropriation of \$480,000 for the first year and \$240,000 for the next succeeding five years, which will be \$10,000 for the first year and \$5,000 for the next succeeding five years to each of the 48 States. These amounts are gratuities to the States to encourage them to organize appropriate agencies for carrying out the purposes of the act.

It also authorizes the appropriation of \$1,000,000 for the first year and \$1,000,000 for a period of five years thereafter, to be divided among the States in proportion to their population, no State, however, to receive less than \$5,000, and this appropriation must be matched by at least an equal appropriation by the different States.

So that if this bill is approved and becomes a law, and if the Appropriations Committee shall be willing each year to recommend and if the Congress shall be willing to approve the appropriations authorized by the bill, there will have been paid from the Federal Treasury to the different States as a gratuity the total sum of \$1,680,000, or \$35,000 to each of the 48 States. And there shall have been further appropriated for distribution among the different States in proportion to their population the further sum of \$6,000,000, which must be matched by at least an equal amount by the several States. This amount is not enough, in my judgment, to accomplish very much. But in view of the existing condition of the Federal Treasury, it was thought by the committee a larger authorization would not be justified and that the amount authorized would be sufficient to prove or disprove the policy and test the wisdom of the legislation.

Now, several of the Members who have spoken on this bill have tiraded—if I may use that term—against the attempt here to establish a new precedent, to start on a new policy. Well, in view of the past legislation of Congress that claim seems to me to be a joke. I am going to call attention to what Congress has done.

There are a number of precedents for such legislation by Congress. We have repeatedly appropriated funds from the National Treasury to stimulate and encourage the States to enter upon activities which in the judgment of Congress would result in material benefits to the people of the country.

For instance, by the act of March 1, 1911, Congress appropriated the sum of \$200,000 to enable the Secretary of Agriculture to cooperate with any State or group of States in the protection from fire of the forested watersheds of navigable streams. Under that act the Secretary of Agriculture was authorized to cooperate with any State or group of States in the organization and maintenance of a system of fire protection on any private or State forest lands within such State or States situated upon the watershed of a navigable stream, with the further express provision that the amount expended for that purpose in any State should not exceed in any fiscal year the amount appropriated by that State for the same purpose.

That is the first act. There is where we established the precedent.

By the act of March 4, 1911, Congress authorized the Secretary of the Navy to furnish a suitable naval vessel with her apparel, charts, books, and instruments of navigation to any school or college of the different States for the purpose of promoting nautical education, upon the condition that there should be maintained in such schools courses of instruction in navigation, steamship marine engineering, and all matters pertaining to the construction, equipment, and sailing of vessels. That act authorized the annual appropriation from the Federal Treasury of an amount equal to the amount annually appropriated by the different States or municipalities for the purpose of maintaining such marine school or schools or nautical branches thereof.

That was the second act of Congress providing for Federal encouragement along that line by matching an equal appropriation by the States.

Mr. BUTLER. Is the gentleman sure that he states that correctly?

Mr. DENISON. I am sure of it. I have the act right here, and I shall be glad to have my friend verify it. The third act, that of March 4, 1913, making appropriations for the Department of Agriculture, appropriated \$400,000 for the construction and maintenance of roads, trails, bridges, and other improvements in the national forests, and authorized the Secretary of Agriculture whenever practicable to secure the cooperation or aid of the proper State or Territorial authorities by similar appropriations for the furtherance of any system of highways of which such forest roads and trails might be made a part.

Mr. CROWTHER. Did we not appropriate \$15,000,000 the other day for the same purpose?

Mr. DENISON. I am giving the various acts in the order in which they were passed.



Mr. CROWTHER. Seventeen million dollars of the \$75,000,000 was specifically for that purpose.

Mr. DENISON. By the act of May 8, 1914, the Sixty-third Congress provided by law for cooperation with the different States in cooperative agricultural extension work, which consists in the giving of instruction and practical demonstrations in agriculture and home economics and imparting to the people information on such subjects through field demonstrations, publications, and otherwise. That act contained provisions almost identical with the provisions of the bill now under consideration and appropriated permanently the sum of \$480,000 per year, \$10,000 of which should be paid to each of the 48 States.

The act appropriated an additional amount of \$600,000 for the first year and for each year thereafter for seven years a sum exceeding by \$500,000 the sum appropriated for each preceding year, and for each year after the expiration of the seven years it permanently appropriated for each year the sum of \$4,100,000 in addition to the \$480,000.

I wish gentlemen who have discovered a mare's nest in this act would follow these various acts of Congress in which we have made provisions almost identical with those of the act now under consideration.

Mr. LAYTON. In other words, a list of other mare's nests.

Mr. DENISON. And I think the gentleman from Delaware has voted for every one of them, with one or two possible exceptions.

And it was provided by that act that the additional appropriations of \$4,100,000 a year should be apportioned among the different States in the proportion which the rural population of each State bears to the total rural population of all the States and was conditioned upon the appropriation of an equal amount by the legislatures of the several States.

By the act of July 11, 1916, Congress provided for the cooperation of the Federal Government with the States in the construction of rural post roads. That act appropriated \$5,000,000 for the fiscal year ending June 30, 1917; \$10,000,000 for the year ending June 30, 1918; \$15,000,000 for the fiscal year ending June 30, 1919; \$20,000,000 for the fiscal year ending June 30, 1920; and \$25,000,000 for the fiscal year ending June 30, 1921, or a total of \$75,000,000. The act further provided, you will remember, for the method of apportioning the annual appropriation among the different States that desired to avail themselves of the benefits of the act and provided that the money could not be expended in any State except upon condition of an expenditure of an equal amount by the State or local highway authorities.

The act of July 11, 1916, further appropriated the sum of \$1,000,000 per year for a period of 10 years, or a total of \$10,000,000 for the survey, construction, and maintenance of roads or trails wholly or partly within the national forests, subject to the provision that the State, Territory, or county within or adjacent to which the national forests were located should enter into cooperative agreements with the Secretary of Agriculture for the survey, construction, and maintenance of such roads or trails upon a basis equitable to both the State, Territory, or county and the United States.

By the act of February 23, 1917, Congress provided for cooperation with the States in the promotion of vocational education in agriculture and the trades and industries and in the preparation of teachers of vocational subjects. Section 2 of that act provided for cooperating with the States in the payment of salaries of teachers or directors of agricultural subjects, and for that purpose appropriated \$500,000 for the first fiscal year, and an amount for each succeeding year equal to \$250,000 in excess of the amount appropriated for the preceding year up until 1925, for which year the sum of \$2,500,000 is appropriated, and thereafter the sum of \$3,000,000 was appropriated annually for such purposes.

Section 3 of the act provided for cooperating with the States in the payment of salaries of teachers of trade, home economics, and industrial subjects, and provided for similar appropriations for that purpose.

Section 4 provided for cooperating with the States in preparing teachers, supervisors, and directors of agricultural subjects and teachers of trade and industrial and home economics subjects, and appropriated \$500,000 for that purpose for the first year, \$700,000 for the second year, and \$900,000 for the third year, and \$1,000,000 annually thereafter. These appropriations were all conditioned upon appropriations of like amounts for the same purposes by the legislatures of the different States.

By the act of March 1, 1917, known as the flood-control act, Congress authorized the appropriation of \$45,000,000, not more than \$10,000,000 of which was to be expended during any one fiscal year, for controlling the floods of the Mississippi River, and also authorized the appropriation of \$5,600,000, not more

than \$1,000,000 of which should be expended during any one fiscal year for controlling the floods, removing the debris, and continuing the improvement of the Sacramento River. That act provided that no part of the money appropriated under its authority should be expended in the construction or repair of any levee except upon the condition that local interests protected by such levees should contribute for the construction and repair of the levees, a sum which the Mississippi River Commission should determine to be just and equitable, but which should not be less than one-half of such sum as might be allotted by the commission for such work. In other words, by that act Congress authorized the expenditure of the amount appropriated for the prevention of floods and the protection of the people living along those rivers upon the condition that local interests protected by the levees should pay two-thirds and the Government one-third of the cost of such work.

By the act of July 9, 1918, Congress appropriated the sum of \$1,400,000 annually for two fiscal years, \$1,000,000 of which was to be paid to the different States for the use of their respective boards or departments of public health in the prevention, control, and treatment of venereal diseases. The act provided that the sum should be allotted to each State in proportion that its population bears to the population of the continental United States, and that such allotments were to be conditioned upon the appropriation of an equal amount by the respective States for the prevention, control, and treatment of venereal diseases.

And by the act of June 2, 1920, Congress provided for cooperation of the different States in the promotion of vocational rehabilitation of persons disabled in civil industries. That act you will remember provided for the promotion of vocational rehabilitation of persons disabled in industry or in any legitimate occupation and their return to civil employment, and appropriated for the use of the States, subject to the provisions of the act, the sum of \$700,000 for the fiscal year ending June 30, 1921, and the sum of \$1,034,000 for the fiscal year ending June 30, 1922, and the sum of \$1,034,000 annually thereafter for a period of two years. These sums are to be allotted to the States in the proportion which their population bears to the total population of the continental United States. That act also contained many provisions similar to those of the bill now under consideration, and provided that all moneys authorized by its provisions should be expended only upon the condition that for every dollar of Federal money expended there should also be expended in the State under the supervision and control of the State board of vocational rehabilitation at least an equal amount for the same purpose.

Finally, by the recent act of November 9, 1921, we appropriated \$90,000,000 out of the National Treasury for the construction of hard roads on condition that the several States expend at least an equal amount for that purpose.

These acts to which I have referred with some detail at the risk of becoming tedious show that Congress has at least to some extent adopted and committed the Federal Government to the policy of cooperating with the different States in the promotion of various activities which in the judgment of Congress would result in promotion of the public welfare.

Therefore, I feel justified in asserting that in reporting this bill to the House with a favorable recommendation the Committee on Interstate and Foreign Commerce is not recommending Congress to enter upon any new policy or to depart from those standards which have guided its deliberations and guarded its actions heretofore.

We may not have acted wisely in appropriating funds from the Federal Treasury for cooperation with the States in the protection of the watersheds of navigable rivers, in the promotion of nautical education, in the construction of roads in the national forests, in the promotion of agricultural extension work, in the construction of hard roads, in the promotion of vocational education, in the prevention of venereal diseases, in the protection of the citizens of the Mississippi and Sacramento Valleys from the annual floods of those rivers, and in the rehabilitation of persons disabled in civil industry.

I sometimes doubt whether such appropriations should have been made at all. I have quite often believed that we have pursued the policy further than we should. But whether wise or otherwise, we are committed to this policy of Federal cooperation with the States in commendable welfare work. I can see no logical reason why we should now reverse ourselves, abandon this policy, and refuse to pass this bill which provides only in a very modest way and for a very short time for Federal cooperation with the States in the promotion of maternal and infant welfare and hygiene.

I do not think there is any of us, and certainly there is none of your committee, who does not approve and commend the

purpose sought to be accomplished by this bill. The care and welfare and hygiene of the mothers of the country at and near the natal period of life and the care and welfare and hygiene of the infants during the prenatal and postnatal periods are too intimately related to a better society and improved citizenship and the future of the Republic to justify us in failing to do everything in our power to promote and protect them.

The committee has considered carefully every objection that has been urged to the bill, and has endeavored to eliminate every provision that seemed to justify serious criticism.

For instance, some have opposed the bill because it is said it would authorize representatives of the Children's Bureau and of the State agencies to enter homes and assume some sort of control over the children, whether agreeable to the parents or not. We have expressly provided against that by prohibiting such acts in section 9, which is as follows:

SEC. 9. No official, agent, or representative of the Children's Bureau shall by virtue of this act have any right to enter any home over the objection of the owner thereof, or to take charge of any child over the objection of the parents, or either of them, or of the person standing in loco parentis or having custody of such child.

Many physicians and medical societies have condemned the bill because it would authorize or permit undue influence or dictation by Government agents with reference to methods of treatment or correction or the person or class of persons who should be called to administer treatment to mothers or infants. We have expressly provided against that by this language in the bill:

Nothing in this act shall be construed as limiting the power of a parent or guardian or person standing in loco parentis to determine what treatment or correction shall be provided for a child or the agency or agencies to be employed for such purpose.

Objection has been urged to the bill on the ground that the welfare and hygiene of mothers and infants are medical questions which ought not to be under the supervision of any other than physicians. The original bill and the Senate bill were certainly open to this objection. But we have rewritten the bill and provided in section 3 and other sections that the most vital and important duties to be performed in connection with the administration of the law shall be under the control of a board composed of the Surgeon General of the United States Public Health Service, the United States Commissioner of Education, and the Chief of the Children's Bureau. All plans of the different States for carrying out the provisions of the act must be approved by this board before the Federal funds can be paid to such States, and the board may stop the payment of further Federal funds whenever it is found that funds theretofore allotted to any State have not been properly expended. As the work will be largely educational and advisory, we thought no better board could be provided than the Surgeon General, the Commissioner of Education, and the Chief of the Children's Bureau.

The most serious opposition to the bill has come from those who are opposed to the so-called maternity benefit or pension systems of other countries, and they fear this bill amounts to the beginning of such a policy on the part of our Government. To be entirely frank, Mr. Chairman, I think the original bill, as well as the bill passed by the Senate, is open to such criticism. And I have no doubt at all that many who believe in maternity-benefit legislation have been urging the enactment of this legislation believing it would soon lead to a governmental approval of such a policy. There are a number of countries in Europe in which these so-called maternal-benefits systems and mothers' pension systems have been enacted into law. This is especially so in Russia. Under these systems mothers are paid money benefits or pensions or other valuable gratuities by the Government for a certain length of time before and after childbirth. The theory is that such a policy helps the poor who are not able to help themselves, it relieves the mothers from having to work and the fathers from having to quit work during the prenatal and postnatal periods, and makes the wives independent of the care and attention of their husbands.

Of course, the logical sequence to such a system is for the Government to take over the care and education of the child entirely so as to relieve the parents of all responsibility for the welfare of the child. That is practically the case in soviet Russia to-day, where mothers are pensioned and government hospitals have been established for the care and maintenance of the children. The mothers and fathers are thereby left free to work or attend to politics or otherwise serve the State, and the State raises the children.

That, of course, is pure socialism, and many of the socialists and communists and parlor bolsheviks of this country want to see such a system put into effect here. Their support of this bill has tainted it and poisoned the minds of many good people against it, and properly so, until the very commendable purpose

of the bill has been dimmed if not entirely submerged from the vision of many who would otherwise support it.

But the committee has neither been blind to the purpose of those who believe in such an unwise and wholly un-American policy nor frightened by it into a failure to respond to the wish of the hundreds of thousands of good men and women who believe this legislation will accomplish much for the present welfare of our people and the future welfare of our country. We have expressly guarded against the possibility of any part of the funds appropriated not only by Congress but by the States being used for the encouragement of maternity benefits by inserting the following language in section 12:

SEC. 12. No portion of any moneys apportioned under this act for the benefit of the States shall be applied, directly or indirectly, to the purchase, erection, preservation, or repair of any building or buildings or equipment, or for the purchase or rental of any buildings or lands, nor shall any such moneys or moneys required to be appropriated by any State for the purposes and in accordance with the provisions of this act be used for the payment of any maternity or infancy pension, stipend, or gratuity.

Mr. Chairman, this bill has been so amended that it leaves to the Children's Bureau no duties except those of making studies and investigations, disseminating information, and merely administering the act. The States are left entirely free to carry out the purposes of the act through their departments of health, subject to the wise condition that their general plans shall be subject to the approval of the Children's Bureau and the board of maternal and infant hygiene. No State may receive the larger benefits of the act except upon making and expending an equal appropriation from its own funds. And the appropriations can not continue longer than five years from the close of the current fiscal year except by another act of Congress. If the bill is fairly and honestly administered, it ought to accomplish some good. If it is dishonestly administered, if any of these parlor bolsheviks or boisterous birth controllers or voluntary parenthood priestesses are appointed by the Children's Bureau to administer the act, it will accomplish nothing good. If that should unhappily be done, it will soon be discovered, no doubt, and there would soon be remedial legislation which would relieve the bureau of further administration of the act.

I believe the act will be honestly and efficiently administered by the Children's Bureau, and I hope it may accomplish all its friends claim it will accomplish. [Applause.]

Mr. WINSLOW. Mr. Chairman, I yield to the gentleman from Minnesota [Mr. SCHALL].

The CHAIRMAN. The gentleman from Minnesota [Mr. SCHALL] is recognized. [Applause.]

Mr. SCHALL. Mr. Chairman, sinister, self-seeking politicians and their newspaper tools some time ago facetiously attempted to criticize me for using my frank to congratulate a mother upon the birth of a new little citizen. A mother's trial and sacrifice have always seemed to me the performance of a high patriotic duty, one to be noted and given honor, as of a soldier who has fought and won a good fight. I am glad to have the opportunity to vote for a measure that appropriates money to aid in the care of prospective mothers and shows interest and a desire to foster sturdier and stronger infants.

Under the provisions of this bill, as corrected and amended by the House committee, \$10,000 is appropriated to each State, the State to raise an equal amount in order to enjoy the benefits of this act, to stimulate, encourage, and aid the several States in promoting the welfare of maternity and infancy. The work is to be under the Children's Bureau, cooperating with the State departments of child welfare and child hygiene, or, if none such has been established, whatever agency the State shall elect to create, so that there shall be no possibility of a bureaucracy centered at Washington, with high-handed authority to go into the States and dictate how their health departments should be run, to go into the homes and arbitrarily usurp prerogatives of personal liberty. All those objectionable features which made many feel that the bill as it passed the Senate struck at a vital principle, the principle of personal liberty, have been eliminated. The States can each submit plans of their own to the board, who pass upon and decide if they are acceptable.

The decision is not, as formerly contemplated, left to the judgment of one, and that one the Chief of the Children's Bureau. Each State is free to provide in its own way for its agency.

Some have objected that this measure is socialistic. Whenever Government attempts to care for the welfare of the people, the same old objection is offered, though one of the constitutional purposes of government is to care for the general welfare of the people. There can be no higher care, looking to the future of this country, than to look to the care and education of the mothers who are to bear the citizens who in time will be that State; to care for the little babies, who hold



in their tiny helpless hands the molding of the future. The child is the community, the child is the State, the child is the country. His welfare is of the highest import. That this bill is needed the tremendous interest it has stirred up will testify.

New York has been carrying on the work contemplated by this bill for years. The records have been kept.

It is shown that the percentage of deaths of children under 1 year had been decreased one-half in the 13 years of its operation. Many of the deaths of infants under 1 year could be prevented by proper prenatal care and by education, information, and advice on cleanliness, hygiene, and sanitation, furnished both before and after the birth of the child. Not only infant mortality but maternal mortality can be and is lessened.

There is no thought of arbitrary interference in this bill—indeed such is specifically prohibited. The idea is to aid, not control, and unless the aid and education is desired and solicited it will not be proffered.

I have always been in favor of the conservation of our natural resources. I have voted for the eradication of hog cholera, diseases of horses and cattle, for the elimination of plant diseases, for the education of the farmer and his wife in caring for the products of the farm. I have voted for large appropriations for good roads, and, Mr. Chairman, if it has been right to appropriate the Government money for the promotion and protection of property, certainly, in the interest of mankind, against the protection of the mother and baby no argument can be successfully maintained. If hogs, cattle, wheat, and cotton can be appropriated for without criticism, surely babies and mothers can be, without apology. [Applause.]

Mr. WINSLOW. Mr. Chairman, I move that the committee do now rise.

The motion was agreed to.

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. HUSTED, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill S. 1039 and had come to no resolution thereon.

#### ENROLLED BILL SIGNED.

Mr. RICKETTS, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bill of the following title, when the Speaker signed the same:

H. R. 7294. An act supplemental to the national prohibition act.

#### FILING OF CONFERENCE REPORT ON TAX BILL.

Mr. WALSH took the chair as Speaker pro tempore.

Mr. FORDNEY. Mr. Speaker, I ask unanimous consent that the conferees may have until 12 o'clock to-morrow night to file a conference report on the agreements to the tax bill. I ask it for this reason: We want to have printed in the Record the report of the committee so that on Monday morning the Members of the House may have this report before them. It has been arranged with the Public Printer that the Record of to-day will not be printed until that report is filed.

The SPEAKER pro tempore. The gentleman from Michigan asks unanimous consent that the conferees may have until 12 o'clock midnight to-morrow to file their report and statements on the tax bill. Is there objection?

Mr. GARNER. Mr. Speaker, reserving the right to object, if I understand, the gentleman is asking unanimous consent to delay the printing of the Record for the purpose of facilitating the adjournment of Congress on the 23d?

Mr. FORDNEY. Yes.

Mr. GARNER. May I say that the only object the minority has in the matter, outside of the desire to accommodate the Congress as far as we can and as far as I am individually concerned, is that the Record may contain the report and statement on Monday morning, so that Members may have it on their desk and look into it and see the changes and agreements that have been made. While I am on my feet, may I ask the gentleman if he expects to have a reasonable amount of debate on the conference report?

Mr. FORDNEY. Yes. And permit me to say that the purpose of that unanimous consent is that it will make it possible to take up the report in the House and agree to it on Monday, so that we can have an adjournment of Congress before Thanksgiving. I will say to the gentleman that there will be plenty of time for debate—four or five hours.

Mr. GARNER. And the gentleman will give us at least four hours. Let me say to the gentleman from Wyoming, I think it would be agreeable to the House if we could meet on Monday at 11 o'clock. This is a very complicated matter, and I believe that you gentlemen will realize it when you go into it. We could have until 4 or 4.30 for general debate, and I am sure the gentleman from Michigan will want plenty of time to explain what

the conferees have done. I do hope that the gentleman will give us as much debate on Monday as he can and have a vote on the conference report that evening.

Mr. FORDNEY. Four or five hours, if necessary.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan? [After a pause.] The Chair hears none.

The conference report and accompanying statement are as follows:

#### CONFERENCE REPORT.

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 8245) to reduce and equalize taxation, to amend and simplify the revenue act of 1918, and for other purposes, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 15, 41, 114, 132, 456, 622, and 703.

That the House recede from its disagreement to the amendments of the Senate numbered 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 16, 17, 18, 19, 23, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 65, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 116, 117, 118, 119, 120, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 151, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 356, 357, 358, 359, 360, 361, 362, 363, 364, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 402, 403, 404, 405, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 441, 442, 443, 444, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 490, 491, 492, 493, 494, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 522, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 558, 560, 562, 563, 564, 565, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 615, 616, 617, 618, 619, 620, 621, 623, 624, 626, 629, 630, 631, 632, 633, 634, 635, 636, 638, 642, 647, 649, 650, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 702, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 784, 785, 786, 787, 788, 790, 791, 792, 794, 795, 796, 797, 798, 800, 801, 802, 803, 804, 805, 806, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 827, 828, 829, 830, 831, 832, and 833, and agree to the same.

Amendment numbered 20: That the House recede from its disagreement to the amendment of the Senate numbered 20, and agree to the same with an amendment as follows: In lieu of the matter proposed to be stricken out by said amendment insert the following:

"(c) Any distribution (whether in cash or other property) made by a corporation to its shareholders or members otherwise than out of (1) earnings or profits accumulated since February 28, 1913, or (2) earnings or profits accumulated or increase in value of property accrued prior to March 1, 1913, shall be applied against and reduce the basis provided in sec-

tion 202 for the purpose of ascertaining the gain derived or the loss sustained from the sale or other disposition of the stock or shares by the distributee," and a period.

And the Senate agree to the same.

Amendment numbered 21: That the House recede from its disagreement to the amendment of the Senate numbered 21, and agree to the same with an amendment as follows: On page 6 of the Senate engrossed amendments, line 12, strike out "(c)" and insert "(d)"; and the Senate agree to the same.

Amendment numbered 22: That the House recede from its disagreement to the amendment of the Senate numbered 22, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by said amendment insert "(e)"; and on page 15 of the House bill, line 1, strike out "(d)" and insert "(e)"; and the Senate agree to the same.

Amendment numbered 24: That the House recede from its disagreement to the amendment of the Senate numbered 24, and agree to the same with an amendment as follows: On page 7 of the Senate engrossed amendments, line 2, strike out "(e)" and insert "(f)"; and the Senate agree to the same.

Amendment numbered 64: That the House recede from its disagreement to the amendment of the Senate numbered 64, and agree to the same with an amendment as follows: On page 11 of the Senate engrossed amendment, line 19, strike out "receiveds" and insert "received"; and the Senate agree to the same.

Amendment numbered 66: That the House recede from its disagreement to the amendment of the Senate numbered 66, and agree to the same with an amendment as follows: On page 12 of the Senate engrossed amendments, line 13, strike out "a" and insert "as"; and the Senate agree to the same.

Amendment numbered 115: That the House recede from its disagreement to the amendment of the Senate numbered 115, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by said amendment insert the following:

"(b) In the case of any taxpayer (other than a corporation) who for any taxable year derives a capital net gain, there shall (at the election of the taxpayer) be levied, collected, and paid, in lieu of the taxes imposed by sections 210 and 211 of this title, a tax determined as follows:

"A partial tax shall first be computed upon the basis of the ordinary net income at the rates and in the manner provided in sections 210 and 211, and the total tax shall be this amount plus 12½ per cent of the capital net gain; but if the taxpayer elects to be taxed under this section the total tax shall in no such case be less than 12½ per cent of the total net income. The total tax thus determined shall be computed, collected, and paid in the same manner, at the same time, and subject to the same provisions of law, including penalties, as other taxes under this title" and a period.

And the Senate agree to the same.

Amendment numbered 121: That the House recede from its disagreement to the amendment of the Senate numbered 121, and agree to the same with an amendment as follows: On page 18 of the Senate engrossed amendments, line 4, strike out "(a)"; and on page 18 of the Senate engrossed amendments strike out lines 12 to 17, both inclusive; and on page 23 of the House bill, line 7, after the word "them" and before the semicolon insert a period and the following: "In no case shall the reduction of the personal exemption from \$2,500 to \$2,000 operate to increase the tax, which would be payable if the exemption were \$2,500, by more than the amount of the net income in excess of \$5,000"; and the Senate agree to the same.

Amendment numbered 149: That the House recede from its disagreement to the amendment of the Senate numbered 149, and agree to the same with an amendment as follows: Restore the matter proposed to be stricken out by said amendment and on page 16 of the House bill, line 4, strike out the quotation marks; and the Senate agree to the same.

Amendment numbered 150: That the House recede from its disagreement to the amendment of the Senate numbered 150, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by said amendment insert the following: "(9)"; and the Senate agree to the same.

Amendment numbered 152: That the House recede from its disagreement to the amendment of the Senate numbered 152, and agree to the same with an amendment as follows: In lieu of the matter proposed to be stricken out by said amendment insert the following:

"(10) So much of the amount received by an individual after December 31, 1921, and before January 1, 1927, as dividends or interest from domestic building and loan associations, operated exclusively for the purpose of making loans to members, as does not exceed \$300" and a semicolon.

And the Senate agree to the same.

Amendment numbered 153: That the House recede from its disagreement to the amendment of the Senate numbered 153, and agree to the same with an amendment as follows: On page 32 of the Senate engrossed amendments, line 7, strike out "(9)" and insert "(11)"; and the Senate agree to the same.

Amendment numbered 154: That the House recede from its disagreement to the amendment of the Senate numbered 154, and agree to the same with an amendment as follows: On page 32 of the Senate engrossed amendments, line 11, strike out "(10)" and insert "(12)"; and the Senate agree to the same.

Amendment numbered 177: That the House recede from its disagreement to the amendment of the Senate numbered 177, and agree to the same with an amendment as follows: On page 35 of the Senate engrossed amendments, line 7, after "property," insert a comma and the following: "and the property so acquired is held by the taxpayer for any period after such sale or other disposition"; and the Senate agree to the same.

Amendment numbered 188: That the House recede from its disagreement to the amendment of the Senate numbered 188, and agree to the same with an amendment as follows: On page 36 of the Senate engrossed amendments, line 22, strike out "1918 or 1919" and insert "1918, 1919, 1920, or 1921"; and the Senate agree to the same.

Amendment numbered 278: That the House recede from its disagreement to the amendment of the Senate numbered 278, and agree to the same with an amendment as follows: On page 51 of the Senate engrossed amendments, lines 3 and 4, strike out "under Title II of the revenue act of 1918," and on page 51 of the Senate engrossed amendments, line 5, strike out "under such title"; and the Senate agree to the same.

Amendment numbered 354: That the House recede from its disagreement to the amendment of the Senate numbered 354, and agree to the same with an amendment as follows: On page 63 of the Senate engrossed amendments, before line 20, insert the following heading in small capitals: "Incorporation of individual or partnership business" and a period; and on page 63 of the Senate engrossed amendments, line 21, strike out "from" and insert "after"; and on page 64 of the Senate engrossed amendments, lines 14 and 15 and again in line 18, strike out "paragraph" and insert "section"; and the Senate agree to the same.

Amendment numbered 355: That the House recede from its disagreement to the amendment of the Senate numbered 355, and agree to the same with an amendment as follows: On page 65 of the Senate engrossed amendments, line 6, strike out "15" and insert "12½"; and the Senate agree to the same.

Amendment numbered 365: That the House recede from its disagreement to the amendment of the Senate numbered 365, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by said amendment insert the following:

"(5) Cemetery companies owned and operated exclusively for the benefit of their members or which are not operated for profit; and any corporation chartered solely for burial purposes as a cemetery corporation and not permitted by its charter to engage in any business not necessarily incident to that purpose, no part of the net earnings of which inures to the benefit of any private stockholder or individual" and a semicolon.

And the Senate agree to the same.

Amendment numbered 376: That the House recede from its disagreement to the amendment of the Senate numbered 376, and agree to the same with an amendment as follows: On page 69 of the Senate engrossed amendments, line 2, after "corporation" insert "or of a corporation entitled to the benefits of section 262"; and the Senate agree to the same.

Amendment numbered 401: That the House recede from its disagreement to the amendment of the Senate numbered 401, and agree to the same with an amendment as follows: On page 72 of the Senate engrossed amendments, line 11, after "property," insert "and the property so acquired is held by the taxpayer for any period after such sale or other disposition" and a comma; and the Senate agree to the same.

Amendment numbered 406: That the House recede from its disagreement to the amendment of the Senate numbered 406, and agree to the same with an amendment as follows: On page 74 of the Senate engrossed amendments, line 7, strike out "1918 or 1919" and insert "1918, 1919, 1920, or 1921"; and the Senate agree to the same.

Amendment numbered 422: That the House recede from its disagreement to the amendment of the Senate numbered 422, and agree to the same with an amendment as follows: On page 79 of the Senate engrossed amendments, line 10, after "\$2,000" insert a semicolon and the following: "but if the net income is more than \$25,000 the tax imposed by section 230 shall not exceed the tax which would be payable if the \$2,000 credit



were allowed, plus the amount of the net income in excess of \$25,000"; and the Senate agree to the same.

Amendment numbered 423: That the House recede from its disagreement to the amendment of the Senate numbered 423, and agree to the same with an amendment as follows: On page 80 of the Senate engrossed amendments, line 17, strike out "15" and insert "12½"; and the Senate agree to the same.

Amendment numbered 440: That the House recede from its disagreement to the amendment of the Senate numbered 440, and agree to the same with an amendment as follows: On page 85 of the Senate engrossed amendments strike out lines 12 to 17, both inclusive, and insert the following:

"(c) There shall be included in the return or appended thereto a statement of such facts as will enable the commissioner to determine the portion of the earnings or profits of the corporation (including gains, profits, and income not taxed) accumulated during the taxable year for which the return is made, which have been distributed or ordered to be distributed, respectively, to its stockholders or members during such year" and a period.

And the Senate agree to the same.

Amendment numbered 445: That the House recede from its disagreement to the amendment of the Senate numbered 445, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by said amendment insert "computed as provided in subdivision (b) of section 236" and a period; and the Senate agree to the same.

Amendment numbered 489: That the House recede from its disagreement to the amendment of the Senate numbered 489, and agree to the same with an amendment as follows: On page 91 of the Senate engrossed amendments, line 8, after "\$2,000" insert a semicolon and the following: "but if the net income is more than \$25,000 the tax imposed by section 243 shall not exceed the tax which would be payable if the \$2,000 credit were allowed, plus the amount of the net income in excess of \$25,000"; and the Senate agree to the same.

Amendment numbered 495: That the House recede from its disagreement to the amendment of the Senate numbered 495, and agree to the same with an amendment as follows: On page 92 of the Senate engrossed amendments, line 22, after "the" insert "taxable"; and on page 92 of the Senate engrossed amendments, line 25, after "preceding," insert "taxable"; and on page 93 of the Senate engrossed amendments, line 22, strike out the period and insert a semicolon; and on page 95 of the Senate engrossed amendments, line 8, after "\$2,000," insert a semicolon and the following: "but if the net income is more than \$25,000 the tax imposed by section 246 shall not exceed the tax which would be payable if the \$2,000 credit were allowed, plus the amount of the net income in excess of \$25,000"; and the Senate agree to the same.

Amendment numbered 521: That the House recede from its disagreement to the amendment of the Senate numbered 521, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by said amendment insert the following: "made under the revenue act of 1916, the revenue act of 1917, the revenue act of 1918, or this act"; and the Senate agree to the same.

Amendment numbered 523: That the House recede from its disagreement to the amendment of the Senate numbered 523, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by said amendment insert the following: "after such notice is sent by registered mail"; and the Senate agree to the same.

Amendment numbered 556: That the House recede from its disagreement to the amendment of the Senate numbered 556, and agree to the same with an amendment as follows: On page 110 of the Senate engrossed amendments strike out all after "President" in line 11, down to and including "Congress" in line 12; and the Senate agree to the same.

Amendment numbered 557: That the House recede from its disagreement to the amendment of the Senate numbered 557, and agree to the same with an amendment as follows: On page 111 of the Senate engrossed amendments, line 14, strike out "(a)"; and on page 111 of the Senate engrossed amendments strike out lines 21 to 25, both inclusive, and lines 1 to 17, both inclusive, on page 112; and the Senate agree to the same.

Amendment numbered 559: That the House recede from its disagreement to the amendment of the Senate numbered 559, and agree to the same with an amendment as follows: On page 113 of the Senate engrossed amendments, line 24, strike out all after "States" down to and including line 3 on page 114 and insert in lieu thereof a period; and the Senate agreed to the same.

Amendment numbered 561: That the House recede from its disagreement to the amendment of the Senate numbered 561,

and agree to the same with an amendment as follows: On page 115 of the Senate engrossed amendments, line 6, before "business" insert "trade or"; and on page 115 of the Senate engrossed amendments strike out all after "income" in line 15 down to and including "1918," in line 16; and on page 115 of the Senate engrossed amendments, after line 18, insert the following new subdivision:

"(c) As used in this section the term 'possession' of the United States' does not include the Virgin Islands of the United States" and a period.

And the Senate agree to the same.

Amendment numbered 566: That the House recede from its disagreement to the amendment of the Senate numbered 566, and agree to the same with an amendment as follows: On page 117 of the Senate engrossed amendments, line 3, after "such," strike out "a"; and on page 119 of the Senate engrossed amendments strike out all after "1917" in line 25 down to and including "unpaid" in line 1 on page 120; and on page 126 of the Senate engrossed amendments, line 13, strike out "war-profits or excess-profits" and insert "war profits or excess profits"; and the Senate agree to the same.

Amendment numbered 582: That the House recede from its disagreement to the amendment of the Senate numbered 582, and agree to the same with an amendment as follows: On page 132 of the Senate engrossed amendments, line 2, after the semicolon, insert "and"; and on page 132 of the Senate engrossed amendments, line 4, strike out all after "\$10,000,000" down to and including "\$100,000,000" in line 12; and the Senate agree to the same.

Amendment numbered 614: That the House recede from its disagreement to the amendment of the Senate numbered 614, and agree to the same with an amendment as follows: On page 141 of the Senate engrossed amendments, line 5, after "after" insert "the"; and the Senate agree to the same.

Amendment numbered 625: That the House recede from its disagreement to the amendment of the Senate numbered 625, and agree to the same with an amendment as follows: On page 150 of the Senate engrossed amendments, line 24, strike out "the passage of this act" and insert "January 1, 1922"; and the Senate agree to the same.

Amendment numbered 627: That the House recede from its disagreement to the amendment of the Senate numbered 627, and agree to the same with an amendment as follows: Omit the matter proposed to be inserted by said amendment and restore the matter proposed to be stricken out by said amendment except lines 18 and 19 on page 66 of the House bill; and on page 65 of the House bill, line 23, strike out "601. Subdivision" and insert "600. That subdivision"; and on page 66 of the House bill, line 9, strike out "602. Section" and insert "601. That section"; and the Senate agree to the same.

Amendment numbered 628: That the House recede from its disagreement to the amendment of the Senate numbered 628, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by said amendment insert "Sec. 602" and a period; and the Senate agree to the same.

Amendment numbered 637: That the House recede from its disagreement to the amendment of the Senate numbered 637, and agree to the same with an amendment as follows: On page 158 of the Senate engrossed amendments, line 19, strike out "10" and insert "12½"; and the Senate agree to the same.

Amendment numbered 639: That the House recede from its disagreement to the amendment of the Senate numbered 639, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by said amendment insert "of 9"; and the Senate agree to the same.

Amendment numbered 640: That the House recede from its disagreement to the amendment of the Senate numbered 640, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by said amendment insert "of 9"; and the Senate agree to the same.

Amendment numbered 641: That the House recede from its disagreement to the amendment of the Senate numbered 641, and agree to the same with an amendment as follows: Omit the matter proposed to be inserted by said amendment and strike out on page 67 of the House bill, line 22, "where" and insert "in the case of any such sirups intended to be used in the manufacture of carbonated beverages sold in bottles or other closed containers the rate shall be 5 cents per gallon," and a period; and on page 67 of the House bill, line 22, before the word "any" insert "Where"; and on page 67 of the House bill, line 22, strike out "manufacturing carbonated beverages or"; and on page 68 of the House bill, line 2, strike out "and except that the" and insert "and where any person manufacturing carbonated beverages manufactures and uses any such sirups in the manufacture of carbonated beverages sold in bot-

ties or other closed containers there shall be levied, assessed, collected, and paid on each gallon of such sirups a tax of 5 cents per gallon. The"; and the Senate agree to the same.

Amendment numbered 643: That the House recede from its disagreement to the amendment of the Senate numbered 643, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by said amendment insert "4"; and the Senate agree to the same.

Amendment numbered 644: That the House recede from its disagreement to the amendment of the Senate numbered 644, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by said amendment insert "Sec. 603" and a period; and the Senate agree to the same.

Amendment numbered 645: That the House recede from its disagreement to the amendment of the Senate numbered 645, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by said amendment insert "602"; and the Senate agree to the same.

Amendment numbered 646: That the House recede from its disagreement to the amendment of the Senate numbered 646, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by said amendment insert "602"; and the Senate agree to the same.

Amendment numbered 648: That the House recede from its disagreement to the amendment of the Senate numbered 648, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by said amendment insert "602"; and the Senate agree to the same.

Amendment numbered 651: That the House recede from its disagreement to the amendment of the Senate numbered 651, and agree to the same with an amendment as follows: On page 164 of the Senate engrossed amendments, line 10, strike out "702" and insert "703," and on page 165 of the Senate engrossed amendments, line 8, strike out "703" and insert "704"; and the Senate agree to the same.

Amendment numbered 662: That the House recede from its disagreement to the amendment of the Senate numbered 662, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by said amendment insert the following: "any post of the American Legion or the women's auxiliary units thereof" and a comma; and the Senate agree to the same.

Amendment numbered 701: That the House recede from its disagreement to the amendment of the Senate numbered 701, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by said amendment insert "10 per centum" and a period; and the Senate agree to the same.

Amendment numbered 745: That the House recede from its disagreement to the amendment of the Senate numbered 745, and agree to the same with an amendment as follows: On page 183 of the Senate engrossed amendments, after line 9, insert the following heading in small capitals: "Capital stock tax" and a period; and the Senate agree to the same.

Amendment numbered 746: That the House recede from its disagreement to the amendment of the Senate numbered 746, and agree to the same with an amendment as follows: On page 184 of the Senate engrossed amendments, before line 13, insert the following heading in small capitals: "Miscellaneous occupational taxes" and a period; and the Senate agree to the same.

Amendment numbered 747: That the House recede from its disagreement to the amendment of the Senate numbered 747, and agree to the same with an amendment as follows: On page 189 of the Senate engrossed amendments, before line 15, insert the following heading in small capitals: "Special tobacco manufacturers' tax" and a period; and the Senate agree to the same.

Amendment numbered 748: That the House recede from its disagreement to the amendment of the Senate numbered 748, and agree to the same with an amendment as follows: On page 191 of the Senate engrossed amendments, before line 12, insert the following heading in small capitals: "Special tax on use of boats" and a period; and on page 192 of the Senate engrossed amendments, line 13, strike out "The taxes herein imposed" and insert "This section"; and the Senate agree to the same.

Amendment numbered 749: That the House recede from its disagreement to the amendment of the Senate numbered 749, and agree to the same with an amendment as follows: On page 192 of the Senate engrossed amendments, before line 18, insert the following heading in small capitals: "Penalty for nonpayment of special taxes" and a period; and the Senate agree to the same.

Amendment numbered 750: That the House recede from its disagreement to the amendment of the Senate numbered 750, and agree to the same with an amendment as follows: On page 193 of the Senate engrossed amendments, before line 2,

insert the following heading in small capitals: "Tax on narcotics" and a period; and the Senate agree to the same.

Amendment numbered 765: That the House recede from its disagreement to the amendment of the Senate numbered 765, and agree to the same with an amendment as follows: On page 208 of the Senate engrossed amendments, line 10, after "share" insert a comma; and the Senate agree to the same.

Amendment numbered 783: That the House recede from its disagreement to the amendment of the Senate numbered 783, and agree to the same with an amendment as follows: On page 224 of the Senate engrossed amendments, line 24, strike out "603" and insert "602"; and the Senate agree to the same.

Amendment numbered 789: That the House recede from its disagreement to the amendment of the Senate numbered 789, and agree to the same with an amendment as follows: On page 228 of the Senate engrossed amendments, line 4, strike out "20" and insert "Twentieth"; and the Senate agree to the same.

Amendment numbered 793: That the House recede from its disagreement to the amendment of the Senate numbered 793, and agree to the same with an amendment as follows: On page 235 of the Senate engrossed amendments, line 10, after "any" insert "other"; and the Senate agree to the same.

Amendment numbered 799: That the House recede from its disagreement to the amendment of the Senate numbered 799, and agree to the same with an amendment as follows: On page 237 of the Senate engrossed amendments, line 5, strike out "1917" and insert "1916, the revenue act of 1917," and a comma; and the Senate agree to the same.

Amendment numbered 807: That the House recede from its disagreement to the amendment of the Senate numbered 807, and agree to the same with an amendment as follows: On page 242 of the Senate engrossed amendments, line 5, before "No" insert "Sec. 177" and a period; and on page 242 of the Senate engrossed amendments, line 14, at the end of the line insert quotation marks; and the Senate agree to the same.

Amendment numbered 825: That the House recede from its disagreement to the amendment of the Senate numbered 825, and agree to the same with an amendment as follows: On page 248 of the Senate engrossed amendments, line 17, strike out all after "capital," down to and including "1917," in line 20, and insert the following: "For the purposes of this section, public service corporations which (1) were operated independently, (2) were not physically connected or merged, and (3) did not receive special permission to make a consolidated return, shall not be construed to have been affiliated; but a railroad or other public utility which was owned by an industrial corporation and was operated as a plant facility or as an integral part of a group organization of affiliated corporations which were required to file a consolidated return, shall be construed to have been affiliated"; and the Senate agree to the same.

Amendment numbered 826: That the House recede from its disagreement to the amendment of the Senate numbered 826, and agree to the same with an amendment as follows: On page 250 of the Senate engrossed amendments, line 23, strike out "herein" and insert "by this section"; and on page 251 of the Senate engrossed amendments, lines 15 and 16, strike out "the period herein limited" and insert "such period of six months"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate to the title of the bill and agree to the same.

J. W. FORDNEY,  
W. R. GREEN,  
NICHOLAS LONGWORTH,

*Managers on the part of the House.*

BOIES PENROSE,  
P. J. McCUMBER,  
REED SMOOT,

*Managers on the part of the Senate.*

#### STATEMENT.

The managers on the part of the House at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 8245) to reduce and equalize taxation, to amend and simplify the revenue act of 1918, and for other purposes, submit the following written statement in explanation of the effect of the action agreed upon by the conferees and recommended in the accompanying conference report:

On amendment No. 1: This is a clerical change in the heading to the first title of the bill; and the House recedes.

On amendment No. 2: This is a clerical change; and the House recedes.



On amendment No. 3: The House bill consisted of specified amendments to the revenue act of 1918 and continued that act in force without repeal. The Senate amendments propose an entirely different method—namely, to repeal the revenue act of 1918 (with certain exceptions) and to reenact it with certain changes. The conferees having agreed upon the general plan of the Senate amendments as to the form of the bill, it is necessary for the House to recede on a large number of formal amendments required by the change in the form of the bill. Amendment No. 3 strikes out of the House bill a section providing that terms defined in the revenue act of 1918 shall have the same meaning when used in this bill as in the revenue act of 1918. This section having become unnecessary on account of the repeal and reenactment of the revenue act of 1918 in the manner above explained, the House recedes.

On amendment No. 4: This amendment inserts a number of definitions found in the revenue act of 1918 with only minor clerical changes; and the House recedes.

On amendment No. 5: This is a clerical change in the form of the headings to a title of the bill; and the House recedes.

On amendment No. 6: This amendment is a clerical change made necessary by the repeal and reenactment of the revenue act of 1918 instead of its amendment in specified particulars, as explained in connection with amendment No. 3; and the House recedes.

On amendment No. 7: This amendment inserts a number of definitions found in the revenue act of 1918, with only minor clerical changes; and the House recedes.

On amendments Nos. 8, 9, 157, 385, and 561: The House bill provided that in the case of a "foreign trader" or a "foreign trade corporation" gross income, for the purposes of income tax, means only gross income from sources within the United States, and defines "foreign trader" to mean any citizen or resident of the United States or domestic partnership 80 per cent or more of whose gross income is derived from sources without the United States and 50 per cent or more of whose gross income is derived from the active conduct of a business without the United States; and similarly defines "foreign trade corporation," including within the definition only domestic corporations. Senate amendments Nos. 8 and 9 strike out these definitions and amendments Nos. 157 and 385 strike out the provision limiting the gross income of foreign trade corporations to gross income from sources within the United States; but Senate amendment No. 561 inserts a new section (sec. 262) containing similar provisions applicable only to citizens of the United States or domestic corporations 80 per cent or more of whose gross income is derived from sources within a possession of the United States and 50 per cent or more of whose gross income is derived from the active conduct of a trade or business within a possession of the United States, with the additional qualification that there shall be included in the gross income of such persons all amounts received within the United States, whether derived from sources within or without the United States. The House recedes from its disagreement to amendments Nos. 8, 9, 157, and 385, and recedes from its disagreement to amendment No. 561 with an amendment making clerical changes, and providing that the term "possession" shall not include the Virgin Islands.

On amendment No. 10: This amendment inserts a number of definitions found in the revenue act of 1918, with only minor clerical changes; and the House recedes.

On amendment No. 11: This amendment is a clerical change made necessary by the repeal and reenactment of the revenue act of 1918 instead of its amendment in specified particulars, as explained in connection with amendment No. 3; and the House recedes.

On amendment No. 12: This amendment inserts a heading to a section; and the House recedes.

On amendments Nos. 13 and 14: These amendments are clerical changes; and the House recedes.

On amendment No. 15: This amendment is a clerical change; and the Senate recedes.

On amendments Nos. 16 and 17: These amendments are clerical changes; and the House recedes.

On amendment No. 18: This amendment removes a doubt in the existing law as to the right of a corporation to distribute tax free the increase in value of property accrued prior to March 1, 1913, by providing that such increase may be distributed to the stockholders free from tax after the earnings and profits accumulated since February 28, 1913, have been distributed; and the House recedes.

On amendment No. 19: This amendment provides that if a stockholder in a corporation receives dividends paid out of earnings or profits accumulated or increase in value of property accrued prior to March 1, 1913, he shall not be allowed as a

deduction from gross income any loss sustained in the sale or other disposition of his stock unless, and then only to the extent that, the cost (or if the stock has been acquired prior to March 1, 1913, the fair market value as of March 1, 1913) exceeds the sum of (1) the amount realized from the sale or other disposition of the stock, plus (2) the aggregate amount of such tax-free dividends; and the House recedes.

On amendment No. 20: The House bill provided that amounts distributed in the liquidation of a corporation shall be treated as in part or in full payment in exchange for stock or shares, and any gain or profit realized thereby shall be taxed to the distributee as other gains or profits. The Senate amendment strikes out this provision. The House recedes with an amendment providing that any distribution (whether in cash or other property) made by a corporation to its shareholders or members otherwise than out of (1) earnings or profits accumulated since February 28, 1913, or (2) earnings or profits accumulated or increase in value of property accrued prior to March 1, 1913, shall be applied against and reduce the basis provided in section 202 for the purpose of ascertaining the gain derived or the loss sustained from the sale or other disposition of the stock or shares by the distributee.

On amendment No. 21: This amendment provides that a stock dividend shall not be subject to tax, but that if after the distribution of a stock dividend the corporation cancels or redeems its stock at such time and in such manner as to make the distribution and cancellation or redemption essentially equivalent to the distribution of a taxable dividend, the amount received in redemption or cancellation of the stock shall be treated as a taxable dividend to the extent of the earnings or profits accumulated by the corporation after February 28, 1913; and the House recedes.

On amendments Nos. 22 and 23: These are clerical amendments; and the House recedes.

On amendment No. 24: The House bill repeals subdivision (e) of section 201 of the revenue act of 1918, a paragraph of the law relating only to the computation of invested capital for the purpose of the excess-profits tax, such repeal to take effect at the same time as the repeal of the excess-profits tax. The Senate amendment, in accordance with the general plan referred to in connection with amendment No. 3, strikes out the provision of the House bill and inserts subdivision (e) of section 201 of the revenue act of 1918 with an additional clause providing that it shall not be in effect after the excess-profits tax ceases to be in effect; and the House recedes.

On amendment No. 25: This amendment is a clerical change made necessary by the repeal and reenactment of the revenue act of 1918 instead of its amendment in specified particulars, as explained in connection with amendment No. 3; and the House recedes.

On amendment No. 26: This amendment inserts a heading to a section; and the House recedes.

On amendments Nos. 27, 28, and 29: These are clerical amendments; and the House recedes.

On amendment No. 30: The House bill provided that in case of property acquired by gift on or before December 31, 1920, the basis of ascertaining gain or loss from a sale or other disposition should be the same as existing law. The Senate amendment specifies the rule of existing law, which is the fair market price or value of the property at the time of acquisition; and the House recedes.

On amendments Nos. 31, 32, 33, 34, and 35: These amendments are clerical changes; and the House recedes.

On amendment No. 36: The House bill enacted into law the existing practice of the Treasury Department that in ascertaining the gain derived or loss sustained from a sale or other disposition of property, proper adjustment shall be made for any expenditures chargeable to capital account, and for any item of loss or depreciation or similar expense properly chargeable with respect to the property. The Senate amendment strikes out this provision of the House bill as surplusage and as merely declaratory of a rule which would be followed in the absence of an express statutory declaration; and the House recedes.

On amendment No. 37: This amendment is a clerical change; and the House recedes.

On amendment No. 38: The House bill provided that on an exchange of property for other property no gain or loss shall be recognized unless the property received in exchange has a "definite and readily realizable market value." The Senate amendment strikes out the words "definite and"; and the House recedes.

On amendment No. 39: The House bill provided that if the property received in exchange for other property has a "definite and readily realizable market value" no gain or loss shall be

recognized in certain cases. The Senate amendment strikes out the words "definite and"; and the House recedes.

On amendment No. 40: This amendment is a clerical change; and the House recedes.

On amendment No. 41: The House bill provided that when property held for investment is exchanged for property of a like kind or use no gain or loss shall be recognized even if the property received in exchange has a readily realizable market value. The Senate amendment strikes out this provision; and the Senate recedes.

On amendment No. 42: This amendment is a clerical change; and the House recedes.

On amendments Nos. 43, 44, and 46: The House bill provided that when in the organization or reorganization of one or more corporations a person receives in place of property owned by him new stock or securities no gain or loss shall be recognized. By amendment No. 43 this rule is limited to reorganizations (organizations being covered by a later paragraph of the bill). Amendment No. 44 provides that the property exchanged shall consist only of stock or securities, and amendment No. 46 limits the securities received in exchange to stock or securities in a corporation a party to or resulting from such reorganization; and the House recedes on all these amendments.

On amendment No. 45: This amendment makes a clerical change; and the House recedes.

On amendment No. 46: The effect of this amendment and the action of the conferees thereon has been explained in connection with amendment No. 43.

On amendment No. 47: The House bill defined the term "reorganization," as used in the paragraph relating to gain or loss resulting from the exchange of property in connection with the reorganization of a corporation, to include a merger or consolidation (however effected). The Senate amendment adds to this definition the case where one corporation acquires at least a majority of the voting stock and at least a majority of the total number of shares of all other classes of stock of another corporation, or substantially all the property of another corporation; and the House recedes.

On amendments Nos. 48 to 59, inclusive: These amendments are clerical changes; and the House recedes.

On amendments Nos. 60 and 61: The House bill provided, in connection with the provisions relating to the determination of gain or loss in the transfer of property to a corporation, that a group of persons is "in control" of a corporation when owning at least 80 per cent of the voting stock and 80 per cent of all other classes of stock of the corporation. The Senate amendments define control to exist when at least 80 per cent of the voting stock and at least 80 per cent of the total number of shares of all other classes of stock are owned; and the House recedes on both amendments.

On amendments Nos. 62 and 63: These amendments are clerical changes; and the House recedes.

On amendment No. 64: The House bill provided that where property is exchanged for other property and no gain or loss is recognized the property received shall for the purpose of determining gain or loss be treated as taking the place of the property exchanged. The Senate amendment also brings under the rule cases where property is compulsorily or involuntarily converted into cash or its equivalent by reason of fire, shipwreck, theft, or other casualties, and the taxpayer proceeds in good faith to expend the proceeds of the conversion in the acquisition of similar property. The amendment also provides that where under other provisions of the bill no deduction is allowed where stock is sold and repurchased for the purpose of realizing a loss the property acquired in pursuance of such a wash sale shall for the purpose of determining gain or loss on a subsequent sale be treated as taking the place of the property sold. The amendment also excepts from the general rule stated in the House bill, and makes proper provision for, cases where the property received in exchange consists partly of property having no readily realizable market value and partly of money or property which has a readily realizable market value, in such manner that the taxpayer must account for any real gain or loss resulting therefrom. The amendment also provides that nothing in the section relating to the basis for determining gain or loss shall be construed to prevent (in the case of property sold under contract providing for payment in installments) the taxation of that portion of any installment payment representing profit in the year in which the payment is received. The House recedes with an amendment making a clerical change.

On amendment No. 65: The House bill provides that, except in the case of the depletion allowance, the basis for ascertaining allowable deductions for loss, exhaustion, wear and tear, obsolescence, amortization, and other like deductions shall be the

same as that provided in the subdivision of the law relating to the basis for determining gain or loss in the case of sale or other disposition of property. Senate amendments Nos. 181, 186, 401, and 404 (agreed to by the conferees) added to the law provisions that in case of the depreciation allowance and in case of the deduction for loss arising from destruction of or damage to property, the deduction shall be computed on the basis of the fair market value of the property as of March 1, 1913, if acquired before that date. Amendment No. 65 strikes out the provision of the House bill, above referred to, as being (subject to the exceptions noted above) surplusage and merely declaratory of a rule already followed by the Treasury Department in the absence of an express statutory declaration; and the House recedes.

On amendment No. 66: This amendment inserts the section of the existing law relating to inventories, for the reason explained in connection with amendment No. 3; and the House recedes with an amendment making a clerical change.

On amendment No. 67: This amendment is a clerical change made necessary by the repeal and reenactment of the revenue act of 1918 instead of its amendment in specified particulars, as explained in connection with amendment No. 3; and the House recedes.

On amendment No. 68: This amendment inserts a heading to a section; and the House recedes.

On amendments Nos. 69 and 70: These amendments are clerical changes; and the House recedes.

On amendments Nos. 71 and 72: The House bill provided that where a taxpayer sustains a net loss in any taxable year the amount thereof shall be deducted from his net income for the two succeeding taxable years, and defined "net loss" to include only net losses resulting from the operation of a "business." The Senate amendment changes the definition to include net losses resulting from the operation of a "trade or business"; and the House recedes.

On amendments Nos. 73 and 74: These amendments are clerical changes; and the House recedes.

On amendment No. 75: The House bill in effect required that in computing a net loss the taxpayer must include in his gross income the amount of interest received free from income tax, which under the other provisions of the bill is not included in his gross income, but at the same time did not permit him to claim as a deduction the amount of interest paid on indebtedness incurred or continued to purchase or carry tax-exempt securities. The Senate amendment requires the taxpayer to include in his gross income for the purpose of computing the net loss only the amount by which the tax-free interest exceeds the interest paid on indebtedness incurred or continued to purchase or carry such tax-exempt securities; and the House recedes.

On amendment No. 76: The House bill provided that in the computation of net losses the taxpayer can not take as a deduction losses not sustained in his business, but required him to include in his gross income the profits not derived from his business. The Senate amendment allows him a deduction of such losses, not exceeding, however, the profits derived outside of his trade or business; and the House recedes.

On amendments Nos. 77 to 82, inclusive: These amendments are clerical changes; and the House recedes.

On amendment No. 83: This amendment provides that the benefit of the section relating to net losses shall be allowed to insurance companies under regulations prescribed by the commissioner with the approval of the Secretary; and the House recedes.

On amendments Nos. 84 and 85: These amendments are clerical changes; and the House recedes.

On amendment No. 86: The House bill in providing for the deduction of net losses sustained in any year from the net income of the two succeeding years failed to make provision in the case of a taxpayer having a fiscal year beginning in 1920 and ending in 1921. The Senate amendment provides that if such a taxpayer sustains a net loss during such fiscal year he shall be entitled to the benefits of the deduction for net losses in respect to the same proportion of the net loss which the portion of the fiscal year falling within the calendar year 1921 is of the entire year; and the House recedes.

On amendment No. 87: This amendment is a clerical change made necessary by the repeal and reenactment of the revenue act of 1918 instead of its amendment in specified particulars, as explained in connection with amendment No. 3; and the House recedes.

On amendment No. 88: This amendment inserts a heading to a section; and the House recedes.

On amendments Nos. 89 to 100, inclusive: These amendments are clerical changes made necessary by the repeal and reenact-



ment of the revenue act of 1918 instead of its amendment in specified particulars, as explained in connection with amendment No. 3; and the House recedes.

On amendments Nos. 101 to 112, inclusive: These amendments are clerical changes; and the House recedes.

On amendment No. 113: The House bill defined the term "capital assets" for the purpose of the section relating to the limitation of the tax on capital gains to mean only property acquired and held by the taxpayer for profit or investment. The Senate amendment added an additional limitation that such property must have been held for more than two years before its sale; and the House recedes.

On amendment No. 114: The House bill provided that only a portion of the gain derived from the sale of stock or shares in a corporation should be taxable. The Senate amendment in effect strikes out this provision; and the Senate recedes.

On amendment No. 115: The House bill limited the tax to 12½ per cent upon capital net gain and similarly limited the deduction allowance for capital net loss in the case of any taxpayer (other than a corporation) whose ordinary net income and capital net gain together exceed \$29,000. Senate amendment 115 changes the House method of limiting the tax upon capital net gain, eliminates all reference to capital net loss, and makes this provision applicable to all taxpayers (including corporations) who for any taxable year derive a capital net gain. The House recedes with an amendment providing that in the case of any taxpayer (other than a corporation) who for any year derives a capital net gain there shall (at the election of the taxpayer) be collected, in lieu of the taxes imposed by sections 210 and 211, a tax consisting of the sum of (1) a partial tax computed upon the basis of the ordinary net income at the rates and in the manner provided in sections 210 and 211, and (2) 12½ per cent of the capital net gain; but if the taxpayer elects to be taxed under this section, the total tax shall in no such case be less than 12½ per cent of the total net income.

On amendments Nos. 116 to 120, inclusive: These amendments are clerical changes; and the House recedes.

On amendment No. 121: This amendment inserts in the bill, for the reason explained in connection with amendment No. 3, the section of the existing law relating to the normal tax on individuals; and also adds a subdivision, made necessary by the provision, concurred in by both Houses, granting married persons whose income is not over \$5,000 an additional \$500 personal exemption. The reduction of the exemption from \$2,500 to \$2,000 would result, in the case of a taxpayer having an income in excess of \$5,000 and not in excess of \$5,020.83, in increasing the tax by more than the amount of the income in excess of \$5,000. The Senate amendment provides that the normal tax shall not exceed the amount of the tax payable if the net income were \$5,000 (which tax is \$100) plus the excess of the net income over \$5,000. The House recedes with an amendment transferring the new subdivision added by the Senate to section 216 of the bill, dealing with the personal exemption, and making certain changes in the interest of simplicity.

On amendment No. 122: The House bill limited the maximum surtax rate to 32 per cent. The Senate amendment raises the maximum surtax rate to 50 per cent and makes adjustments in the lower surtax brackets; and the House recedes.

On amendment No. 123: This amendment inserts the section of the existing law defining net income, for the reason explained in connection with amendment No. 3; and the House recedes.

On amendment No. 124: This amendment is a clerical change made necessary by the repeal and reenactment of the revenue act of 1918 instead of its amendment in specified particulars, as explained in connection with amendment No. 3; and the House recedes.

On amendment No. 125: This amendment inserts a heading to a section; and the House recedes.

On amendment No. 126: This amendment inserts the first paragraph of the section of the existing law relating to the definition of gross income, for the reason explained in connection with amendment No. 3; and the House recedes.

On amendments Nos. 127 and 128: These amendments are clerical changes; and the House recedes.

On amendment No. 129: The House bill exempted the salaries of the President of the United States and the judges of the Supreme and inferior courts of the United States. The Senate amendment restores the language of the existing law placing a tax on the income of these officers; and the House recedes.

On amendments Nos. 130 and 131: These amendments are clerical changes; and the House recedes.

On amendment No. 132: This amendment exempted from income tax the compensation of officers and employees of the

United States, Alaska, Hawaii, or any political subdivision thereof or the District of Columbia, where the compensation is not paid by the United States; and the Senate recedes.

On amendment No. 133: This amendment is a clerical change; and the House recedes.

On amendment No. 134: The House bill provided that income received by any marital community shall be included in the gross income of the spouse having the management and control of the community property. The Senate amendment strikes out this provision; and the House recedes.

On amendment No. 135: This amendment is a clerical change; and the House recedes.

On amendment No. 136: This amendment inserts the introductory clause of subdivision (b) of section 213 of the existing law, for the reason explained in connection with amendment No. 3; and the House recedes.

On amendment No. 137: This amendment is a clerical change made necessary by the repeal and reenactment of the revenue act of 1918 instead of its amendment in specified particulars, as explained in connection with amendment No. 3; and the House recedes.

On amendments Nos. 138 and 139: These amendments are clerical changes; and the House recedes.

On amendments Nos. 140 and 141: These amendments insert, for the reason explained in connection with amendment No. 3, the provisions of existing law relating to the exemption of returned premiums on insurance contracts, and of the value of property acquired by gift or bequest; and the House recedes.

On amendment No. 142: This amendment is a clerical change made necessary by the repeal and reenactment of the revenue act of 1918 instead of its amendment in specified particulars, as explained in connection with amendment No. 3; and the House recedes.

On amendment No. 143: This amendment is a clerical change; and the House recedes.

On amendment No. 144: This amendment provides for the entire exemption from income tax of postal savings certificates of deposit; and the House recedes.

On amendment No. 145: This amendment is a clerical change; and the House recedes.

On amendments Nos. 146 and 147: These amendments insert, for the reason explained in connection with amendment No. 3, the provisions of existing law exempting from income tax the income of foreign Governments received from certain investments in the United States, the amounts received as compensation or damages for personal injuries or sickness, and income derived from any public utility or the exercise of essentially governmental functions if such income accrues to any State or political subdivision; and the House recedes.

On amendment No. 148: This amendment is a clerical change made necessary by the repeal and reenactment of the revenue act of 1918 instead of its amendment in specified particulars, as explained in connection with amendment No. 3; and the House recedes.

On amendment No. 149: The House bill exempted from income tax the income of a nonresident alien or foreign corporation which consists exclusively of earnings derived from the operation of ships documented under the laws of a country which grants equivalent exemption to United States citizens and corporations; and the House recedes with an amendment making a clerical change.

On amendment No. 150: This amendment is a clerical change; and the House recedes with an amendment making a further clerical change.

On amendment No. 151: This amendment strikes out of the House bill a provision exempting from income tax the salary of the President and United States judges; and the House recedes.

On amendment No. 152: The House bill provided that individuals should not be required to include in their gross income so much of the amount received by them as dividends or interest from domestic building and loan associations operated exclusively for the purpose of making loans to members, as does not exceed \$500. The Senate amendment strikes out the provision of the House bill. The House recedes with an amendment permitting the exclusion from gross income of an amount of such dividends or interest not in excess of \$300 and providing that this exclusion from gross income shall only be in effect from January 1, 1922, until January 1, 1927.

On amendment No. 153: This amendment excludes from gross income the rental value of a dwelling house furnished to a minister of the gospel as part of his compensation; and the House recedes with an amendment making a clerical change.

On amendment No. 154: This amendment excludes from gross income receipts of shipowners' mutual protection and indemnity

associations, not organized for profit and no part of the net earnings of which inures to the benefit of any private stockholder or member, but the amendment provides that such corporations shall be taxable upon their net income from interest, dividends, and rents. The House recedes with an amendment making a clerical change.

On amendment No. 155: This amendment is a clerical change made necessary by the repeal and reenactment of the revenue act of 1918 instead of its amendment in specified particulars, as explained in connection with amendment No. 3; and the House recedes.

On amendment No. 156: This amendment is a clerical change; and the House recedes.

On amendment No. 157: The effect of this amendment and the action of the conferees thereon has been explained in connection with amendment No. 8.

On amendment No. 158: This amendment is a clerical change; and the House recedes.

On amendment No. 159: This amendment is a clerical change made necessary by the repeal and reenactment of the revenue act of 1918 instead of its amendment in specified particulars, as explained in connection with amendment No. 3; and the House recedes.

On amendment No. 160: This amendment inserts a heading to a section; and the House recedes.

On amendment No. 161: This amendment inserts, for the reason explained in connection with amendment No. 3, the introductory clause of existing law relating to the deductions of individuals; and the House recedes.

On amendments Nos. 162 and 163: These amendments are clerical changes; and the House recedes.

On amendment No. 164: The existing law allows as a deduction from gross income the interest paid on indebtedness incurred or continued to purchase or carry Victory 3½ notes. The House bill struck out this deduction and the Senate amendment restores this provision of existing law, but limits the privilege to cases where such notes were originally subscribed for by the taxpayer; and the House recedes.

On amendment No. 165: This amendment is a clerical change; and the House recedes.

On amendment No. 166: This amendment is a clerical change correcting a possible misconception of the provision of the House bill relating to the deduction of taxes; and the House recedes.

On amendment No. 167: This amendment is a clerical change; and the House recedes.

On amendment No. 168: This amendment prohibits an individual from deducting from his gross income taxes imposed upon him upon his interest as shareholder or member of a corporation which are paid by the corporation without reimbursement from the taxpayer. The amendment also provides that, for the purposes of the paragraph relating to the deduction of taxes, estate, inheritance, legacy, and succession taxes accrue on the due date thereof unless otherwise provided by the law of the jurisdiction imposing such taxes. The House recedes.

On amendment No. 169: This amendment inserts, for the reason explained in connection with amendment No. 3, the paragraph of existing law relating to losses sustained in trade or business; and the House recedes.

On amendment No. 170: This amendment is a clerical change made necessary by the repeal and reenactment of the revenue act of 1918 instead of its amendment in specified particulars, as explained in connection with amendment No. 3; and the House recedes.

On amendment No. 171: This amendment is a clerical change; and the House recedes.

On amendment No. 172: This amendment is a clerical change made necessary by the action of the conferees on Senate amendments Nos. 157 and 385, as explained in connection with amendment No. 8; and the House recedes.

On amendment No. 173: This amendment limits to transactions occurring outside of a trade or business the provisions of the House bill prohibiting a deduction for loss claimed to have been sustained in the sale of stock where the same stock is repurchased; and the House recedes.

On amendment No. 174: This amendment is a clerical change; and the House recedes.

On amendments Nos. 175, 176, and 177: The House bill provided that the taxpayer shall not be allowed any loss sustained in any sale of shares of stock where it appears that at or about the date of such sale the taxpayer has acquired identical property in substantially the same amount as the property sold, and that if such new acquisition is to the extent of part only of the identical property, then the amount of loss deductible

shall be in proportion as the total amount of the property sold or disposed of bears to the property acquired. The Senate amendment extends the operation of the rule to cases where the acquisition of new property is within 30 days before or after the date of sale, but excepts from the operation of the rule of the House bill cases where the new property is acquired by bequest or inheritance, and brings within the operation of the rule cases where the new property is substantially identical with the property sold, and provides, in case the new acquisition is to the extent of part only of substantially identical property, in lieu of the proportion provided by the House bill, that only a proportionate part of the loss shall be disallowed. The House recedes from amendments Nos. 175 and 176 and recedes from amendment No. 177 with an amendment providing that the loss shall be disallowed only in cases where the property acquired is held by the taxpayer for any period after the sale of the old property, a provision made necessary by the extension of the rule, made by the Senate amendment No. 175, to cases where the new property was acquired within 30 days before the date of the sale.

On amendment No. 178: This amendment is a clerical change; and the House recedes.

On amendment No. 179: This amendment is a clerical change made necessary by the action of the conferees on Senate amendments Nos. 157 and 385, as explained in connection with amendment No. 8; and the House recedes.

On amendment No. 180: This amendment is a clerical change; and the House recedes.

On amendment No. 181: The purpose of this amendment and of the similar language in amendment 401 is to remove a doubt in existing law as to whether the basis of such a loss should be the value of the property on March 1, 1913, or the cost thereof, and provides that in case of losses arising from destruction of or damage to property, where the property was acquired before March 1, 1913, the loss deduction shall be computed on the basis of the fair market price or value of the property as of March 1, 1913; and the House recedes.

On amendments Nos. 182, 183, 184, and 185: These amendments are clerical changes; and the House recedes.

On amendment No. 186: This amendment inserts, for the reason explained in connection with amendment No. 3, the paragraph of the existing law relating to the allowance for depreciation, and adds a clause providing that in the case of property acquired before March 1, 1913, the depreciation deduction shall be computed upon the basis of the fair market price or value of the property as of March 1, 1913; and the House recedes.

On amendment No. 187: This amendment is a clerical change made necessary by the repeal and reenactment of the revenue act of 1918 instead of its amendment in specified particulars, as explained in connection with amendment No. 3; and the House recedes.

On amendment No. 188: This amendment inserts, for the reason explained in connection with amendment No. 3, the paragraph of existing law relating to the deduction for amortization of war facilities and vessels but limits such deduction to any taxable year ended before March 3, 1924, and allows it for such years only if claim was made at the time of filing return for the taxable year 1918 or 1919. The House recedes with an amendment permitting the deduction also in the case of claims filed at the time of filing returns for the taxable years 1920 and 1921.

On amendment No. 189: This amendment inserts, for the reason explained in connection with amendment No. 3, the paragraph of the existing law relating to depletion allowance in the case of mines, oil and gas wells, and timber, adding a proviso that the depletion allowance based on discovery value shall not exceed the net income from property upon which the discovery is made except where such net income is less than the depletion allowance based on cost or fair market value as of March 1, 1913; and the House recedes.

On amendment No. 190: This amendment is a clerical change made necessary by the repeal and reenactment of the revenue act of 1918 instead of its amendment in specified particulars, as explained in connection with amendment No. 3; and the House recedes.

On amendments Nos. 191 and 192: These amendments are clerical changes; and the House recedes.

On amendment No. 193: The House bill provided for the deduction from gross income of contributions made to certain charitable and other institutions, and the Senate amendment adds to this list posts of the American Legion or the women's auxiliary units thereof; and the House recedes.

On amendment No. 194: This amendment is a clerical change; and the House recedes.



On amendment No. 195: This amendment is a clerical change made necessary by the action of the conferees on Senate amendments Nos. 157 and 385, as explained in connection with amendment No. 8; and the House recedes.

On amendments Nos. 196 and 197: These amendments are clerical changes; and the House recedes.

On amendment No. 198: This amendment is a clerical change made necessary by the repeal and reenactment of the revenue act of 1918 instead of its amendment in specified particulars, as explained in connection with amendment No. 3; and the House recedes.

On amendments Nos. 199 and 200: These amendments are clerical changes; and the House recedes.

On amendments Nos. 201 and 202: The House bill added an additional paragraph to the existing deductions from gross income, providing that when property is involuntarily converted into cash as a result of fire, shipwreck, condemnation, or related causes, the taxpayer may deduct the gains involuntarily realized (or a proper part thereof) when he proceeds forthwith in good faith to invest the proceeds (or a part thereof) of such conversion "directly or through the purchase of stock" in the acquisition of similar property or in the establishment of a replacement fund therefor. Amendment No. 201 strikes out the words above quoted and amendment No. 202 extends the benefits of the paragraph to cases where the taxpayer expends the proceeds of the conversion in the acquisition of 80 per cent or more of the stock of a corporation owning similar property; and the House recedes.

On amendment No. 203: This amendment is a clerical change; and the House recedes.

On amendment No. 204: This is a clerical amendment striking out a portion of the House bill rendered unnecessary by Senate amendment No. 64 agreed to by the conferees; and the House recedes.

On amendment No. 205: This amendment provides that the provisions of the paragraph in the House bill prescribing the conditions under which a deduction may be taken in respect of the proceeds or gains derived from the compulsory or involuntary conversion of property into cash shall apply to the exemption or exclusion of such proceeds or gains from gross income under prior income, war-profits, and excess-profits tax acts; and the House recedes.

On amendment No. 206: This amendment is a clerical change made necessary by the repeal and reenactment of the revenue act of 1918 instead of its amendment in specified particulars, as explained in connection with amendment No. 3; and the House recedes.

On amendment No. 207: This amendment is a clerical change; and the House recedes.

On amendment No. 208: This amendment is a clerical change made necessary by the action of the conferees on Senate amendments Nos. 157 and 385, as explained in connection with amendment No. 8; and the House recedes.

On amendments Nos. 209, 210, and 211: These amendments are clerical changes; and the House recedes.

On amendment No. 212: The House bill provided that in the case of a nonresident alien individual the deductions from gross income shall be apportioned and allocated with respect to sources of income within and without the United States under rules and regulations prescribed by the commissioner, with the approval of the Secretary, such determination to be final. The Senate amendment strikes out of the House bill the clause making such determinations final; and the House recedes.

On amendment No. 213: This amendment is a clerical change made necessary by the action of the conferees on Senate amendments Nos. 157, 385, and 561, as explained in connection with amendment No. 8; and the House recedes.

On amendment No. 214: This amendment is a clerical change made necessary by the repeal and reenactment of the revenue act of 1918 instead of its amendment in specified particulars, as explained in connection with amendment No. 3; and the House recedes.

On amendment No. 215: This amendment inserts, for the reason explained in connection with amendment No. 3, the section of the present law specifying the items not deductible from gross income; and the House recedes.

On amendments Nos. 216, 217, and 218: These amendments are clerical changes; and the House recedes.

On amendment No. 219: This amendment is a clerical change made necessary by the repeal and reenactment of the revenue act of 1918 instead of its amendment in specified particulars, as explained in connection with amendment No. 3; and the House recedes.

On amendment No. 220: This amendment inserts a heading to a section; and the House recedes.

On amendment No. 221: This amendment inserts, for the reason explained in connection with amendment No. 3, the introductory clause of section 216 of existing law relating to the credits of individuals in computing the normal tax; and the House recedes.

On amendment No. 222: The House bill provided that for the purposes of normal tax there should be allowed as a credit in computing net income the amount of dividends received from corporations. The Senate amendment strikes out this provision and provides that the credit shall be the amount received as dividends (1) from a domestic corporation other than a corporation entitled to the benefits of section 262 (see discussion in connection with amendment No. 8) or (2) from a foreign corporation when it is shown to the satisfaction of the commissioner that more than 50 per cent of its gross income has been derived from sources within the United States. The House recedes.

On amendment No. 223: This amendment inserts, for the reason explained in connection with amendment No. 3, the paragraph of existing law relating to the credit in computing net income for purposes of the normal tax of the amount received as interest on United States bonds; and the House recedes.

On amendment No. 224: This amendment is a clerical change made necessary by the repeal and reenactment of the revenue act of 1918 instead of its amendment in specified particulars, as explained in connection with amendment No. 3; and the House recedes.

On amendment No. 225: This amendment is a clerical change; and the House recedes.

On amendment No. 226: This amendment clarifies the language of the House bill relating to the personal exemption of husband and wife living together; and the House recedes.

On amendments Nos. 227 and 228: These amendments are clerical changes; and the House recedes.

On amendment No. 229: This amendment is a clerical change made necessary by the action of the conferees on Senate amendments Nos. 157, 385, and 561, as explained in connection with amendment No. 8; and the House recedes.

On amendment No. 230: This amendment is a clerical change; and the House recedes.

On amendment No. 231: This amendment is a clerical change made necessary by the repeal and reenactment of the revenue act of 1918 instead of its amendment in specified particulars, as explained in connection with amendment No. 3; and the House recedes.

On amendments Nos. 232 and 233: These amendments are clerical changes; and the House recedes.

On amendment No. 234: This amendment is a clerical change made necessary by the repeal and reenactment of the revenue act of 1918 instead of its amendment in specified particulars, as explained in connection with amendment No. 3; and the House recedes.

On amendments Nos. 235 to 238, inclusive: These amendments are clerical changes; and the House recedes.

On amendment No. 239: This amendment is a clerical change made necessary by the action of the conferees on Senate amendments Nos. 157, 385, and 561, as explained in connection with amendment No. 8; and the House recedes.

On amendments Nos. 240 and 241: These amendments are clerical changes; and the House recedes.

On amendment No. 242: The House bill provided that in computing the gross income of a nonresident alien individual there should be treated as income from sources within the United States interest on bonds of residents, corporate or otherwise, but excepted interest received from foreign traders or foreign-trade corporations and interest on deposits in banks, banking associations, and trust companies paid to persons not engaged in business within the United States and not having an office or place of business therein. The Senate amendment strikes from this exception the interest received from foreign traders or foreign-trade corporations, since the action of the conferees in respect to foreign traders (explained in connection with amendment No. 8) makes this exception meaningless, and extends the exception of bank deposits to include deposits made with private bankers, and adds to the exception interest received from a resident alien individual or resident foreign corporation when it is shown to the satisfaction of the commissioner that less than 20 per cent of the gross income of such resident payor has been derived from sources within the United States. The House recedes.

On amendment No. 243: The House bill provided that in computing gross income of a nonresident alien there shall be treated as income from sources within the United States all dividends received from domestic corporations other than foreign-trade corporations. The Senate amendment strikes out this provision

and provides that there shall be included in gross income the amount received as dividends (1) from a domestic corporation other than a corporation entitled to the benefits of section 262 (see discussion in connection with amendment No. 8) or (2) from a foreign corporation unless it is shown to the satisfaction of the commissioner that less than 50 per cent of its gross income has been derived from sources within the United States. The House recedes.

On amendments Nos. 244 to 273, inclusive: These amendments are clerical changes; and the House recedes.

On amendment No. 274: This amendment is a clerical change made necessary by the action of the conferees on Senate amendments Nos. 157, 385, and 561, as explained in connection with amendment No. 8; and the House recedes.

On amendments Nos. 275, 276, and 277: These amendments are clerical changes; and the House recedes.

On amendment No. 278: This amendment strikes out, for the reason explained in connection with amendment No. 3, a portion of the House bill relating to the treatment of personal-service corporations and inserts for the same reason the provisions of existing law relating to the taxation of members of partnerships and personal-service corporations, providing, as did the House bill, that after December 31, 1921, such taxation of members of personal-service corporations shall be discontinued. The House bill also struck out of existing law the provision denying partnerships the deduction allowed to individuals of contributions to charity. The Senate amendment restores the existing law. The House recedes with an amendment making clerical changes.

On amendment No. 279: This amendment is a clerical change made necessary by the repeal and reenactment of the revenue act of 1918 instead of its amendment in specified particulars, as explained in connection with amendment No. 3; and the House recedes.

On amendment No. 280: This amendment inserts a heading to a section; and the House recedes.

On amendments Nos. 281 to 296, inclusive: These amendments are clerical changes; and the House recedes.

On amendment No. 297: This amendment provides for the exemption from income tax of the income of a trust created by an employer as a part of a stock bonus or profit-sharing plan for the exclusive benefit of his employees, to which contributions are made by the employer or employees, or both, for the purpose of distributing to such employees the earnings and principal accumulated by the trust. The amendment, however, also provides that the amount actually distributed or made available to any distributee shall be taxable to him in the year in which distributed or made available, to the extent that it exceeds the amount paid by him. The House recedes.

On amendment No. 298: This amendment is a clerical change made necessary by the repeal and reenactment of the revenue act of 1918 instead of its amendment in specified particulars, as explained in connection with amendment No. 3; and the House recedes.

On amendment No. 299: This amendment inserts a heading to a section; and the House recedes.

On amendments Nos. 300 to 305, inclusive: These amendments are clerical changes; and the House recedes.

On amendment No. 306: This amendment is a clerical change made necessary by the repeal and reenactment of the revenue act of 1918 instead of its amendment in specified particulars, as explained in connection with amendment No. 3; and the House recedes.

On amendment No. 307: This amendment inserts a heading to a section; and the House recedes.

On amendment No. 308: This amendment is a clerical change; and the House recedes.

On amendment No. 309: This amendment is a clerical change made necessary by the action of the conferees on Senate amendments Nos. 157 and 385, as explained in connection with amendment No. 8; and the House recedes.

On amendment No. 310: The House bill provided for withholding at the source of certain incomes of nonresident aliens but excepted from withholding interest on deposits "in banks, banking associations, and trust companies" paid to persons not engaged in business in the United States and not having an office or place of business therein. The Senate amendment extends the exception to such interest on deposits with private bankers; and the House recedes.

On amendments Nos. 311 to 317, inclusive: These amendments are clerical changes; and the House recedes.

On amendment No. 318: The existing law provides that in the case of so-called "tax-free covenant bonds" the obligor shall withhold at the source a tax equal to 2 per cent of the interest paid if such interest is payable to an individual or a

partnership. The House bill provided for a similar withholding in the case of interest paid to a corporation. The Senate amendment strikes out this extension of the present law; and the House recedes.

On amendment No. 319: This amendment is a clerical change; and the House recedes.

On amendment No. 320: This amendment inserts, for the reason explained in connection with amendment No. 3, the paragraph of the existing law relating to the administrative provisions governing withholding the tax at the source; and the House recedes.

On amendment No. 321: This amendment is a clerical change made necessary by the repeal and reenactment of the revenue act of 1918 instead of its amendment in specified particulars, as explained in connection with amendment No. 3; and the House recedes.

On amendment No. 322: This amendment inserts a heading to a section; and the House recedes.

On amendments Nos. 323 to 328, inclusive: These amendments are clerical changes; and the House recedes.

On amendment No. 329: This amendment is a clerical change made necessary by the action of the conferees on Senate amendments Nos. 157, 385, and 561, as explained in connection with amendment No. 8; and the House recedes.

On amendments Nos. 330 and 331: These amendments are clerical changes; and the House recedes.

On amendment No. 332: This amendment inserts, for the reason explained in connection with amendment No. 3, the paragraph of existing law relating to the treatment of accrued taxes in connection with the credit for foreign taxes; and the House recedes.

On amendment No. 333: This amendment is a clerical change made necessary by the repeal and reenactment of the revenue act of 1918 instead of its amendment in specified particulars, as explained in connection with amendment No. 3; and the House recedes.

On amendments Nos. 334, 335, and 336: These amendments are clerical changes; and the House recedes.

On amendment No. 337: This amendment is a clerical change made necessary by the repeal and reenactment of the revenue act of 1918 instead of its amendment in specified particulars, as explained in connection with amendment No. 3; and the House recedes.

On amendments Nos. 338, 339, and 340: These amendments are clerical changes; and the House recedes.

On amendment No. 341: The House bill made certain clarifying amendments in the section of the present law relating to the income-tax returns of individuals and married persons. The Senate amendment rewrites the section with further clarifying amendments and also provides that every individual, or a husband and wife living together, having a gross income, or an aggregate gross income, of \$5,000 or over, shall make a return regardless of the amount of net income; and the House recedes.

On amendment No. 342: This amendment inserts, for the reason explained in connection with amendment No. 3, the section of existing law relating to partnership returns; and the House recedes.

On amendment No. 343: This amendment inserts in clarified form, for the reason explained in connection with amendment No. 3, the section of existing law relating to returns by fiduciaries of the income of the persons for whom they act, adding a provision that such return must be made if such individual has a gross income of \$5,000 or over, regardless of the amount of net income; and the House recedes.

On amendment No. 344: This amendment inserts, for the reason explained in connection with amendment No. 3, the paragraph of existing law relating to returns for a period of less than 12 months; and the House recedes.

On amendment No. 345: This amendment is a clerical change made necessary by the repeal and reenactment of the revenue act of 1918 instead of its amendment in specified particulars, as explained in connection with amendment No. 3; and the House recedes.

On amendment No. 346: This amendment is a clerical change; and the House recedes.

On amendment No. 347: The House bill provided that in the case of returns for part of the taxable year the personal exemption and the credit for dependents shall be reduced to amounts bearing the same ratio to the full credits which the number of months in the period for which the return is made bears to a year. The Senate amendment strikes out this provision, which becomes unnecessary because of the action of the conferees in regard to amendments Nos. 349 and 350; and the House recedes.



On amendment No. 348: This amendment is a clerical change; and the House recedes.

On amendments Nos. 349 and 350: The House bill provided that in the case of a return for a period of less than a year the income shall be placed on an annual basis and that the surtax shall be such part of a surtax computed on such annual basis as the number of months in the period for which the return is made is of a year. The Senate amendments make the rule thus established applicable to both normal tax and surtax; and the House recedes.

On amendment No. 351: This amendment is a clerical change; and the House recedes.

On amendment No. 352: This amendment inserts, for the reason explained in connection with amendment No. 3, the section of the present law relating to the time and place for filing individual returns for income tax, adding a provision that in the case of nonresident aliens returns shall be made within six months after the close of the taxable year, instead of within three months, as in the case of citizens and residents; and the House recedes.

On amendment No. 353: This amendment inserts, for the reason explained in connection with amendment No. 3, the section of the existing law relating to understatements in returns; and the House recedes.

On amendment No. 354: This amendment grants to individuals and partnerships the privilege, if exercised within four months after the passage of this act, of organizing their trade or business as a corporation and paying taxes as if the corporation had been in existence from January 1, 1921, to the date of organization. The privilege is granted only if the income of the business was 20 per cent or more of its invested capital, and the amendment further provides that any taxpayer taking advantage of the section shall pay a capital-stock tax as if the corporation had been in existence from January 1, 1921. The House recedes with an amendment making clerical changes.

On amendment No. 355: The House bill amended existing law so as to make the income tax on corporations 12½ per cent, beginning January 1, 1922. The Senate amendment, for the reason explained in connection with amendment No. 3, strikes out the provision of the House bill and inserts with clerical changes the provisions of existing law imposing an income tax on corporations at the rate of 10 per cent for 1921 and 15 per cent for each year thereafter. The House recedes with an amendment restoring the House rate of 12½ per cent for the year 1922 and thereafter.

On amendment No. 356: This amendment inserts, for the reason explained in connection with amendment No. 3, the first two classes of organizations which under existing law are exempt from income tax; and the House recedes.

On amendment No. 357: This amendment is a clerical change made necessary by the repeal and reenactment of the revenue act of 1918 instead of its amendment in specified particulars, as explained in connection with amendment No. 3; and the House recedes.

On amendment No. 358: This amendment is a clerical change; and the House recedes.

On amendments Nos. 359, 360, and 361: The House bill provided that fraternal beneficiary societies operating under the lodge system or for the exclusive benefit of the members or beneficiaries of members of fraternal societies operating under the lodge system should be exempt from income tax. The Senate amendment restores the language of existing law, omitted from the House bill, granting exemption of such societies under this subdivision only if they provide for the payment of benefits to the members of such societies or their dependents; and the House recedes.

On amendment No. 362: This amendment is a clerical change; and the House recedes.

On amendment No. 363: The House bill provided for exemption from income tax of domestic building and loan associations operated exclusively for the purpose of making loans to members. The Senate amendment exempts all building and loan associations substantially all the business of which is confined to making loans to members, in lieu of the exemption provision of the House bill; and the House recedes.

On amendment No. 364: This amendment is a clerical change; and the House recedes.

On amendment No. 365: This amendment adds to the list of organizations exempt from income tax not only cemetery companies owned and operated exclusively for the benefit of their members (as under existing law), but also such companies which are not operated for profits, and any corporation chartered solely for burial purposes and not permitted to engage in any other business, if no part of its net earnings inures to the

benefit of any private stockholder or individual. The House recedes with an amendment making clerical changes.

On amendment No. 366: This amendment is a clerical change made necessary by the repeal and reenactment of the revenue act of 1918 instead of its amendment in specified particulars, as explained in connection with amendment No. 3; and the House recedes.

On amendments Nos. 367 and 368: These amendments are clerical changes; and the House recedes.

On amendment No. 369: This amendment inserts, for the reason explained in connection with amendment No. 3, the provisions of existing law granting exemption from income tax to business leagues, chambers of commerce, civic leagues and clubs for recreation purposes, certain farmers' or other mutual insurance companies, mutual ditch irrigation companies, and other organizations of like character; and the House recedes.

On amendment No. 370: This amendment is a clerical change made necessary by the repeal and reenactment of the revenue act of 1918 instead of its amendment in specified particulars, as explained in connection with amendment No. 3; and the House recedes.

On amendment No. 371: This amendment is a clerical change; and the House recedes.

On amendment No. 372: The House bill provided for the exemption from income tax of farmers' associations organized and operated as purchasing agents for the purpose of purchasing supplies and equipment for the use of members and turning over such supplies and equipment to members at actual cost plus "necessary purchasing expenses." The Senate amendment strikes out the word "purchasing" in the language above quoted; and the House recedes.

On amendment No. 373: This amendment inserts, for the reason explained in connection with amendment No. 3, the provision of existing law exempting from income tax corporations organized for the exclusive purpose of holding title to property, collecting income therefrom, and turning over the entire amount, less expenses, to an organization which itself is exempt from income tax; and the House recedes.

On amendment No. 374: This amendment inserts, for the reason explained in connection with amendment No. 3, the paragraph of existing law exempting from income tax Federal land banks and national farm loan associations; and the House recedes.

On amendment No. 375: This amendment is a clerical change made necessary by the repeal and reenactment of the revenue act of 1918 instead of its amendment in specified particulars, as explained in connection with amendment No. 3; and the House recedes.

On amendment No. 376: This amendment inserts, for the reason explained in connection with amendment No. 3, the provisions of existing law relating to the definition of net income of corporations, and adds a provision that in the case of a foreign corporation the computation shall also be made in the manner provided in the section dealing with the allocation of income to sources within and without the United States. The House recedes with an amendment making a clerical change.

On amendment No. 377: This amendment inserts a heading to a section; and the House recedes.

On amendment No. 378: This amendment is a clerical change made necessary by the repeal and reenactment of the revenue act of 1918 instead of its amendment in specified particulars, as explained in connection with amendment No. 3; and the House recedes.

On amendments Nos. 379 to 384, inclusive: These amendments are clerical changes; and the House recedes.

On amendment No. 385: The effect to this amendment and the action of the conferees thereon is explained in connection with amendment No. 8.

On amendment No. 386: This amendment is a clerical change; and the House recedes.

On amendment No. 387: This amendment inserts, for the reason explained in connection with amendment No. 3, the first portion of section 234 of the present law relating to deductions allowed corporations; and the House recedes.

On amendment No. 388: This amendment is a clerical change made necessary by the repeal and reenactment of the revenue act of 1918 instead of its amendment in specified particulars, as explained in connection with amendment No. 3; and the House recedes.

On amendment No. 389: The existing law allows as a deduction from gross income the interest paid on indebtedness incurred or continued to purchase or carry Victory 3½ per cent notes. The House bill struck out this deduction and the Senate amendment restores this provision of existing law, but limits

the privilege to cases where such notes were originally subscribed for by the taxpayer; and the House recedes.

On amendment No. 390: This amendment is a clerical change; and the House recedes.

On amendment No. 391: This amendment is a clerical change correcting a possible misconstruction of the provision of the House bill relating to the deduction of taxes; and the House recedes.

On amendments Nos. 392, 393, and 394: These amendments are clerical changes; and the House recedes.

On amendment No. 395: This amendment provides that a tax of the kind generally allowed as a deduction may be taken as a deduction by a corporation if it is a tax imposed upon a shareholder or member upon his interest as such and paid by the corporation without reimbursement from the shareholder, further providing that in such case no deduction shall be allowed the shareholder. The amendment also provides that, for the purposes of the paragraph relating to the deduction of taxes, estate, inheritance, legacy, and succession taxes accrue on the due date thereof unless otherwise provided by the law of the jurisdiction imposing such taxes. The House recedes.

On amendment No. 396: This amendment is a clerical change; and the House recedes.

On amendment No. 397: The House bill, in connection with deductions of individuals for losses, prohibited this deduction in the case of wash sales of shares of stock but in the paragraph relating to deductions of corporations prohibited such losses in case of wash sales of property. The Senate amendment confines this to wash sales of shares of stock in conformity with the provision as to individuals; and the House recedes.

On amendment No. 398: This amendment is a clerical change; and the House recedes.

On amendments Nos. 399, 400, and 401: The House bill provided that the taxpayer shall not be allowed any loss sustained in any sale of shares of stock where it appears that at or about the date of such sale the taxpayer has acquired identical property in substantially the same amount as the property sold, and that, if such new acquisition is to the extent of part only of identical property, then the amount of loss deductible shall be in proportion as the total amount of the property sold or disposed of bears to the property acquired. The Senate amendment extends the operation of the rule to cases where the acquisition of new property is within 30 days before or after the date of sale, but excepts from the operation of the rule of the House bill cases where the new property is acquired by bequest or inheritance and brings within the operation of the rule cases where the new property is substantially identical with the property sold; and provides, in case the new acquisition is to the extent of part only of substantially identical property, in lieu of the proportion provided by the House bill, that only a proportionate part of the loss shall be disallowed. Amendment No. 401 also excepts from the operation of the rule cases where the loss is sustained by a dealer in stock or securities with respect to a transaction in the ordinary course of its business. Amendment No. 401 also provides that in case of losses arising from destruction of or damage to property where the property was acquired before March 1, 1913, the deduction for loss shall be computed upon the basis of the fair market price or value of the property as of March 1, 1913. The House recedes from amendments Nos. 399 and 400 and recedes from amendment No. 401 with an amendment providing that the loss in case of "wash sales" shall be disallowed only in cases where the property acquired is held by the taxpayer for any period after the sale of the old property, a provision made necessary by the extension of the rule, made by Senate amendment No. 399, to cases where the new property was acquired within 30 days before the date of the sale.

On amendment No. 402: This amendment is a clerical change; and the House recedes.

On amendment No. 403: The House bill allows as a deduction in computing the net income of corporations for the purpose of income tax the amount of dividends received from other corporations. The Senate amendment strikes out this provision and provides that the deduction shall be the amount received as dividends (1) from a domestic corporation other than a corporation entitled to the benefits of section 262 (see discussion in connection with amendment No. 8) or (2) from a foreign corporation when it is shown to the satisfaction of the commissioner that more than 50 per cent of its gross income has been derived from sources within the United States; and the House recedes.

On amendment No. 404: This amendment inserts, for the reason explained in connection with amendment No. 3, the paragraph of existing law relating to the allowance for deprecia-

tion, and adds a clause providing that in the case of property acquired before March 1, 1913, the depreciation deduction shall be computed upon the basis of the fair market price or value of the property as of March 1, 1913; and the House recedes.

On amendment No. 405: This amendment is a clerical change made necessary by the repeal and reenactment of the revenue act of 1918 instead of its amendment in specified particulars, as explained in connection with amendment No. 3; and the House recedes.

On amendment No. 406: This amendment inserts, for the reason explained in connection with amendment No. 3, the paragraph of existing law relating to deductions for amortization of war facilities and vessels, but limits such deduction to any taxable year ended before March 3, 1924, and allows it for such years only if claim was made at the time of filing return for the taxable year 1918 or 1919. The House recedes with an amendment also permitting the deduction in the case of claims filed at the time of filing returns for the taxable years 1920 and 1921.

On amendment No. 407: This amendment inserts, for the reason explained in connection with amendment No. 3, the paragraph of the existing law relating to depletion allowance in the case of mines, oil and gas wells, and timber, adding a proviso that the depletion allowance based on discovery value shall not exceed the net income from property upon which the discovery is made, except where such net income is less than the depletion allowance based on cost or fair market value as of March 1, 1913; and the House recedes.

On amendment No. 408: This amendment is a clerical change made necessary by the repeal and reenactment of the revenue act of 1918 instead of its amendment in specified particulars, as explained in connection with amendment No. 3; and the House recedes.

On amendment No. 409: This amendment inserts, for the reason explained in connection with amendment No. 3, the provisions of existing law relating to special deductions of insurance companies, but limits the application of these provisions (except in the case of mutual companies other than life) to the calendar year 1921; and the House recedes.

On amendment No. 410: The House bill extended to corporations the provisions of existing law allowing individuals to deduct contributions made for charitable purposes, limiting the amount of such deduction to 5 per cent of the net income. The Senate amendment strikes out the provision; and the House recedes.

On amendment No. 411: This amendment is a clerical change; and the House recedes.

On amendments Nos. 412 and 413: The House bill added a paragraph to the existing deductions from gross income, providing that when property is involuntarily converted into cash as a result of fire, shipwreck, condemnation, or related causes the taxpayer may deduct the gains involuntarily realized (or a proper part thereof) when he proceeds forthwith in good faith to invest the proceeds (or a part thereof) of such conversion "directly or through the purchase of stock" in the acquisition of similar property or in the establishment of a replacement fund therefor. Amendment No. 412 strikes out the words above quoted, and amendment No. 413 extends the benefits of the paragraph to cases where the taxpayer expends the proceeds of the conversion in the acquisition of 80 per cent or more of the stock of a corporation owning similar property; and the House recedes.

On amendment No. 414: This amendment is a clerical change; and the House recedes.

On amendment No. 415: This is a clerical amendment striking out a portion of the House bill rendered unnecessary by Senate amendment No. 64 agreed to by the conferees; and the House recedes.

On amendment No. 416: This amendment provides that the provisions of the paragraph in the House bill prescribing the conditions under which a deduction may be taken in respect of the proceeds or gains derived from the compulsory or involuntary conversion of property into cash shall apply to the exemption or exclusion of such proceeds or gains from gross income under prior income, war-profits and excess-profits tax acts; and the House recedes.

On amendment No. 417: This amendment is a clerical change made necessary by the repeal and reenactment of the revenue act of 1918 instead of its amendment in specified particulars, as explained in connection with amendment No. 3; and the House recedes.

On amendment No. 418: This amendment is a clerical change; and the House recedes.



On amendment No. 419: This amendment is a clerical change made necessary by the action of the conferees on Senate amendment No. 561, as explained in connection with amendment No. 8; and the House recedes.

On amendment No. 420: The House bill provided that in the case of a foreign corporation the deductions from gross income shall be apportioned and allocated with respect to sources of income within and without the United States under rules and regulations prescribed by the commissioner, with the approval of the Secretary, such determination to be final. The Senate amendment strikes out of the House bill the clause making such determinations final; and the House recedes.

On amendment No. 421: This amendment inserts, for the reason explained in connection with amendment No. 3, section 235 of the present law relating to the items not deductible by corporations in computing net income; and the House recedes.

On amendment No. 422: This amendment inserts, for the reason explained in connection with amendment No. 3, the provisions of existing law relating to the credits allowed corporations in computing income tax, but changes existing law so as to allow a domestic corporation a specific credit of \$2,000 only in case its net income is \$25,000 or less, whereas existing law allows a \$2,000 credit to all domestic corporations. The House recedes with an amendment providing that if the net income is over \$25,000 the denial of the \$2,000 credit shall not operate to increase the tax, which would be payable if such credit were allowed, by more than the net income in excess of \$25,000. The effect of this limitation agreed upon by the conferees is to prevent an increase of \$1 in net income resulting in an increase of \$250 in tax.

On amendment No. 423: The House bill amended the section of existing law relating to the withholding of corporation income tax at the source in case of foreign corporations, by providing that the withholding should be at the rate of 12½ per cent per year. The Senate amendment, for the reason explained in connection with amendment No. 3, strikes out the House provision and inserts the provisions of existing law, but provides that the rate of withholding after the calendar year 1921 shall be at the rate of 15 per cent. The House recedes with an amendment making the rate of withholding after the calendar year 1921 to be 12½ per cent.

On amendment No. 424: This amendment is a clerical change made necessary by the repeal and reenactment of the revenue act of 1918 instead of its amendment in specified particulars, as explained in connection with amendment No. 3; and the House recedes.

On amendment No. 425: This amendment inserts a heading to a section; and the House recedes.

On amendments Nos. 426, 427, 428, and 429: These amendments are clerical changes; and the House recedes.

On amendment No. 430: This amendment inserts, for the reason explained in connection with amendment No. 3, the paragraph of existing law relating to the treatment of accrued taxes in connection with the credit for foreign taxes; and the House recedes.

On amendment No. 431: This amendment is a clerical change made necessary by the repeal and reenactment of the revenue act of 1918 instead of its amendment in specified particulars, as explained in connection with amendment No. 3; and the House recedes.

On amendments Nos. 432, 433, 434, and 435: These amendments are clerical changes; and the House recedes.

On amendment No. 436: The House bill provided for the exclusion from income of all dividends received from a corporation. Senate amendments agreed to by the conferees having provided for the inclusion in gross income of certain dividends received from a foreign corporation, Senate amendment No. 436 provides, under proper safeguards, for the credit by a domestic corporation of taxes paid by its subsidiary foreign corporation with respect to the income or profits of the foreign corporation paid as taxable dividends to the domestic corporation; and the House recedes.

On amendment No. 437: This amendment is a clerical change; and the House recedes.

On amendment No. 438: This amendment is a clerical change made necessary by the action of the conferees on Senate amendments Nos. 157, 385, and 561, as explained in connection with amendment No. 8; and the House recedes.

On amendment No. 439: This amendment is a clerical change; and the House recedes.

On amendment No. 440: This amendment inserts, for the reason explained in connection with amendment No. 3, the provisions of existing law relating to the making of returns by corporations for the purposes of the income tax and adds a provision that there shall be included in the return a statement

of the amount of the dividends paid, and of the amount of dividends paid out of the earnings or profits accumulated during the taxable year. The House recedes with an amendment making clarifying changes.

On amendment No. 441: This amendment is a clerical change made necessary by the repeal and reenactment of the revenue act of 1918 instead of its amendment in specified particulars, as explained in connection with amendment No. 3; and the House recedes.

On amendment No. 442: This amendment inserts a heading to a section; and the House recedes.

On amendments Nos. 443 and 444: These amendments are clerical changes; and the House recedes.

On amendment No. 445: This amendment makes a clerical change; and the House recedes with an amendment making further clerical changes.

On amendment No. 446: This amendment inserts, for the reason explained in connection with amendment No. 3, the paragraph of existing law relating to the definition of affiliated corporations for the purposes of the section dealing with consolidated returns; and the House recedes.

On amendment No. 447: This amendment is a clerical change made necessary by the repeal and reenactment of the revenue act of 1918 instead of its amendment in specified particulars, as explained in connection with amendment No. 3; and the House recedes.

On amendment No. 448: This amendment is a clerical change; and the House recedes.

On amendment No. 449: This amendment is a clerical change made necessary by the action of the conferees on Senate amendments Nos. 157, 385, and 561, as explained in connection with amendment No. 8; and the House recedes.

On amendments Nos. 450, 451, and 452: These amendments are clerical changes; and the House recedes.

On amendment No. 453: This amendment inserts, for the reason explained in connection with amendment No. 3, the section of existing law relating to the time and place for filing corporate returns, adding a provision that in the case of a corporation not having an office or place of business within the United States the return is to be made within six months after the close of the taxable year, instead of within three months, as in the case of other corporations; and the House recedes.

On amendment No. 454: This amendment is a clerical change made necessary by the repeal and reenactment of the revenue act of 1918 instead of its amendment in specified particulars, as explained in connection with amendment No. 3; and the House recedes.

On amendment No. 455: This amendment is a clerical change; and the House recedes.

On amendment No. 456: This amendment is a clerical change; and the Senate recedes.

On amendments Nos. 457 to 462, inclusive: These amendments are clerical changes; and the House recedes.

On amendment No. 463: The House inserted in the bill a section providing for a new system of taxing life insurance companies, beginning with the calendar year 1922. The Senate amendment made a new system of taxing life insurance companies begin with the year 1921; and the House recedes.

On amendment No. 464: The House bill made the new system of taxing life insurance companies also applicable to other kinds of insurance companies. The Senate, by this amendment, made the scheme applicable only to life insurance companies and by amendment No. 495 provided a still different method of taxing certain other insurance companies; and the House recedes.

On amendments Nos. 465 to 480, inclusive: These amendments are clerical changes; and the House recedes.

On amendment No. 481: The House bill provided as a deduction in computing net income of life insurance companies, for purposes of income tax, the amount of dividends received from other corporations. The Senate amendment strikes out this provision and provides that the credit shall be the amount received as dividends (1) from a domestic corporation other than a corporation entitled to the benefits of section 262 (see discussion in connection with amendment No. 8) or (2) from a foreign corporation when it is shown to the satisfaction of the commissioner that more than 50 per cent of its gross income has been derived from sources within the United States. The House recedes.

On amendments Nos. 482, 483, and 484: These amendments are clerical changes; and the House recedes.

On amendment No. 485: This amendment provides that a tax of the kind generally allowed as a deduction may be taken as a deduction by a life insurance company if it is a tax imposed upon a shareholder or member upon his interest as such and

paid by the life insurance company without reimbursement from the shareholder, further providing that in such case no deduction shall be allowed the shareholder. The House recedes.

On amendment No. 486: This amendment is a clerical change; and the House recedes.

On amendment No. 487: The House bill provided, in the case of life insurance companies, for a reasonable allowance for depreciation. The Senate amendment adds a provision that in the case of property acquired before March 1, 1913, the deduction shall be computed upon the basis of its fair market price or value as of March 1, 1913; and the House recedes.

On amendment No. 488: The existing law allows as a deduction from gross income the interest paid on indebtedness incurred or continued to purchase or carry Victory 3½ per cent notes. The House bill, in providing for the interest deduction in the case of life insurance companies, struck out this deduction, and the Senate amendment makes applicable to life insurance companies the provision of existing law but limits the privilege to cases where such notes were originally subscribed for by the taxpayer; and the House recedes.

On amendment No. 489: This amendment adds to the House bill provisions allowing domestic life insurance companies a specific credit of \$2,000 in computing their net income if their net income is \$25,000 or less. The House recedes with an amendment providing that if the net income is over \$25,000 the denial of the \$2,000 credit shall not operate to increase the tax, which would be payable if such credit were allowed, by more than the net income in excess of \$25,000. The effect of this limitation agreed upon by the conferees is to prevent an increase of \$1 in net income resulting in an increase of \$250 in tax.

On amendments Nos. 490 to 494, inclusive: These amendments are clerical changes; and the House recedes.

On amendment No. 495: The House bill provided specifically that every insurance company not exempt under the provisions of section 231 shall make a return for the purposes of this act. As section 239 provides that corporations (including insurance companies) subject to taxation under Title II shall make returns, Senate amendment No. 495 strikes out the above provision of the House bill as surplusage and provides a new system of taxing insurance companies (other than life or mutual insurance companies). The Senate amendment defines the term "gross income" of such companies to mean the combined gross amount earned during the taxable year from investment income and from underwriting income computed on the basis of the underwriting and investment exhibit of the annual statement approved by the National Convention of Insurance Commissioners. "Expenses incurred" are defined to mean all expenses shown on the aforementioned annual statement approved by the National Convention of Insurance Commissioners; but for the purpose of computing taxable net income only those expenses specifically allowed may be deducted. The House recedes with an amendment making clerical changes.

On amendment No. 496: This amendment inserts, for the reason explained in connection with amendment No. 3, subdivisions (a) and (b) of section 250 of the existing law, which are administrative provisions relating to the payment of income tax; and the House recedes.

On amendment No. 497: This amendment is a clerical change made necessary by the repeal and reenactment of the revenue act of 1918 instead of its amendment in specified particulars, as explained in connection with amendment No. 3; and the House recedes.

On amendments Nos. 498, 499, 500, 501, 502, and 503: These amendments are clerical changes; and the House recedes.

On amendment No. 504: This amendment inserts, for the reason explained in connection with amendment No. 3, subdivision (c) of section 250 of the present law relating to the payment of income tax; and the House recedes.

On amendment No. 505: This amendment is a clerical change made necessary by the repeal and reenactment of the revenue act of 1918 instead of its amendment in specified particulars, as explained in connection with amendment No. 3; and the House recedes.

On amendments Nos. 506, 507, and 508: These amendments are clerical changes; and the House recedes.

On amendment No. 509: The House bill provided that income, excess-profits, or war-profits taxes due under any return for 1921 and succeeding taxable years should be determined and assessed within three years after the return was filed. The Senate amendment extends this period to four years; and the House recedes.

On amendments Nos. 510 to 517, inclusive: These amendments are clerical changes; and the House recedes.

On amendment No. 518: The House bill provided that in the case of a false or fraudulent return with intent to evade the income tax, or of a failure to file an income tax return, the amount of the tax due might be determined at any time after it becomes due. The Senate amendment provides that in such cases the amount of the tax due may also be assessed and collected and a suit for its collection begun at any time after the tax becomes due; and the House recedes.

On amendments Nos. 519 and 520: These amendments are clerical changes; and the House recedes.

On amendment No. 521: The House bill provided that if, upon examination of any income, war-profits, or excess-profits tax return, a deficiency in tax is discovered the taxpayer shall be notified and given 30 days within which to file an appeal. The Senate amendment confines this provision to cases where the return was made under the revenue act of 1917 or the revenue act of 1918 or this act. The House recedes with an amendment making the provision also applicable to returns made under the revenue act of 1916.

On amendment No. 522: This amendment is a clerical change; and the House recedes.

On amendment No. 523: The House bill provided that if, upon examination of any income, war-profits, or excess-profits tax return a deficiency in tax is discovered the taxpayer shall be notified and given a period of not less than 30 days in which to file an appeal. The Senate amendment made the 30 days begin to run after the notice is mailed; and the House recedes with an amendment making the period begin to run after notice is sent by registered mail.

On amendment No. 524: This amendment is a clerical change; and the House recedes.

On amendments Nos. 525 to 534, inclusive: These amendments are clerical changes; and the House recedes.

On amendment No. 535: This amendment authorizes collectors of internal revenue to mail notices to taxpayers of installments of income tax not earlier than 30 days and not later than 10 days before the installment becomes due, and provides that such notice shall be sufficient notice and demand; and the House recedes.

On amendment No. 536: This amendment is a clerical change made necessary by the repeal and reenactment of the revenue act of 1918 instead of its amendment in specified particulars, as explained in connection with amendment No. 3; and the House recedes.

On amendment No. 537: This amendment authorizes the commissioner, with the approval of the Secretary, in case of deficiencies in tax not due to negligence or fraud with intent to evade the income tax, where it is shown to his satisfaction that the payment of the deficiency would result in undue hardship, to extend the time for its payment not to exceed 18 months after the passage of this act. The amendment also provides that in such cases sufficient bonds must be furnished and that interest at the rate of two-thirds of 1 per cent per month from the time of such extension shall be paid in lieu of other interest provided by law, unless such other interest is in excess of two-thirds of 1 per cent per month. The House recedes.

On amendment No. 538: This amendment is a clerical change made necessary by the repeal and reenactment of the revenue act of 1918 instead of its amendment in specified particulars, as explained in connection with amendment No. 3; and the House recedes.

On amendment No. 539: This amendment inserts, for the reason explained in connection with amendment No. 3, the provisions of the present law relating to the collection of the income taxes from a taxpayer intending to depart from the United States or to remove his property therefrom; and the House recedes.

On amendments Nos. 540 to 543, inclusive: These amendments are clerical changes; and the House recedes.

On amendment No. 544: This amendment makes the three preceding subdivisions of section 250 apply to the assessment and collection of taxes under the revenue act of 1917 and the revenue act of 1918; and the House recedes.

On amendment No. 545: This amendment inserts, for the reason explained in connection with amendment No. 3, the provisions of section 251 of the existing law relating to receipts for income tax; and the House recedes.

On amendment No. 546: This amendment is a clerical change made necessary by the repeal and reenactment of the revenue act of 1918 instead of its amendment in specified particulars, as explained in connection with amendment No. 3; and the House recedes.

On amendment No. 547: This amendment inserts, for the reason explained in connection with amendment No. 3, the pro-



visions of existing law relating to refunds for income, war-profits, and excess-profits taxes; and the House recedes.

On amendments Nos. 548, 549, and 550: These amendments are clerical changes; and the House recedes.

On amendment No. 551: This amendment provides that nothing in the section relating to refunds of income, war-profits, and excess-profits taxes shall be construed to bar from allowance claims for refund filed prior to the passage of the revenue act of 1918 under subdivision (a) of section 14 of the revenue act of 1916, or filed prior to the passage of this act under section 252 of the revenue act of 1918; and the House recedes.

On amendment No. 552: This amendment inserts, for the reason explained in connection with amendment No. 3, the provisions of existing law relating to penalties in connection with income taxes; and the House recedes.

On amendment No. 553: This amendment inserts, for the reason explained in connection with amendment No. 3, the section of existing law relating to returns of payments of dividends by corporations; and the House recedes.

On amendment No. 554: This amendment inserts, for the reason explained in connection with amendment No. 3, the provisions of existing law relating to returns of brokers of names of customers and of transactions with them; and the House recedes.

On amendment No. 555: The House bill amended the existing law relating to information at the source so as to require all persons making payments to any individual, corporation, or partnership at the rate of \$1,000 or over, in any taxable year, to make returns to the Treasury Department of the amounts of such payments. The Senate amendment, which inserted, for the reason explained in connection with amendment No. 3, the provisions of existing law relating to information at the source, strikes out the House amendment and retains the provisions of the existing law which require information returns only in case the payments amount to \$1,000 or more in the taxable year; and the House recedes.

On amendment No. 556: This amendment inserts, for the reason explained in connection with amendment No. 3, the provisions of existing law relating to the inspection of income-tax returns by the public, but provides that such returns shall be open to inspection at the request of either House of Congress. The House recedes with an amendment retaining the provisions of existing law, but omitting the provision of the Senate amendment permitting the inspection at the request of either House of Congress.

On amendment No. 557: This amendment inserts, for the reason explained in connection with amendment No. 3, the provisions of existing law requiring the commissioner to publish statistics relating to the operation of the income tax, war-profits and excess-profits tax laws, and adds a provision requiring a statement in the income-tax return of the amount of tax-exempt securities, State, municipal, or Federal, held by the taxpayer. The amendment also requires the information so obtained to be reported by the commissioner to Congress and imposes a penalty for failure of the taxpayer to comply. The House recedes with an amendment striking out the additions to existing law.

On amendment No. 558: This amendment inserts, for the reason explained in connection with amendment No. 3, the provisions of existing law relating to licenses for persons undertaking for profit the collection of foreign payments of interest or dividends by means of coupons, checks, or bills of exchange; and the House recedes.

On amendment No. 559: This amendment inserts, for the reason explained in connection with amendment No. 3, the provisions of existing law relating to the income tax of certain citizens of possessions of the United States and adds a provision that nothing in the section shall be construed to alter or amend the provisions of the act of July 12, 1921, providing that all income taxes imposed in the United States shall also apply to the Virgin Islands. The amendment also provides that the provisions of the act relating to foreign traders or foreign-trade corporations shall not apply to residents of the Virgin Islands. The House recedes with an amendment striking out the clause relating to the foreign-trade provisions of the House bill, which were rejected.

On amendment No. 560: This amendment inserts, for the reason explained in connection with amendment No. 3, the provisions of existing law relating to the income tax in Porto Rico and the Philippine Islands; and the House recedes.

On amendment No. 561: The effect of this amendment and the action of the conferees thereon is explained in connection with amendment No. 8.

On amendments Nos. 562 to 565, inclusive: These amendments are clerical changes; and the House recedes.

On amendment No. 566: The House bill repealed Title III of the revenue act of 1918, which is the war-profits and excess-profits tax, to take effect January 1, 1922. The Senate amendment strikes out this provision and inserts, for the reason explained in connection with amendment No. 3, the provisions of existing law relating to such tax, with slight modifications, keeping it in force only for the calendar year 1921, and by amendment No. 828 repeals Title III of the revenue act of 1918, effective as of January 1, 1921. Senate amendment No. 566 in section 304(c) adds to existing law a provision giving retroactive exemption to corporations engaged in the mining of gold the excess-profits tax imposed by the revenue act of 1917 in cases where such tax has been assessed but is unpaid. The House recedes with an amendment making clerical changes and making the retroactive exemption in the cases of corporations engaged in gold mining apply to such corporations whether or not the tax has been paid.

On amendments Nos. 567 to 575, inclusive: These amendments are clerical changes; and the House recedes.

On amendment No. 576: This amendment inserts, for the reason explained in connection with amendment No. 3, the section of the existing law relating to the returns of corporations for the purposes of the excess-profits tax; and the House recedes.

On amendment No. 577: This amendment inserts, for the reason explained in connection with amendment No. 3, the provisions of existing law relating to the limitation of excess-profits taxes in the case of bona fide sales of mines, oil or gas wells, or any interest therein, where the principal value of the property has been demonstrated by prospecting or exploration and discovery work; and the House recedes.

On amendments Nos. 578, 579, and 580: These amendments are clerical changes; and the House recedes.

On amendment No. 581: This amendment inserts, for the reason explained in connection with amendment No. 3, with certain clarifying changes, the provisions of existing law relating to definitions for purposes of the estate tax; and the House recedes.

On amendment No. 582: This amendment inserts, for the reason explained in connection with amendment No. 3, the provisions of existing law relating to the estate tax, with four additional brackets on net estates over \$10,000,000, the maximum being 50 per cent of the amount by which the net estate exceeds \$100,000,000. The House recedes with an amendment striking out these additional brackets and retaining the rates under existing law.

On amendment No. 583: This amendment inserts, for the reason explained in connection with amendment No. 3, the first few paragraphs of the section of the existing law relating to the computation of gross estate for the purposes of the estate tax; and the House recedes.

On amendment No. 584: This amendment is a clerical change made necessary by the repeal and reenactment of the revenue act of 1918 instead of its amendment in specified particulars, as explained in connection with amendment No. 3; and the House recedes.

On amendments Nos. 585 and 586: These amendments are clerical changes; and the House recedes.

On amendment No. 587: This amendment inserts, for the reason explained in connection with amendment No. 3, certain provisions of existing law relating to the computation of gross estate for the purposes of the estate tax; and the House recedes.

On amendment No. 588: This amendment inserts, for the reason explained in connection with amendment No. 3, with clarifying changes, certain provisions of the present law relating to the determination of the value of the net estate for the purposes of the estate tax; and the House recedes.

On amendment No. 589: This amendment is a clerical change made necessary by the repeal and reenactment of the revenue act of 1918 instead of its amendment in specified particulars, as explained in connection with amendment No. 3; and the House recedes.

On amendments Nos. 590 and 591: These amendments are clerical changes; and the House recedes.

On amendment No. 592: The House bill, continuing existing law, provided for the deduction in computing estate tax of the value of property forming part of the gross estate of any person who died within five years prior to the death of the decedent whose estate tax is being computed, if such prior estate tax was paid under the revenue act of 1917 or this act. The Senate amendment grants this privilege if the first estate tax was paid under this act or any prior act of Congress; and the House recedes.

On amendment No. 593: This amendment is a clerical change; and the House recedes.

On amendment No. 594: This amendment inserts, for the reason explained in connection with amendment No. 3, with clarifying changes, certain deductions allowed by the present law in computing estate tax; and the House recedes.

On amendment No. 595: This amendment is a clerical change made necessary by the repeal and reenactment of the revenue act of 1918 instead of its amendment in specified particulars, as explained in connection with amendment No. 3; and the House recedes.

On amendments Nos. 596 and 597: These amendments are clerical changes; and the House recedes.

On amendment No. 598: This amendment makes the same change in regard to the estates of nonresident decedents as has been explained in connection with amendment No. 592; and the House recedes.

Amendments Nos. 599 to 604, inclusive: These amendments are clerical changes; and the House recedes.

On amendment No. 605: The House bill provided that moneys deposited in any bank, banking institution, or trust company in the United States, by or for a nonresident decedent not engaged in business in the United States at the time of his death, shall not be deemed property within the United States for the purposes of the estate tax. The Senate amendment made the provision also apply in the case of moneys deposited with a private banker; and the House recedes.

On amendments Nos. 606 to 610, inclusive: These amendments are clerical changes; and the House recedes.

On amendment No. 611: This amendment inserts, for the reason explained in connection with amendment No. 3, with clerical changes, the provisions of existing law relating to returns of executors for the purposes of the estate tax; and the House recedes.

On amendment No. 612: This amendment inserts, for the reason explained in connection with amendment No. 3, the provisions of existing law relating to making a return by the collector if no return is filed by the executor; and the House recedes.

On amendment No. 613: This amendment inserts, for the reason explained in connection with amendment No. 3, section 406 of the existing law, with clarifying changes; and provides in addition that no extension of time for payment of the tax shall postpone the accrual of interest subsequent to the expiration of one year and six months after the decedent's death; and the House recedes.

On amendment No. 614: This amendment simplifies the procedure of collecting the estate tax by authorizing payment of the tax shown upon a return made in good faith, and provides, as in existing law, that any further tax found to be due subsequent to the expiration of one year and six months after the decedent's death shall be paid upon notice and demand. The amendment provides that if the tax is not paid within one month thereafter, interest is to be added at the rate of 10 per cent. This amendment also makes it plain that interest on the additional tax at the rate of 10 per cent per annum attaches only where the interest-free period of six months has expired; and the House recedes with an amendment making a clerical change.

On amendments Nos. 615, 616, and 617: These amendments are clerical changes; and the House recedes.

On amendment No. 618: This amendment inserts, for the reason explained in connection with amendment No. 3, section 408 of the existing law with the following change: The existing law provides that if the estate tax is not paid within 180 days after it is due, the collector shall proceed to collect the tax or commence appropriate court proceedings to recover the tax out of the property of the decedent. This amendment eliminates the 180-day period, and provides that the collector shall upon instructions from the commissioner proceed to collect the tax; and the House recedes.

On amendment No. 619: This amendment inserts, for the reason explained in connection with amendment No. 3, section 409 of the existing law without change; and the House recedes.

On amendment No. 620: This amendment inserts, for the reason explained in connection with amendment No. 3, section 410 of the existing law without change; and the House recedes.

On amendment No. 621: This amendment inserts a section providing for the assessment and collection of estate tax in the case of citizens of the United States having property within the probate jurisdiction of the United States Court for China, and repeals the existing law dealing with the collection of estate tax in such case; and the House recedes.

On amendment No. 622: This amendment inserts a new section providing for the levying of a tax at graduated rates on gifts of property amounting to \$20,000 or more in any year; and the Senate recedes.

On amendment No. 623: This amendment is a clerical change; and the House recedes.

On amendments Nos. 624 and 625: The House bill repealed, effective as of January 1, 1922, the transportation taxes on freight, express, passengers, Pullman accommodations, and oil by pipe line. The Senate amendment accomplishes the same result as the House bill by striking out the provisions of the House bill, for the reason explained in connection with amendment No. 3, and inserting only the provisions of the existing law relating to the tax on telegraph and telephone messages, and inserts a provision also found in the House bill giving the commissioner authority to make refund of the proportionate part of the tax collected under the revenue act of 1918 on tickets or mileage books only partially used before the repeal of the tax on passenger transportation. The House recedes from amendment No. 624 and recedes from amendment No. 625 with an amendment making a clerical change.

On amendment No. 626: This amendment is a change in heading to a title; and the House recedes.

On amendment No. 627: The House bill amended the revenue act of 1918 by providing that on all distilled spirits on which tax is paid at the nonbeverage rate of \$2.20 per gallon and which are diverted to beverage purposes there shall be levied an additional tax of \$4.20, to be paid by the person responsible for the diversion. The House bill also amended the existing law by providing that the process of extraction of water from high-proof spirits for the production of absolute alcohol shall not be deemed to be rectification within the meaning of the Revised Statutes, and that absolute alcohol shall not be subject to the rectification tax imposed by existing law. The Senate amendment strikes out these provisions of the House bill and inserts three new sections, the first of which imposes a tax of 60 cents per wine gallon on intoxicating malt liquors, the second of which imposes a tax of \$1.20 per wine gallon upon all vinous liquors, and the third of which imposes a tax of \$6.40 per proof gallon upon all distilled spirits except alcohol, the result thereof being to impose this tax upon whisky withdrawn for medicinal purposes. The amendment also inserted various modifications of administrative features of the law relating to the storage and bottling of distilled spirits. The House recedes with an amendment omitting the new matter proposed by the Senate and restoring the language of the House bill with clerical changes.

On amendment No. 628: This amendment is a clerical change; and the House recedes with an amendment making a further clerical change.

On amendments Nos. 629, 630, and 631: These amendments are clerical changes; and the House recedes.

On amendment No. 632: The House bill imposed a tax of 4 cents a gallon on cereal beverages. The Senate amendment reduces this to 2 cents a gallon; and the House recedes.

On amendments Nos. 633 and 634: These amendments are clerical changes; and the House recedes.

On amendment No. 635: The House bill excepted from the tax on still drinks natural or artificial mineral and table waters. The Senate amendment also excepts imitations thereof; and the House recedes.

On amendment No. 636: The House bill imposed a tax of 3 cents a gallon on all still drinks intended for consumption as beverages in the form in which sold, with certain exceptions. The Senate amendment reduces this tax to 2 cents a gallon; and the House recedes.

On amendment No. 637: This amendment inserts a tax of 2 cents a gallon upon all natural or artificial mineral and table waters whether carbonated or not, and all imitations thereof, sold by the producer, bottler, or importer thereof, in bottles or other closed containers, at over 10 cents per gallon. The House recedes with an amendment confining the tax to cases where such waters are sold at over 12½ cents per gallon.

On amendment No. 638: This amendment is a clerical change; and the House recedes.

On amendments Nos. 639, 640, and 641: The House bill imposed a tax of 10 cents per gallon on all finished or fountain sirups of the kind used in the manufacture of soft drinks, sold by the manufacturer, producer, or importer, and a tax of 10 cents per gallon upon any manufacturer of carbonated beverages, or soda fountain proprietor, who manufactures any such sirups for use by him in the preparation of soft drinks. Senate amendments 639 and 640 reduce these taxes to 7½ cents per gallon and amendment No. 641 provides that in the case of such sirups sold to a bottler of carbonated beverages or manufactured by a bottler of carbonated beverages for use in the preparation of his beverages, the tax shall be 5 cents a gallon. The House recedes from amendments Nos. 639 and 640 with amendments making the rate 9 cents per gallon, and recedes from its



disagreement to amendment No. 641 with an amendment making clerical changes.

On amendment No. 642: This amendment is a clerical change; and the House recedes.

On amendment No. 643: The House bill imposed a tax of 5 cents per pound upon all carbonic acid gas sold to a manufacturer of carbonated beverages or to a soda fountain proprietor and a tax at a like rate upon all carbonic acid gas used by the manufacturer, producer, or importer thereof in the preparation of soft drinks. The Senate amendment reduced this tax to 3 cents per pound; and the House recedes with an amendment making the rate 4 cents per pound.

On amendments Nos. 644, 645, and 646: These amendments are clerical changes; and the House recedes with amendments making further clerical changes.

On amendment No. 647: This amendment is a clerical change; and the House recedes.

On amendment No. 648: This amendment is a clerical change; and the House recedes with an amendment making a further clerical change.

On amendment No. 649: This amendment is a clerical change; and the House recedes.

On amendment No. 650: This amendment is a clerical change made necessary by the repeal and reenactment of the revenue act of 1918 instead of its amendment in specified particulars, as explained in connection with amendment No. 3; and the House recedes.

On amendment No. 651: This amendment inserts, for the reason explained in connection with amendment No. 3, the provisions of existing law imposing taxes on cigars, tobacco, and manufactures thereof; and the House recedes with an amendment changing two section numbers.

On amendment No. 652: This amendment is a clerical change; and the House recedes.

On amendment No. 653: This amendment is a clerical change made necessary by the repeal and reenactment of the revenue act of 1918 instead of its amendment in specified particulars, as explained in connection with amendment No. 3; and the House recedes.

On amendment No. 654: This amendment inserts, for the reason explained in connection with amendment No. 3, the introductory clause of the section of the existing law imposing the tax on admissions; and the House recedes.

On amendment No. 655: This amendment inserts, for the reason explained in connection with amendment No. 3, the provisions of existing law imposing a tax of 1 per cent for each 10 cents or fraction thereof of the amount paid for admission to any place, but adds a clause exempting from tax cases where the amount paid for admission is 10 cents or less. The House recedes.

On amendments Nos. 656, 657, and 658: These amendments are clerical changes; and the House recedes.

On amendment No. 659: This amendment inserts, for the reason explained in connection with amendment No. 3, the provisions of existing law relating to the tax on boxes or seats in opera houses, and on admission to cabarets; and the House recedes.

On amendment No. 660: This amendment is a clerical change made necessary by the repeal and reenactment of the revenue act of 1918 instead of its amendment in specified particulars, as explained in connection with amendment No. 3; and the House recedes.

On amendment No. 661: This amendment is a clerical change; and the House recedes.

On amendment No. 662: This amendment adds to the list of organizations in the case of which no admission tax is to be collected posts of the American Legion or the women's auxiliary units thereof; and the House recedes with an amendment making a clerical change.

On amendment No. 663: This amendment adds to the list of organizations in the case of which no admission tax is to be collected organizations conducted for the sole purpose of maintaining a cooperative or community center moving-picture theater; and the House recedes.

On amendment No. 664: The House bill provided for exemption from admissions tax in the case of admissions to agricultural fairs none of the profits of which are distributed to stockholders or members of the association conducting the fair. The Senate amendment changed the exemption so as to exempt admissions to agricultural fairs if no part of the net earnings thereof inures to the benefit of any stockholders or members of the association conducting the fair; and the House recedes.

On amendment No. 665: The House bill confined the exemption from admissions tax in the case of admissions to agricul-

tural fairs to cases where the proceeds from such admissions are used exclusively for the maintenance and operation of the fair. The Senate amendment inserts the word "improvement" before the words "maintenance and operation"; and the House recedes.

On amendment No. 666: This amendment is a clerical change; and the House recedes.

On amendment No. 667: This amendment inserts, for the reason explained in connection with amendment No. 3, a definition found in the existing law of the term "admission," for the purposes of the admissions tax; and the House recedes.

On amendment No. 668: This amendment is a clerical change made necessary by the repeal and reenactment of the revenue act of 1918 instead of its amendment in specified particulars, as explained in connection with amendment No. 3; and the House recedes.

On amendments Nos. 669 and 670: These amendments are clerical changes; and the House recedes.

On amendment No. 671: This amendment inserts, for the reason explained in connection with amendment No. 3, the section of existing law relating to the tax on club dues and fees; and the House recedes.

On amendment No. 672: This amendment is a clerical change made necessary by the repeal and reenactment of the revenue act of 1918 instead of its amendment in specified particulars, as explained in connection with amendment No. 3; and the House recedes.

On amendments Nos. 673, 674, and 675: These amendments are clerical changes; and the House recedes.

On amendment No. 676: This amendment inserts, for the reason explained in connection with amendment No. 3, the provisions of existing law imposing a tax on automobile trucks and other automobiles; and the House recedes.

On amendment No. 677: This amendment is a clerical change made necessary by the repeal and reenactment of the revenue act of 1918 instead of its amendment in specified particulars, as explained in connection with amendment No. 3; and the House recedes.

On amendments Nos. 678, 679, and 680: These amendments are clerical changes; and the House recedes.

On amendment No. 681: This amendment strikes out the excise tax of 5 per cent on musical instruments; and the House recedes.

On amendment No. 682: This amendment is a clerical change made necessary by the repeal and reenactment of the revenue act of 1918 instead of its amendment in specified particulars, as explained in connection with amendment No. 3; and the House recedes.

On amendment No. 683: This amendment strikes out the excise tax of 5 per cent on sporting goods; and the House recedes.

On amendment No. 684: This amendment is a clerical change made necessary by the repeal and reenactment of the revenue act of 1918 instead of its amendment in specified particulars, as explained in connection with amendment No. 3; and the House recedes.

On amendments Nos. 685 and 686: These amendments are clerical changes; and the House recedes.

On amendment No. 687: This amendment inserts, for the reason explained in connection with amendment No. 3, the paragraph of existing law imposing an excise tax of 5 per cent on photographic films and plates (other than moving-picture films); and the House recedes.

On amendment No. 688: The House bill amended existing law so as to reduce the existing excise tax on candy from 5 per cent to 3 per cent. The Senate amendment, for the reason explained in connection with amendment No. 3, strikes out the House provision and inserts a paragraph taxing candy at the same rate as in the House bill; and the House recedes.

On amendment No. 689: This amendment inserts, for the reason explained in connection with amendment No. 3, the paragraph of the existing law imposing a tax of 10 per cent on firearms, shells, and cartridges; and the House recedes.

On amendment No. 690: This amendment inserts, for the reason explained in connection with amendment No. 3, the provisions of existing law imposing an excise tax of 10 per cent on hunting and bowie knives; and the House recedes.

On amendment No. 691: This amendment inserts, for the reason explained in connection with amendment No. 3, the paragraph of existing law imposing a tax of 100 per cent on dirk knives, daggers, sword canes, stilettoes, and brass or metallic knuckles; and the House recedes.

On amendment No. 692: This amendment is a clerical change made necessary by the repeal and reenactment of the revenue

act of 1918 instead of its amendment in specified particulars, as explained in connection with amendment No. 3; and the House recedes.

On amendment No. 693: This amendment inserts, for the reason explained in connection with amendment No. 3, the paragraph of existing law imposing an excise tax of 10 per cent upon certain smokers' articles; and the House recedes.

On amendment No. 694: This amendment inserts, for the reason explained in connection with amendment No. 3, the paragraph of existing law imposing an excise tax on automatic slot-device vending and weighing machines; and the House recedes.

On amendments Nos. 695 and 696: These amendments insert, for the reason explained in connection with amendment No. 3, the paragraphs of existing law imposing a tax of 10 per cent on liveries and livery boots and hats and hunting and shooting garments and riding habits; and the House recedes.

On amendment No. 697: The House bill amended the existing law so as to reduce the excise tax on articles made of fur from 10 per cent to 5 per cent. The Senate amendment strikes out the tax entirely; and the House recedes.

On amendment No. 698: This amendment is a clerical change made necessary by the repeal and reenactment of the revenue act of 1918 instead of its amendment in specified particulars, as explained in connection with amendment No. 3; and the House recedes.

On amendment No. 699: This amendment is a clerical change; and the House recedes.

On amendment No. 700: The existing law, continued in the House bill, imposed a tax on pleasure boats and pleasure canoes if sold for more than \$15. The Senate amendment taxes these boats only if sold for more than \$100; and the House recedes.

On amendment No. 701: The House bill amended existing law so as to reduce from 10 per cent to 5 per cent the excise tax on yachts and motor boats not designed for trade, fishing, or national defense, and pleasure boats and pleasure canoes. The Senate amendment restores the rate of 10 per cent found in existing law; and the House recedes with an amendment making a clerical change.

On amendments Nos. 702 and 712: The House bill imposed a tax of 5 per cent upon certain articles if sold for more than certain specified prices. Senate amendment No. 702 strikes out this tax, but amendment No. 712 inserts a new section imposing a tax of 5 per cent upon the same articles, with two exceptions, but places the tax upon so much of the price for which the article is sold as is in excess of certain specified prices which are slightly higher than the prices fixed in the House bill. The House recedes from its disagreement to both amendments.

On amendment No. 703: This amendment imposes a tax of 4 per cent upon certain toilet articles such as perfumes, hair oils, etc. The Senate recedes.

On amendment No. 704: The House bill repealed the provisions of existing law providing for the computation of the excise tax in the case of a manufacturer selling articles both at wholesale and retail. The Senate amendment restores the provisions of existing law; and the House recedes.

On amendment No. 705: This amendment is a clerical change made necessary by the repeal and reenactment of the revenue act of 1918 instead of its amendment in specified particulars, as explained in connection with amendment No. 3; and the House recedes.

On amendment No. 706: This amendment is a clerical change; and the House recedes.

On amendment No. 707: The House bill provided that if any person manufacturing any article subject to excise tax sells it to an affiliated corporation the tax shall be computed on the basis of the price for which the article is sold by the affiliated corporation. The Senate amendment confines this provision to cases where the article is sold to the affiliated corporation at less than the fair market price obtainable therefor; and the House recedes.

On amendment No. 708: This amendment is a clerical change; and the House recedes.

On amendments Nos. 709 and 710: The House bill amended existing law by reducing from 10 per cent to 5 per cent the excise tax on sculpture, paintings, statuary, porcelains, and bronzes. For the reason explained in connection with amendment No. 3, Senate amendment No. 709 strikes out the provision of the House bill and amendment No. 710 inserts the provision of the existing law at the 5 per cent rate as provided in the House bill, and adds a provision exempting from tax sales by a dealer in such articles to another dealer in such articles for resale; and the House recedes from its disagreement to both amendments.

On amendment No. 711: This amendment inserts, for the reason explained in connection with amendment No. 3, the provisions of existing law relating to returns for purposes of the excise tax; and the House recedes.

On amendment No. 712: The effect of this amendment and the action of the conferees thereon has already been explained in connection with amendment No. 702.

On amendment No. 713: This amendment is a clerical change made necessary by the repeal and reenactment of the revenue act of 1918 instead of its amendment in specified particulars, as explained in connection with amendment No. 3; and the House recedes.

On amendments Nos. 714 to 720, inclusive: These amendments are clerical changes; and the House recedes.

On amendment No. 721: This amendment inserts, for the reason explained in connection with amendment No. 3, the administrative provisions of the present law dealing with the tax on jewelry, articles made of, or ornamented, mounted, or fitted with, precious metals or imitations thereof, etc.; and the House recedes.

On amendment No. 722: This amendment is a clerical change made necessary by the repeal and reenactment of the revenue act of 1918 instead of its amendment in specified particulars, as explained in connection with amendment No. 3; and the House recedes.

On amendments Nos. 723 to 744, inclusive: These amendments are clerical changes; and the House recedes.

On amendment No. 745: The House bill amended the existing law relating to the capital stock tax by providing that such tax shall be assessed within 15 months from the due date of the return, except in the case of a false return, in which case an additional assessment might be made within three years from the due date. The House bill also provided that in case of overpayment of the capital stock tax under the revenue act of 1916, such act as amended by the revenue act of 1917, or under this act, the amount of the excess should be refunded to the taxpayer if within three years from the date when the return was due a claim therefor is filed by the taxpayer. The Senate amendment strikes out this provision and inserts, for the reason explained in connection with amendment No. 3, the section of existing law relating to the tax on capital stock of corporations, but excepting insurance companies from the tax; and the House recedes with an amendment making a clerical change.

On amendment No. 746: This amendment inserts, for the reason explained in connection with amendment No. 3, the section of existing law relating to miscellaneous occupational taxes on brokers, theater proprietors, and others; and the House recedes with an amendment making a clerical change.

On amendment No. 747: This amendment inserts, for the reason explained in connection with amendment No. 3, the section of existing law relating to special taxes on manufacturers of tobacco, cigars, and cigarettes, with a provision exempting from the amount of annual sales upon which the tax is computed all tobacco, cigars, and cigarettes sold for export and in due course so exported; and the House recedes with an amendment making a clerical change.

On amendment No. 748: The House bill amended the existing law relating to the special tax on the use of boats by providing that such tax shall apply only in the case of yachts or boats over 5 net tons and over 32 feet in length. The Senate amendment strikes out the provision of the House bill and inserts, for the reason explained in connection with amendment No. 3, the section of existing law relating to this tax, but incorporates the House amendment and adds a provision to the effect that the tax shall not apply to boats used without profit by charitable or religious organizations exclusively for furnishing aid, comfort, or relief to seamen. The House recedes with an amendment making clerical changes.

On amendment No. 749: This amendment inserts, for the reason explained in connection with amendment No. 3, the provision of existing law containing a penalty for nonpayment of special taxes; and the House recedes with an amendment making a clerical change.

On amendment No. 750: This amendment inserts, for the reason explained in connection with amendment No. 3, the provision of existing law relating to the tax on dealers in narcotics and the tax on narcotics; and the House recedes with an amendment making a clerical change.

On amendment No. 751: This amendment inserts, for the reason explained in connection with amendment No. 3, the section of existing law relating to exemption from the narcotic tax; and the House recedes.



On amendment No. 752: This amendment inserts, for the reason explained in connection with amendment No. 3, the provision of existing law relating to the forfeiture and disposition of narcotics seized for violation of the Harrison Narcotic Act; and the House recedes.

On amendment No. 753: This amendment inserts a heading to a title of the bill; and the House recedes.

On amendments Nos. 754 to 760, inclusive: These amendments insert, for the reason explained in connection with amendment No. 3, the provisions of existing law containing the administrative provisions relating to the stamp taxes; and the House recedes.

On amendment No. 761: This amendment inserts, for the reason explained in connection with amendment No. 3, the provisions of existing law relating to the furnishing, without prepayment, of stamps for the payment of stamp taxes, to assistant treasurers or designated depositaries of the United States, and adds a provision for the furnishing of such stamps, without prepayment, to any person duly appointed and acting as agent of any State for the sale of stock transfer stamps of such State, with provision for a bond conditioned for the return of all stamps not disposed of. The House recedes.

On amendment No. 762: This amendment inserts, for the reason explained in connection with amendment No. 3, the section of existing law imposing a stamp tax on bonds of indebtedness; and the House recedes.

On amendment No. 763: This amendment is a clerical change made necessary by the repeal and reenactment of the revenue act of 1918 instead of its amendment in specified particulars, as explained in connection with amendment No. 3; and the House recedes.

On amendment No. 764: The House bill amended the existing law relating to the stamp tax on policies of guaranty and fidelity insurance by repealing the provision which required that where a premium is charged for the renewal or continuance of a policy the tax shall be 1 cent on each dollar or fraction thereof of the premium charged. The Senate amendment repeals the entire stamp tax on such policies and on indemnity and surety bonds; and the House recedes.

On amendment No. 765: This amendment inserts, for the reason explained in connection with amendment No. 3, the existing law relating to the stamp tax on issues of capital stock, adding a provision that where the actual value of stock without par value is less than \$100 per share the tax shall be 1 cent on each \$20 of actual value or fraction thereof; and the House recedes with an amendment making a clerical change.

On amendment No. 766: This amendment inserts, for the reason explained in connection with amendment No. 3, the paragraph of existing law imposing a stamp tax on the transfer of capital stock, omitting the provision of existing law which provides that in the case of stock without par or face value the actual value of which is more than \$100 the tax shall be 2 cents for each \$100 or fraction thereof, leaving the tax in such cases at 2 cents per share regardless of value. The amendment also exempts from the tax loans of stock and the return of stock so loaned. The House recedes.

On amendment No. 767: This amendment inserts, for the reason explained in connection with amendment No. 3, the paragraph of existing law imposing a stamp tax on sales at produce exchanges and adds a provision making it clear that the United States cotton futures act and the future trading act shall not be affected by the reenactment of this provision. The House recedes.

On amendments Nos. 768 to 773, inclusive: These amendments insert, for the reason explained in connection with amendment No. 3, the paragraphs of existing law imposing a stamp tax on drafts or checks payable otherwise than at sight or demand, conveyances of real property, entry of goods at customhouse, entry for withdrawal of goods from customs warehouse, passage tickets by water, and proxies for voting at corporate elections. The House recedes on all these amendments.

On amendment No. 774: This amendment inserts, for the reason explained in connection with amendment No. 3, the provisions of existing law relating to the stamp tax on powers of attorney, but excepts from such tax powers of attorney in the application of members or policyholders in mutual insurance companies doing business on the interinsurance or reciprocal indemnity plan through an attorney in fact. The House recedes.

On amendments Nos. 775 and 776: These amendments insert, for the reasons explained in connection with amendment No. 3, the paragraphs of existing law imposing a stamp tax on playing cards and on policies of marine insurance issued by

foreign companies having no office or place of business in the United States. The House recedes on both these amendments.

On amendment No. 777: This amendment inserts, for the reason explained in connection with amendment No. 3, the provisions of existing law imposing a tax on the employment of child labor; and the House recedes.

On amendment No. 778: This amendment is a clerical change; and the House recedes.

On amendment No. 779: This amendment inserts, for the reason explained in connection with amendment No. 3, the provision of existing law making all administrative, special, or stamp provisions of law, so far as applicable, apply to the taxes imposed by this act; and the House recedes.

On amendments Nos. 780 and 797: Section 1004 of the House bill provided that whether or not the method of collecting any of the taxes imposed by the revenue act of 1918 (other than income taxes, excess-profits taxes, estate taxes, stamp taxes, and the child-labor tax) is specifically provided, any such tax may, under regulations prescribed by the commissioner with the approval of the Secretary, be collected by stamp, coupon, or serial numbered ticket. This provision of the House bill was stricken out by Senate amendment No. 797, and amendment No. 780 inserts the same provision of the House bill made applicable to this act, with an additional provision that any such tax may be collected by any other reasonable device or method necessary or helpful in securing a complete and prompt collection of the tax. The House recedes on both amendments Nos. 780 and 797.

On amendment No. 781: This amendment inserts, for the reason explained in connection with amendment No. 3, the provision of existing law relating to penalties for nonpayment of taxes; and the House recedes.

On amendment No. 782: This amendment inserts, for the reason explained in connection with amendment No. 3, the provision of existing law empowering the commissioner to make rules and regulations for the enforcement of this act; and the House recedes.

On amendment No. 783: This amendment inserts, for the reason explained in connection with amendment No. 3, the section of the present law relating to refunds for the overcollections or overpayments of taxes; and the House recedes with an amendment making a clerical change.

On amendment No. 784: This amendment inserts, for the reason explained in connection with amendment No. 3, the section of the existing law relating to exemption from excise taxes of articles sold for export, and in due course so exported; and the House recedes.

On amendment No. 785: This amendment inserts, for the reason explained in connection with amendment No. 3, the section of existing law relating to the payment of taxes amounting to a fractional part of a cent; and the House recedes.

On amendment No. 786: This amendment inserts, for the reason explained in connection with amendment No. 3, the provision of existing law permitting the commissioner to require persons to make returns to show whether or not they are liable to tax; and the House recedes.

On amendment No. 787: This amendment inserts, for the reason explained in connection with amendment No. 3, the section of existing law relating to the power of the commissioner to examine books and witnesses; and the House recedes.

On amendments Nos. 788 and 796: Section 1003 of the House bill contained a provision relieving the taxpayer from unnecessary examinations. This provision was stricken out of the bill by Senate amendment No. 796 and reinserted in this part of the bill, without change, by amendment No. 788; and the House recedes on both amendments.

On amendment No. 789: This amendment inserts, for the reason explained in connection with amendment No. 3, the provisions of existing law relating to the powers of district courts to compel attendance of witnesses, and to issue extraordinary writs in aid of collection of taxes, and also adds a provision giving the district courts of the United States jurisdiction concurrently with the Court of Claims of any proceeding begun after the passage of this act for the recovery of internal revenue taxes erroneously assessed or collected, even though the claim exceeds \$10,000, if the collector of internal revenue by whom such tax was collected is dead at the time suit is instituted. The House recedes with an amendment making a clerical change.

On amendment No. 790: This amendment inserts, for the reason explained in connection with amendment No. 3, the provisions of existing law containing various administrative sections in regard to the collection of internal revenue taxes; and the House recedes.

On amendment No. 791: This amendment inserts a heading to a section; and the House recedes.

On amendment No. 792: This amendment is a clerical change; and the House recedes.

On amendment No. 793: This amendment inserts a section providing that in the absence of fraud or mistake in mathematical calculation the findings of fact in and the decision of the commissioner upon the merits of any claim presented under or authorized by the internal revenue laws shall not be subject to review by any administrative officer; and the House recedes with an amendment making a clerical change.

On amendment No. 794: This amendment inserts a heading to a section; and the House recedes.

On amendment No. 795: This amendment is a clerical change; and the House recedes.

On amendment No. 796: The effect of this amendment and the action of the conferees thereon has been explained in connection with amendment No. 788.

On amendment No. 797: The effect of this amendment and the action of the conferees thereon has been explained in connection with amendment No. 780.

On amendment No. 798: This amendment inserts, for the reason explained in connection with amendment No. 3, the provision of existing law relating to the authority of the commissioner to remit or refund taxes erroneously or illegally assessed or collected; and the House recedes.

On amendment No. 799: This amendment inserts a section extending the time in which taxpayers may make claim for refunding or crediting of any internal revenue tax erroneously or illegally assessed or collected from two years to four years and makes this provision retroactive in the case of claims for refund under the revenue act of 1917 and the revenue act of 1918. The House recedes with an amendment making the provision applicable to claims for refund under the revenue act of 1916.

On amendment No. 800: This amendment inserts, for the reason explained in connection with amendment No. 3, the provisions of existing law relating to repeal of the permanent appropriation for the refunding of internal revenue taxes erroneously or illegally assessed or collected; and the House recedes.

On amendment No. 801: This amendment inserts a section amending existing law so as to give taxpayers five years in all cases for instituting suits for the recovery of internal revenue taxes alleged to have been erroneously or illegally assessed or collected, with a provision that it shall not affect any suit or proceeding instituted prior to the passage of this act; and the House recedes.

On amendment No. 802: This amendment, in order to carry out the purposes of amendment No. 801, repeals the provision of existing law limiting the time for bringing suits by a taxpayer for the recovery of taxes to two years; and the House recedes.

On amendment No. 803: This amendment provides that all suits by the Government to collect internal revenue taxes must be brought within five years from the time the tax was due, except in the case of fraud or willful intent to evade the tax, but it is not applicable to suits or proceedings for the collection of income or excess-profits taxes under section 250 of this act, or to suits begun at the time of the passage of this act; and the House recedes.

On amendment No. 804: This amendment inserts a section amending existing law relating to the statute of limitations in case of offenses against the internal revenue laws, so as to provide that in such cases the statute of limitations shall be three years after the commission of the offense, with a provision that the section shall not apply to indictments instituted prior to the passage of this act; and the House recedes.

On amendment No. 805: This amendment provides that all internal revenue taxes, except income and excess-profits taxes, shall be assessed within four years after they are due, except in case of fraud or intent to evade the tax; and the House recedes.

On amendment No. 806: This amendment inserts, for the reason explained in connection with amendment No. 3, the provisions of existing law relating to second assessments in case of fraudulent returns; and the House recedes.

On amendment No. 807: This amendment provides for the allowance of interest at the rate of one-half of 1 per cent per month in the case of claims for refunds of or credit for the payment of internal revenue taxes. The amendment also provides for the allowance of interest in judgments rendered after the passage of this act against the United States for internal revenue taxes erroneously or illegally assessed or collected. The House recedes with an amendment making clerical changes.

On amendment No. 808: This amendment inserts, for the reason explained in connection with amendment No. 3, the section of existing law permitting certificates of indebtedness of the United States and uncertified checks to be received in payment of taxes other than stamp taxes and adds a provision allowing United States notes to be similarly received; and the House recedes.

On amendment No. 809: This amendment inserts, for the reason explained in connection with amendment No. 3, the provision of existing law imposing a penalty on a person selling an article and misleading the purchaser by falsely claiming that a part of the purchase price is due to a tax imposed by the United States; and the House recedes.

On amendment No. 810: This amendment inserts a heading to a section; and the House recedes.

On amendments Nos. 811 to 815, inclusive: These amendments are clerical changes; and the House recedes.

On amendment No. 816: The House bill provided that whenever a petition in bankruptcy is filed the clerk of the district court shall within three days give notice of such fact to the collector of internal revenue. The Senate amendment strikes out this provision; and the House recedes.

On amendments Nos. 817 and 825: Section 1007 of the House bill provided for the validation of the regulations of the Treasury Department made under the revenue act of 1917 in relation to the consolidated returns of corporations. Senate amendment No. 817 strikes out this provision, but amendment No. 825 reinserts it at a later portion of the bill, with clarifying changes. The House recedes on amendment No. 817 and recedes from its disagreement on amendment No. 825 with clarifying changes.

On amendments Nos. 818 and 826: Section 1008 of the House bill provided that if the provisions of existing law imposing the tax on personal-service corporations should be held unconstitutional such corporations shall pay for the years 1918 to 1921, inclusive, a tax equal to the income and war-profits and excess-profits taxes imposed for such years by the revenue act of 1918 unless they elected not to exercise their rights under the decision declaring such tax unconstitutional. Senate amendment No. 818 strikes out this provision, but amendment No. 826 inserts it at a later part of the bill, with clarifying changes, chiefly due to the form of the bill, explained in connection with amendment No. 3. The House recedes on amendment No. 818 and recedes from its disagreement to amendment No. 826 with an amendment making clerical changes.

On amendments Nos. 819 and 829: Section 1009 of the House bill authorizes the Treasury Department to have outstanding at any one time \$7,500,000,000 of notes (as distinguished from certificates of indebtedness or long-time bonds) in place of \$7,000,000,000 of such notes in the aggregate, authorized by existing law. Senate amendment No. 819 strikes out this provision, but amendment No. 829 restores it in identical language in a later part of the bill; and the House recedes on both amendments.

On amendment No. 820: This amendment inserts a heading to a section; and the House recedes.

On amendment No. 821: This amendment is a clerical change; and the House recedes.

On amendment No. 822: This amendment is a clerical change made necessary by the repeal and reenactment of the revenue act of 1918 instead of its amendment in specified particulars, as explained in connection with amendment No. 3; and the House recedes.

On amendment No. 823: This amendment inserts, for the reason explained in connection with amendment No. 3, with clerical changes, the provisions of existing law authorizing the deposit of United States bonds in lieu of sureties in case of surety bonds required to be furnished to the United States, and broadens the provision to extend like privilege to the case of United States notes. The House recedes.

On amendment No. 824: This amendment inserts, for the reason explained in connection with amendment No. 3, the provisions of existing law relating to the issue of stamps in place of lost stamps for distilled spirits, tobacco, cigars, snuff, cigarettes, fermented liquors, and wines; and the House recedes.

On amendment No. 825: The effect of this amendment and the action of the conferees thereon has been explained in connection with amendment No. 817.

On amendment No. 826: The effect of this amendment and the action of the conferees thereon has been explained in connection with amendment No. 818.

On amendment No. 827: This amendment inserts a heading to a title of the bill; and the House recedes.

On amendment No. 828: This amendment, in pursuance of the general policy of the House bill to repeal all the provisions



of the revenue act of 1918 not incorporated in this act, repeals all of Titles II, III, IV, V, VII, VIII, IX, X, XI, and XII of the revenue act of 1918, and also repeals sections 628, 629, and 630 of such act (being the tax on soft drinks, ice cream, and similar articles) and also sections 1314, 1315, 1316, 1317, 1319, and 1320 of such act, which are certain administrative provisions; and the House recedes.

On amendment No. 829: The effect of this amendment and the action of the conferees thereon has been explained in connection with amendment No. 819.

On amendment No. 830: This amendment increases the amount of war-saving certificates which a single individual may hold from \$1,000 to \$5,000; and the House recedes.

On amendment No. 831: This amendment inserts the usual clause providing that if any provision of the act is unconstitutional this shall not affect the remainder of the act; and the House recedes.

On amendment No. 832: This amendment inserts a heading to a section; and the House recedes.

On amendment No. 833: This amendment is a clerical change; and the House recedes.

J. W. FORDNEY,  
W. R. GREEN,  
NICHOLAS LONGWORTH,  
*Managers on the part of the House.*

#### HOOR OF MEETING ON MONDAY.

Mr. MONDELL. Mr. Speaker, I ask unanimous consent that when the House adjourns to-day it adjourn to meet at 11 o'clock on Monday next.

The SPEAKER pro tempore. The gentleman from Wyoming asks unanimous consent that when the House adjourns to-day it adjourn to meet at 11 o'clock on Monday next. Is there objection?

Mr. GARRETT of Tennessee. Reserving the right to object, is it the purpose to devote all of Monday to this conference report?

Mr. MONDELL. That is my thought, that it will probably take all day.

Mr. GARRETT of Tennessee. It is not probable that there will be any other business transacted on Monday?

Mr. MONDELL. I have no other business in mind at this time.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wyoming?

There was no objection.

#### PROTECTION OF MATERNITY AND INFANCY.

Mr. WINSLOW. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill S. 1039.

The motion was agreed to.

Accordingly the House resolved itself into the Committee of the Whole House on the state of the Union, with Mr. HUSTED in the chair.

Mr. WINSLOW. Mr. Chairman, I ask unanimous consent that the committee amendment be considered as an original bill and considered section by section in the usual manner.

The CHAIRMAN. The gentleman from Massachusetts asks unanimous consent that the House amendment to the Senate bill be read for amendment as an original bill section by section and considered as an original bill. Is there objection?

Mr. RANKIN. Mr. Chairman, reserving the right to object, it seems to me that the Members of the House have had an opportunity to read this bill and to reread it sufficiently to understand everything that there is in it. It will take a lot of time, unnecessarily, to go through the reading of it, and I shall object.

Mr. GARRETT of Tennessee. Mr. Chairman, will the Chair be good enough to state the request again?

The CHAIRMAN. The request of the gentleman from Massachusetts is that the House amendment be read in lieu of the Senate bill section by section, subject to amendment as an original bill.

Mr. RANKIN. I object.

Mr. GARRETT of Tennessee. Mr. Chairman, if the gentleman from Mississippi will permit, as I understand it, his reason for objecting is to save time?

Mr. RANKIN. Yes.

The CHAIRMAN. Does the gentleman insist upon his objection?

Mr. RANKIN. Yes.

The CHAIRMAN. The Clerk will read the Senate bill.

The Clerk read as follows:

*Be it enacted, etc.,* That there are hereby authorized to be appropriated annually, out of any money in the Treasury not otherwise appropriated, the sums specified in section 2 of this act, to be paid to the several States for the purpose of cooperating with them in promoting the care of maternity and infancy as hereinafter provided.

Mr. WINSLOW. Mr. Chairman, I move to strike out section 1 of the Senate bill and insert in lieu thereof the committee amendment, and I give notice that if the amendment be adopted I shall move to strike out the subsequent sections when they may be read.

The CHAIRMAN. The gentleman from Massachusetts offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amendment offered by Mr. WINSLOW: Strike out all of section 1 of the Senate bill and insert in lieu thereof the following:

"That there is hereby authorized to be appropriated annually, out of any money in the Treasury not otherwise appropriated, the sums specified in section 2 of this act, to be paid to the several States for the purpose of cooperating with them in promoting the welfare and hygiene of maternity and infancy as hereinafter provided.

"Sec. 2. For the purpose of carrying out the provisions of this act there is authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, for the current fiscal year \$480,000, to be equally apportioned among the several States, and for each subsequent year, for the period of five years, \$240,000, to be equally apportioned among the several States in the manner hereinafter provided: *Provided*, That there is hereby authorized to be appropriated for the use of the States, subject to the provisions of this act, for the fiscal year ending June 30, 1922, an additional sum of \$1,000,000, and annually thereafter, for the period of five years, an additional sum not to exceed \$1,000,000: *Provided further*, That the additional appropriations herein authorized shall be apportioned \$5,000 to each State and the balance among the States in the proportion which their population bears to the total population of the United States, not including outlying possessions, according to the last preceding United States census: *And provided further*, That no payment out of the additional appropriation herein authorized shall be made in any year to any State until an equal sum has been appropriated for that year by the legislature of such State for the maintenance of the services and facilities provided for in this act.

"So much of the amount apportioned to any State for any fiscal year as remains unpaid to such State at the close thereof shall be available for expenditures in that State until the close of the succeeding fiscal year.

"Sec. 3. There is hereby created a board of maternity and infant hygiene, which shall consist of the Chief of the Children's Bureau, the Surgeon General of the United States Public Health Service, and the United States Commissioner of Education, and which is hereafter designated in this act as the board. The board shall elect its own chairman and perform the duties provided for in this act.

The Children's Bureau of the Department of Labor shall be charged with the administration of this act, except as herein otherwise provided, and the Chief of the Children's Bureau shall be the executive officer. It shall be the duty of the Children's Bureau to make or cause to be made such studies, investigations, and reports as will promote the efficient administration of this act.

"Sec. 4. In order to secure the benefits of the appropriations authorized in section 2 of this act any State shall, through the legislative authority thereof, accept the provisions of this act and designate or authorize the creation of a State agency with which the Children's Bureau shall have all necessary powers to cooperate as herein provided in the administration of the provisions of this act: *Provided*, That in any State having a child welfare or child hygiene division in its State agency of health, the said State agency of health shall administer the provisions of this act through such divisions. If the legislature of any State has not made provision for accepting the provisions of this act the governor of such State may, in so far as he is authorized to do so by the laws of such State, accept the provisions of this act and designate or create a State agency to cooperate with the Children's Bureau until the adjournment of the first regular session of the legislature in such State following the passage of this act.

"Sec. 5. So much, not to exceed 5 per cent of the additional appropriations authorized for any fiscal year under section 2 of this act, as the Children's Bureau may estimate to be necessary for administering the provisions of this act, as herein provided, shall be deducted for that purpose, to be available until expended.

"Sec. 6. Out of the amounts authorized under section 5 of this act the Children's Bureau is authorized to employ such assistants, clerks, and other persons in the District of Columbia and elsewhere, to be taken from the eligible lists of the Civil Service Commission, and to purchase such supplies, material, equipment, office fixtures, and apparatus, and to incur such travel and other expense as it may deem necessary for carrying out the purposes of this act.

"Sec. 7. Within 60 days after any appropriation authorized by this act has been made, the Children's Bureau shall make the apportionment herein provided for and shall certify to the Secretary of the Treasury the amount estimated by the bureau to be necessary for administering the provisions of this act, and shall certify to the Secretary of the Treasury and to the treasurers of the various States the amount which has been apportioned to each State for the fiscal year for which such appropriation has been made.

"Sec. 8. Any State desiring to receive the benefits of this act shall, by its agency described in section 4, submit to the Children's Bureau detailed plans for carrying out the provisions of this act within such State, which plans shall be subject to the approval of the board: *Provided*, That the plans of the States under this act shall provide that no official, or agent, or representative in carrying out the provisions of this act shall enter any home or take charge of any child over the objection of the parents, or either of them, or the person standing in loco parentis or having custody of such child. If these plans shall be in conformity with the provisions of this act and reasonably appropriate and adequate to carry out its purposes they shall be approved by the board and due notice of such approval shall be sent to the State agency by the chief of the Children's Bureau.

"Sec. 9. No official, agent, or representative of the Children's Bureau shall by virtue of this act have any right to enter any home over the objection of the owner thereof, or take charge of any child over

the objection of the parents, or either of them, or of the person standing in loco parentis or having custody of such child. Nothing in this act shall be construed as limiting the power of a parent or guardian or person standing in loco parentis to determine what treatment or correction shall be provided for a child or the agency or agencies to be employed for such purpose.

"Sec. 10. Within 60 days after any appropriation authorized by this act has been made, and as often thereafter while such appropriation remains unexpended as changed conditions may warrant, the Children's Bureau shall ascertain the amounts that have been appropriated by the legislatures of the several States accepting the provisions of this act and shall certify to the Secretary of the Treasury the amount to which each State is entitled under the provisions of this act. Such certificate shall state (1) that the State has, through its legislative authority, accepted the provisions of this act and designated or authorized the creation of an agency to cooperate with the Children's Bureau, or that the State has otherwise accepted this act, as provided in section 4 hereof; (2) the fact that the proper agency of the State has submitted to the Children's Bureau detailed plans for carrying out the provisions of this act, and that such plans have been approved by the board; (3) the amount, if any, that has been appropriated by the legislature of the State for the maintenance of the services and facilities of this act, as provided in section 2 hereof; and (4) the amount to which the State is entitled under the provisions of this act. Such certificate, when in conformity with the provisions hereof, shall, until revoked as provided in section 12 hereof, be sufficient authority to the Secretary of the Treasury to make payment to the State in accordance therewith.

"Sec. 11. Each State agency cooperating with the Children's Bureau under this act shall make such reports concerning its operations and expenditures as shall be prescribed or requested by the bureau. The Children's Bureau may, with the approval of the board, and shall, upon request of a majority of the board, withhold any further certificate provided for in section 10 hereof whenever it shall be determined as to any State that the agency thereof has not properly expended the money paid to it or the moneys herein required to be appropriated by such State for the purposes and in accordance with the provisions of this act. Such certificate may be withheld until such time or upon such conditions as the Children's Bureau, with the approval of the board, may determine; when so withheld the State agency may appeal to the President of the United States, who may either affirm or reverse the action of the bureau with such directions as he shall consider proper: *Provided*, That before any such certificate shall be withheld from any State, the chairman of the board shall give notice in writing to the authority designated to represent the State, stating specifically wherein said State has failed to comply with the provisions of this act.

"Sec. 12. No portion of any moneys apportioned under this act for the benefit of the States shall be applied, directly or indirectly, to the purchase, erection, preservation, or repair of any building or buildings or equipment, or for the purchase or rental of any buildings or lands, nor shall any such moneys or moneys required to be appropriated by any State for the purposes and in accordance with the provisions of this act be used for the payment of any maternity or infancy pension, stipend, or gratuity.

"Sec. 13. The Children's Bureau shall perform the duties assigned to it by this act under the supervision of the Secretary of Labor, and he shall include in his annual report to Congress a full account of the administration of this act and expenditures of the moneys herein authorized.

"Sec. 14. This act shall be construed as intending to secure to the various States control of the administration of this act within their respective States, subject only to the provisions and purposes of this act."

The CHAIRMAN. The question is on the amendment offered by the gentleman from Massachusetts.

Mr. LEA of California. Mr. Chairman, I have an amendment which I send to the desk, which is an amendment to the amendment, and I ask to have it read.

The CHAIRMAN. The gentleman from California offers an amendment which the Clerk will report.

The Clerk read as follows:

Amendment offered by Mr. LEA of California: On page 9, before the word "United" in line 22, insert the words "States of the," and on line 23 strike out the words "not including outlying possessions."

Mr. LEA of California. Mr. Chairman, the object of this amendment is simply to correct the arithmetic of the bill. The bill provides for the distribution of this money among the States in the proportion which their population bears to the total population of the United States. The District of Columbia, of course, is a part of the United States, but does not participate in the funds distributed. Therefore under the provisions of the bill there will be several thousand dollars undisposed of, and I suggest this amendment in order to obviate that contingency.

Mr. WINSLOW. Mr. Chairman, I accept the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California to the amendment of the gentleman from Massachusetts.

The amendment to the amendment was agreed to.

Mr. LAYTON. Mr. Chairman, I offer the following amendment, which I send to the desk.

The Clerk read as follows:

Amendment offered by Mr. LAYTON: Page 10, line 5, after the word "act," insert: "Provided further, That no part of the Federal appropriation hereby provided shall be used or available until the legislatures of 25 States shall by act or resolution signify their desire for the institution and continuance of the proposed service and shall have appropriated from State funds their respective quotas as therein indicated."

The CHAIRMAN. The question is on the amendment offered by the gentleman from Delaware.

Mr. LAYTON. Mr. Chairman, I do not expect to take up more than a minute and a half. I suppose there is no one in

this body at this time who has not expected me to offer an amendment of this kind. If I have been understood properly ever since this debate has begun, then Members understand that my opposition to this is because I believe it to be Federal intervention against the rights of the communities and the States. I have offered this amendment to give the Members of the House a chance to see whether or not the people of the country as represented in their various States, viz, being a majority of the 48 States of the Union, wish to have this sort of legislation.

Mr. GARRETT of Tennessee. Mr. Chairman, before this amendment is voted on I would like to have the attention of the chairman of the committee, the gentleman from Massachusetts, for a moment. There are one or two matters that I would like to get cleared up in my own mind if I can, bearing on the financial feature. I was very much struck by some statistics quoted by the lady from Oklahoma [Miss ROBERTSON] and by other Members. In the opinion of the gentleman from Massachusetts, is the amount of money appropriated or authorized to be appropriated in this bill, to put it bluntly, sufficient to do any good?

Mr. WINSLOW. That is a pretty broad inquiry. To answer your question categorically, I think it will do some good. [Laughter.]

Mr. GARRETT of Tennessee. May I ask the gentleman if, in his opinion, it will be sufficient to carry out the purposes of the act as disclosed in the hearings before the committee?

Mr. WINSLOW. No. I do not think it would, as disclosed in the hearings, but the committee did not build up this bill on what was advanced at the hearings. They discarded that testimony and proceeded to make a bill to accomplish the work as they understood it to be intended.

Mr. GARRETT of Tennessee. Now, may I ask the gentleman—

Mr. WINSLOW. If the gentleman will pardon me, he will understand that the hearings were on a different bill from this one, a bill which had other provisions and possibilities.

Mr. GARRETT of Tennessee. Of course, the principle which runs through this bill ran through the original bill.

Mr. WINSLOW. Yes; but there was a certain lack of principle in that bill which does not run through this one. [Laughter.]

Mr. GARRETT of Tennessee. Does the gentleman anticipate that the authorizations that are provided for in this bill will be all that will be requested within the 5-year period?

Mr. WINSLOW. Again, answering you specifically in reply to your inquiry, I would judge from the experience I have had here in my short time that probably very much more will be requested, but whether it will be granted or not is another consideration.

Mr. GARRETT of Tennessee. Would the gentleman object to telling us, if he has the estimate, what the cost would be to carry out the purposes of the original bill—the Senate bill?

Mr. WINSLOW. I am not able to do it as a matter of knowledge, based on any information submitted, and I feel entirely incompetent to make a personal estimate.

The CHAIRMAN. The question is on the amendment to the amendment offered by the gentleman from Delaware [Mr. LAYTON].

The question was taken, and the amendment was rejected.

Mr. LEA of California. Mr. Chairman, I offer an amendment, which I send to the desk.

The CHAIRMAN. The gentleman from California offers an amendment, which the Clerk will report.

The Clerk read as follows:

On page 11, line 14, after the word "until" insert "six months after."

Mr. LEA of California. Mr. Chairman, the object of this amendment is simply this: A number of States have referendum laws, under which a State law enacted by the legislature does not go into effect until three months or six months or other length of time after the legislature has adjourned. The first section of the bill provides that a governor may accept the provisions of this act and authorize a State agency to cooperate under it until the adjournment of the next session of the legislature. Without this amendment, there would be a hiatus until the State law went into effect. So for the purpose of correcting that situation I offer that amendment.

Mr. WINSLOW. The committee will accept that amendment.

The CHAIRMAN. The question is on the adoption of the amendment to the amendment offered by the gentleman from California [Mr. LEA].

The amendment was agreed to.

The CHAIRMAN. The question now recurs on the amendment offered by the gentleman from Massachusetts [Mr. WINSLOW].



Mr. DENISON. I wish to offer a slight amendment. On page 10, line 11, there is a misprint. The word "infant" should be "infancy."

The CHAIRMAN. The Clerk will report the amendment. The Clerk read as follows:

Amendment offered by Mr. DENISON: Page 10, line 11, strike out the word "infant" and insert in lieu thereof the word "infancy."

The CHAIRMAN. The question is on agreeing to the informal amendment offered by the gentleman from Illinois [Mr. DENISON].

Mr. STAFFORD. Will the gentleman from Illinois yield?

Mr. DENISON. I will.

Mr. STAFFORD. Was it the intention of the committee to have this board called a "board of maternity and infancy hygiene" rather than "infant hygiene"? It seems to me the words carried in the bill are better descriptive of the purposes, namely, "board of maternity and infant hygiene." Now, you propose to call it a "board of maternity and infancy hygiene." I think it is better as reported.

Mr. DENISON. It is clearly a misprint, Mr. Chairman.

Mr. LONDON. Will the gentleman from Illinois yield?

Mr. DENISON. Yes.

Mr. LONDON. I believe the gentleman is mistaken. It is not a misprint, and the word "infant" is proper there. The word "infant" is here an adjective. I think the gentleman is mistaken.

Mr. STAFFORD. What is the idea? We are creating what? A board of maternity. What else are we creating? A board of "infant hygiene," and not a board of "infancy hygiene."

Mr. GREENE of Vermont. It is not hygiene as controlled by infancy.

Mr. DENISON. Mr. Chairman, this is merely a question of grammar. I think the word "infancy" ought to be inserted in place of the word "infant." The word "infant" as used here is merely an adjective, and it should be a noun.

Mr. WINSLOW. Mr. Chairman, the committee will have to object to that amendment.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Illinois.

Mr. DENISON. Mr. Chairman, I did not know that there was any objection on the part of the committee to that amendment, and inasmuch as the chairman has made that announcement I will withdraw the amendment.

The CHAIRMAN. The gentleman from Illinois asks unanimous consent to withdraw his amendment. Is there objection? There was no objection.

The CHAIRMAN. The question again recurs on the amendment offered by the gentleman from Massachusetts [Mr. WINSLOW]. The Clerk at the desk calls the attention of the Chair to an apparent error on page 15, line 16. The Clerk will report the apparent error.

The Clerk read as follows:

Page 15, line 16, "such moneys or moneys."

Mr. SANDERS of Indiana. Mr. Chairman, I ask unanimous consent that the change be made to "such money or moneys."

Mr. VAILE. I think that correction is bad. This money is to be appropriated for the benefit of the States, and it is not such money as is required to be appropriated by the States. I think it should stand as it is.

Mr. WINSLOW. Mr. Chairman, I am inclined to think this is correct.

Mr. SANDERS of Indiana. Mr. Chairman, I would like to withdraw my request.

The CHAIRMAN. The gentleman from Indiana asks unanimous consent to withdraw his amendment. Is there objection? There was no objection.

The CHAIRMAN. The question now is on agreeing to the amendment offered by the gentleman from Massachusetts [Mr. WINSLOW].

Mr. LONGWORTH. Mr. Chairman, if the gentleman will pardon me, I do not think that is a correct statement. It is not the amendment offered by the gentleman from Massachusetts; it is a committee amendment.

The CHAIRMAN. It is the amendment offered by the gentleman from Massachusetts and not a committee amendment. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. WINSLOW. Mr. Chairman, I ask unanimous consent that the remaining sections of the Senate bill be stricken out as a block.

The CHAIRMAN. The gentleman from Massachusetts asks unanimous consent that the remaining sections be stricken out en bloc. Is there objection? There was no objection.

Mr. WINSLOW. Mr. Chairman, I move that the committee do now rise and report the bill to the House with the amend-

ment with the recommendation that the amendment be agreed to and that the bill do pass.

The CHAIRMAN. The gentleman from Massachusetts moves that the committee do now rise and report the bill to the House with the amendment with the recommendation that the amendment be agreed to and that the bill as amended do pass. The question is on agreeing to that motion.

The motion was agreed to.

Accordingly the committee rose; and Mr. WALSH as Speaker pro tempore having resumed the chair, Mr. HUSTED, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee, having under consideration the bill (S. 1039) for the public protection of maternity and infancy and providing a method of cooperation between the Government of the United States and the several States, had directed him to report the same back to the House with an amendment, with the recommendation that the amendment be agreed to and that the bill as amended do pass.

Mr. WINSLOW. Mr. Speaker, I move the previous question on the bill and amendment to final passage.

The SPEAKER pro tempore. The gentleman from Massachusetts moves the previous question on the bill and amendment to final passage.

The previous question was ordered.

The SPEAKER pro tempore. The question is on agreeing to the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the third reading of the bill as amended.

The Senate bill as amended was ordered to be read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken, and the Speaker announced that the "ayes" appeared to have it.

Mr. Sisson. Mr. Speaker, I ask for the yeas and nays.

The SPEAKER pro tempore. The gentleman from Mississippi asks for the yeas and nays. Those in favor of taking the vote by yeas and nays will rise and be counted. The Chair will count all Members standing. [After counting.] Eighty Members—a sufficient number.

The yeas and nays were ordered.

The SPEAKER pro tempore. Those in favor of the passage of the bill as amended will, when their names are called, answer "yea"; those opposed will answer "nay."

The questions was taken; and there were—yeas 279, nays 39, answered "present" 1, not voting 113, as follows:

YEAS—279.

Ackerman	Cole, Ohio	Hardy, Colo.	Little
Almon	Collier	Harrison	Logan
Andrews, Nebr.	Collins	Haugen	London
Ansorge	Colton	Hawes	Longworth
Anthony	Cooper, Ohio	Hawley	Lowrey
Appleby	Cooper, Wis.	Hayden	Luhning
Arentz	Cramton	Hersey	McClintic
Aswell	Crisp	Hickey	McCormick
Atkeson	Crowther	Hicks	McDuffie
Bacharach	Dale	Hoch	McLaughlin, Mich.
Bankhead	Darrow	Houghton	McLaughlin, Pa.
Barbour	Davis, Tenn.	Huddleston	McPherson
Barkley	Denison	Hudspeth	Magee
Beedy	Dickinson	Hull	Maloney
Begg	Doughton	Humphreys	Mapes
Benham	Dowell	Husted	Martin
Bird	Drewry	Hutchinson	Mead
Bixler	Driver	Ireland	Merritt
Bland, Va.	Dunbar	Jacaway	Michener
Boles	Dunn	James	Miller
Bond	Dupré	Jeffers, Ala.	Millsbaugh
Bowling	Elliott	Johnson, Miss.	Mondell
Box	Ellis	Johnson, Wash.	Montague
Brennan	Evans	Jones, Pa.	Montoya
Briggs	Fairchild	Jones, Tex.	Moore, Ohio
Brinson	Fairfield	Kearns	Moore, Va.
Britten	Faust	Kelley, Mich.	Morgan
Brooks, Ill.	Favrot	Kelly, Pa.	Murphy
Browne, Wis.	Fenn	Kennedy	Nelson, A. P.
Buchanan	Fess	Ketcham	Nelson, J. M.
Bulwinkle	Fields	Kincheloe	Newton, Minn.
Burdick	Fisher	King	Newton, Mo.
Burke	Foster	Kinkaid	Norton
Burroughs	Free	Kirkpatrick	O'Connor
Burtess	French	Klecza	Ogden
Butler	Frothingham	Kilne, Pa.	Oldfield
Byrnes, S. C.	Fuller	Kopp	Osborne
Byrns, Tenn.	Fulmer	Lampert	Overstreet
Cable	Funk	Lanham	Padgett
Campbell, Kans.	Garner	Lankford	Park, Ga.
Cannon	Gensman	Larsen, Ga.	Parker, N. Y.
Cantrill	Gerner	Larson, Minn.	Parks, Ark.
Chalmers	Glynn	Lawrence	Parrish
Chandler, N. Y.	Goldsborough	Lazaro	Patterson, Mo.
Chindblom	Graham, Ill.	Lea, Calif.	Perkins
Christopherson	Green, Iowa	Leatherwood	Pou
Clague	Greene, Mass.	Lee, N. Y.	Pringley
Clouse	Griest	Leibach	Purnell
Codd	Hadley	Lieberger	Quin
Cole, Iowa	Hammer	Linthicum	Radcliffe

Raker	Scott, Mich.	Swank	Walters
Ramseyer	Scott, Tenn.	Sweet	Ward, N. Y.
Rankin	Shaw	Swing	Watson
Rayburn	Shreve	Taylor, Ark.	Weaver
Reavis	Sinclair	Taylor, N. J.	Webster
Reece	Sinnott	Taylor, Tenn.	White, Kans.
Reed, N. Y.	Smith, Idaho	Temple	White, Me.
Reed, W. Va.	Smith, Mich.	Thompson	Williams
Rhodes	Smithwick	Tillman	Williamson
Ricketts	Speaks	Timberlake	Wilson
Riddick	Sproul	Tincher	Wingo
Robison	Steagall	Tinkham	Winslow
Rodenberg	Stedman	Towner	Woodruff
Rose	Steenerson	Treadway	Woods, Va.
Rouse	Stephens	Upshaw	Woodyard
Sanders, Ind.	Stevenson	Vaile	Wurzbach
Sanders, N. Y.	Strong, Kans.	Vestal	Wyant
Sanders, Tex.	Strong, Pa.	Vinson	Young
Sandlin	Summers, Wash.	Voigt	Zihlman
Schall	Sumners, Tex.	Volstead	

## NAYS—39.

Andrew, Mass.	Gilbert	Luce	Sisson
Black	Greene, Vt.	McArthur	Stafford
Cockran	Griffin	McKenzie	Tague
Connally, Tex.	Hill	McLaughlin, Nebr.	Thomas
Crago	Hogan	Mudd, Ill.	Underhill
Cullen	Kissel	Mudd	Yolk
Curry	Kline, N. Y.	Olpp	Ward, N. C.
Deal	Kraus	Parker, N. J.	Wheeler
Dominick	Layton	Robertson	Wise
Garrett, Tenn.	Lee, Ga.	Ryan	

## ANSWERED "PRESENT"—1.

Walsh

## NOT VOTING—113.

Anderson	Elston	Knight	Reber
Beck	Fish	Knutson	Riordan
Bell	Fitzgerald	Kreider	Roach
Blakeney	Flood	Kunz	Rogers
Bland, Ind.	Focht	Langley	Rosenbloom
Blanton	Fordney	Lyon	Rossdale
Bowers	Frear	McFadden	Rucker
Brand	Freeman	McSwain	Sabath
Brooks, Pa.	Gahn	MacGregor	Sears
Brown, Tenn.	Gallivan	Madden	Shelton
Burton	Garrett, Tex.	Mann	Siegel
Campbell, Pa.	Goodykoontz	Mansfield	Slemp
Carew	Gorman	Michaelson	Snell
Carter	Gould	Mills	Snyder
Chandler, Okla.	Graham, Pa.	Moore, Ind.	Stiness
Clark, Fla.	Hardy, Tex.	Morin	Stoll
Clarke, N. Y.	Hays	Mott	Sullivan
Classon	Herrick	Nolan	Taylor, Colo.
Connell	Himes	O'Brien	Ten Eyck
Connolly, Pa.	Hukriede	Oliver	Tilson
Copley	Jeffers, Nebr.	Paige	Tyson
Coughlin	Johnson, Ky.	Patterson, N. J.	Vare
Dallinger	Johnson, S. Dak.	Perlman	Wason
Davis, Minn.	Kahn	Peters	Wood, Ind.
Dempsey	Keller	Petersen	Wright
Drane	Kendall	Porter	Yates
Dyer	Kiess	Rainey, Ala.	
Echols	Kindred	Rainey, Ill.	
Edmonds	Kitchin	Ransley	

So the bill was passed.

The Clerk announced the following pairs:

On this vote:

Mr. DALLINGER (for) with Mr. WALSH (against).

Mr. BLAND of Indiana (for) with Mr. RIORDAN (against).

Mr. ROSENBLUM (for) with Mr. GRAHAM of Pennsylvania (against).

Mr. TYSON (for) with Mr. HUKRIEDE (against).

Mr. MORIN (for) with Mr. KNIGHT (against).

Mr. PATTERSON of New Jersey (for) with Mr. PAIGE (against).

Mr. FLOOD (for) with Mr. PETERSEN (against).

Mr. PERLMAN (for) with Mr. KINDRED (against).

Mr. BOWERS (for) with Mr. BRAND (against).

Mr. FISH (for) with Mr. GALLIVAN (against).

Mr. KIESS (for) with Mr. MCFADDEN (against).

Mr. SIEGEL (for) with Mr. CLARKE of New York (against).

Mr. BURTON (for) with Mr. MOORES of Indiana (against).

Mr. PORTER (for) with Mr. EDMOND (against).

Mr. RANSLEY (for) with Mr. MICHAELSON (against).

Mr. STOLL (for) with Mr. SNYDER (against).

Mr. RAINY of Illinois (for) with Mr. REBER (against).

Until further notice:

Mr. MOTT with Mr. BELL.

Mr. PERLMAN with Mr. GARRETT of Texas.

Mr. GAHN with Mr. MANSFIELD.

Mr. JEFFERS of Nebraska with Mr. CAREW.

Mr. GOODYKOONTZ with Mr. SEARS.

Mr. HIMES with Mr. KUNZ.

Mr. BROOKS of Pennsylvania with Mr. SABATH.

Mr. COUGHLIN with Mr. KITCHIN.

Mr. BLAKENEY with Mr. DRANE.

Mr. LANGLEY with Mr. CLARK of Florida.

Mr. ROACH with Mr. RUCKER.

Mr. KREIDER with Mr. WRIGHT.

Mr. SHELTON with Mr. CARTER.

Mr. SNELL with Mr. JOHNSON of Kentucky.  
 Mr. DAVIS of Minnesota with Mr. SULLIVAN.  
 Mr. CHANDLER of Oklahoma with Mr. O'BRIEN.  
 Mr. GORMAN with Mr. TEN EYCK.  
 Mr. KAHN with Mr. HARDY of Texas.  
 Mr. KENDALL with Mr. TAYLOR of Colorado.  
 Mr. TILSON with Mr. CAMPBELL of Pennsylvania.  
 Mr. KNUTSON with Mr. LYON.  
 Mr. FOCHT with Mr. MCSWAIN.  
 Mr. VARE with Mr. RAINY of Alabama.  
 Mr. MORIN with Mr. OLIVER.

Mr. WRIGHT. Mr. Speaker, I desire to be recorded present.  
 The SPEAKER pro tempore. Was the gentleman present and listening when his name was called?

Mr. WRIGHT. I was not.

The SPEAKER pro tempore. The gentleman can not be recorded.

Mr. WRIGHT. If I had been present, I would have voted for the bill.

By unanimous consent the title of the bill was amended to read: "For the promotion of the welfare and hygiene of maternity and infancy, and for other purposes."

On motion of Mr. WINSLOW, a motion to reconsider the vote by which the bill was passed was laid on the table.

Mr. McLAUGHLIN of Nebraska. Mr. Speaker, my colleague, Mr. JEFFERS, who is seriously ill at his home, has a general pair. Had he been present, he would have voted for the passage of this bill.

## EXTENSION OF REMARKS.

Mr. WINSLOW. Mr. Speaker, I ask unanimous consent that the privilege of extending remarks be accorded to Members on this bill for five legislative days.

The SPEAKER pro tempore. The gentleman from Massachusetts asks unanimous consent that all Members may have leave to extend their remarks in the Record upon this bill for five legislative days. Is there objection?

Mr. GARRETT of Tennessee. I object.

Mr. PARKER of New Jersey. Mr. Speaker, I ask leave to extend my remarks within five legislative days.

The SPEAKER pro tempore. The gentleman from New Jersey asks unanimous consent to extend his remarks in the Record within five legislative days. Is there objection?

Mr. ROBSION. Mr. Speaker, I make the same request.

The SPEAKER pro tempore. The gentleman from Kentucky makes the same request.

Mr. BOX. Mr. Speaker, I make the same request.

The SPEAKER pro tempore. The gentleman from Texas [Mr. Box] makes the same request.

Mr. NEWTON of Minnesota. Mr. Speaker, I make the same request.

The SPEAKER pro tempore. The gentleman from Minnesota makes the same request.

Mr. CHALMERS. Mr. Speaker, I make the same request.

The SPEAKER pro tempore. The gentleman from Ohio [Mr. CHALMERS] makes the same request.

Mr. VOLK. I make the same request.

The SPEAKER pro tempore. The gentleman from New York [Mr. VOLK] makes the same request.

Mr. CROWTHER. Mr. Speaker, I make the same request.

The SPEAKER pro tempore. The gentleman from New York [Mr. CROWTHER] makes the same request.

Mr. A. P. NELSON. Mr. Speaker, I make the same request.

The SPEAKER pro tempore. The gentleman from Wisconsin [Mr. A. P. NELSON] makes the same request.

Mr. TAYLOR of Tennessee. Mr. Speaker, I make the same request.

The SPEAKER pro tempore. The gentleman from Tennessee [Mr. TAYLOR] makes the same request. Is there objection?

Mr. GREENE of Vermont. Reserving the right to object, is it understood that these gentlemen will extend only their own remarks and that the Record is not to be padded full of editorials and other reprints?

The SPEAKER pro tempore. The Chair will state that the request was not worded in that way.

Mr. PARKER of New Jersey. I modify my request in that way.

Mr. ROBSION. I do the same.

Mr. STAFFORD. I think the others ought to modify their requests in the same way.

Mr. GREENE of Vermont. I do not care to assume the responsibility of an offensive censorship, but I think it is the consensus of opinion of the House generally that these extensions of remarks should be confined strictly to the language of the Member.



The SPEAKER pro tempore. Is there objection to the requests of the several gentlemen, with the understanding that the extensions will include only the Members' own remarks? [After a pause.] The Chair hears none.

Mr. CRAMTON. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD by inserting some remarks of my colleague from Michigan [Mr. FORDNEY] and of Col. Martin, the State commander of the American Legion of Michigan, at the casket of the unknown soldier. I will state that the remarks will occupy considerably less than half a column of the RECORD.

The SPEAKER pro tempore. The gentleman from Michigan [Mr. CRAMTON] asks unanimous consent to extend his remarks in the RECORD by inserting remarks made by his colleague [Mr. FORDNEY] and remarks of Col. Martin at the casket of the unknown soldier. Is there objection?

Mr. STAFFORD. Mr. Speaker, I have no objection to the remarks of the gentleman from Michigan being extended in the RECORD, but it has been the policy to exclude remarks of others, and to that I object.

Mr. CRAMTON. The remarks are very brief; they can not well be divided. Exclusive of the heading they will not occupy over a quarter of a column.

Mr. STAFFORD. Are the remarks of the gentleman from Michigan separate and distinct from the other?

Mr. CRAMTON. It was one service, and I would not care to divide it.

Mr. STAFFORD. I have no objection to the remarks of the gentleman from Michigan, but to the other I object.

#### LEAVE OF ABSENCE.

By unanimous consent leave of absence was granted as follows:

To Mr. FLOOD, indefinitely, on account of sickness.

To Mr. FENN, indefinitely, on account of sickness.

#### ADJOURNMENT.

Mr. GARRETT of Tennessee. Mr. Speaker, I make the point of no quorum.

Mr. WINSLOW. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 10 minutes) the House, under its previous order, adjourned until Monday, November 21, 1921, at 11 o'clock a. m.

#### EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of Rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

268. A letter from the Secretary of the Navy, transmitting urgent request for the passage of the bill (H. R. 8523) which provides for the repeal of section 315 of article 3 of the war risk insurance act, as amended; to the Committee on Interstate and Foreign Commerce.

269. A letter from the Assistant Secretary of Labor, transmitting detailed statement of the expenditures made from the appropriation "Contingent expenses, Department of Labor, 1919," from November 1, 1920, to June 30, 1921; to the Committee on Expenditures in the Department of Labor.

270. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report on preliminary examination and survey of entrance to San Francisco Harbor, Calif.; to the Committee on Rivers and Harbors and ordered to be printed, with illustrations.

271. A letter from the Postmaster General, transmitting list of claims on account of loss by fire, burglary, etc., acted upon by the Postmaster General, from July 1, 1920, to June 30, 1921; to the Committee on Expenditures in the Post Office Department.

#### REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII,

Mr. KIESS, from the Committee on Printing, to which was referred the joint resolution (S. J. Res. 132) to provide for the continuance of certain Government publications, reported the same with an amendment, accompanied by a report (No. 485), which said joint resolution and report were referred to the Committee of the Whole House on the state of the Union.

#### CHANGE OF REFERENCE.

Under clause 2 of Rule XXII, the Committee on Pensions was discharged from the consideration of the bill (H. R. 9193) granting a pension to Eliza Davis, and the same was referred to the Committee on Invalid Pensions.

#### PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. PRINGEY: A bill (H. R. 9212) for the purchase of a site and the erection of a public building at Ada, Okla.; to the Committee on Public Buildings and Grounds.

By Mr. McKENZIE: A bill (H. R. 9213) to restrict the expenditures of the War Department and the Military Establishment of the United States; to the Committee on Military Affairs.

By Mr. RIDDICK: A bill (H. R. 9214) extending the time of payment by entrymen of lands within the former Fort Peck Indian Reservation in Montana; to the Committee on Indian Affairs.

Also, a bill (H. R. 9215) for the relief of entrymen of lands within the former Fort Peck Indian Reservation in Montana; to the Committee on Indian Affairs.

Also, a bill (H. R. 9216) to reclassify lands of the former Fort Peck Indian Reservation in Montana; to the Committee on Indian Affairs.

By Mr. MONTAGUE: A bill (H. R. 9217) to permit the use in the post office at Richmond, Va., of special canceling stamps bearing the words "Virginia Historical Pageant, Richmond, May 22 to 28, 1922"; to the Committee on the Post Office and Post Roads.

By Mr. CURRY: A bill (H. R. 9218) to incorporate the American Mathematical Society; to the Committee on the Judiciary.

By Mr. HAYDEN: A bill (H. R. 9219) amending the Federal farm loan act relative to liens and encumbrances, and for other purposes; to the Committee on Banking and Currency.

By Mr. JOHNSON of Mississippi: A bill (H. R. 9220) to stimulate and encourage the development of the agricultural resources of the United States and the establishment of rural homes through Federal and State cooperation by the employment and settlement of veterans of the World War upon the land; to the Committee on Irrigation of Arid Lands.

By the SPEAKER (by request): Memorial of the Legislature of the State of Louisiana, protesting against the passage of the Dial bill and similar legislation which will have the effect of interfering with the marketing of cotton all over the world; to the Committee on Agriculture.

#### PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. ANTHONY: A bill (H. R. 9221) granting a pension to Sarah E. Lovell; to the Committee on Invalid Pensions.

Also, a bill (H. R. 9222) granting an increase of pension to Matilda Parkhurst; to the Committee on Invalid Pensions.

By Mr. COCKRAN: A bill (H. R. 9223) for the relief of the Consolidated Gas Co. of New York; to the Committee on Claims.

By Mr. CRISP: A bill (H. R. 9224) granting an increase of pension to John Hogan; to the Committee on Pensions.

By Mr. DARROW: A bill (H. R. 9225) granting an increase of pension to Catharine Strauser; to the Committee on Invalid Pensions.

By Mr. FESS: A bill (H. R. 9226) granting a pension to Ellen Grain; to the Committee on Invalid Pensions.

By Mr. HICKS: A bill (H. R. 9227) for the relief of Lillian D. Boone; to the Committee on Claims.

By Mr. McKENZIE: A bill (H. R. 9228) for the relief of Ray Wilson; to the Committee on Claims.

Also, a bill (H. R. 9229) granting a pension to Mary J. Evans; to the Committee on Invalid Pensions.

By Mr. REED of West Virginia: A bill (H. R. 9230) granting a pension to Carrie A. Boggess; to the Committee on Invalid Pensions.

By Mr. SNELL: A bill (H. R. 9231) granting an increase of pension to Minnie Newton; to the Committee on Invalid Pensions.

By Mr. TINCHER: A bill (H. R. 9232) granting an increase of pension to James E. Kennedy; to the Committee on Pensions.

By Mr. TREADWAY: A bill (H. R. 9233) granting an increase of pension to Permella Hogle; to the Committee on Invalid Pensions.

By Mr. FULLER: Resolution (H. Res. 230) to pay Norman E. Ives \$700 for extra and expert services rendered to the Committee on Invalid Pensions by detail from the Bureau of Pensions; to the Committee on Accounts.

Also, resolution (H. Res. 231) to pay H. M. Vandervort \$200 for extra and expert services to the Committee on Invalid Pensions by detail from the Bureau of Pensions; to the Committee on Accounts.

## PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

3128. By the SPEAKER (by request): Resolutions adopted at a public mass meeting in the High School Auditorium, Wilkes-Barre, Pa., on armistice day, November 11, 1921, heartily indorsing the general principle of international disarmament, etc.; to the Committee on Foreign Affairs.

3129. Also (by request), telegram from the Paul Lawrence Dunbar Club, Esther Hopson, president, and Mary L. Taylor, secretary, of Attleboro, Mass., urging the immediate passage of the Dyer antilynching bill; to the Committee on the Judiciary.

3130. By Mr. BURTNESS: Petition of residents of Grand Forks, N. Dak., for defeat of Penrose bill and demanding immediate steps to collect principal and interest due from foreign Governments, to be used for soldiers' bonuses and other purposes; to the Committee on Ways and Means.

3131. Also, telegram from Knights of Columbus, of Grand Forks, indorsing the limitation of armament program proposed by Secretary Hughes, as well as all possible further limitation; to the Committee on Foreign Affairs.

3132. By Mr. KISSEL: Petition of United Chemical Works, New York City; to the Committee on Ways and Means.

3133. Also, petition of Lithuanian conference, Maspeth, Long Island, N. Y.; to the Committee on Foreign Affairs.

3134. By Mr. KUNZ: Resolution adopted by the Vereinigte Maennerchoere Society of Chicago, in approval of the action of President Harding and the Government of the United States in summoning the Washington Conference on the Limitation of Armament; to the Committee on Foreign Affairs.

3135. By Mr. LINTHICUM: Petition of William Beehler, the Hub, the Hecht Co., and Brager of Baltimore, all of Baltimore, protesting against the American valuation plan; to the Committee on Ways and Means.

3136. Also, petition of the Baltimore Federation of Labor, favoring House bill 5351; to the Committee on the Judiciary.

3137. By Mr. A. P. NELSON: Petition of citizens of Rhineland, Wis., indorsing the work of the Conference on Limitation of Armament; to the Committee on Foreign Affairs.

3138. By Mr. SMITH of Idaho: Resolution adopted by the board of directors of the Chamber of Commerce of Boise, Idaho, urging legislation to prevent railroad strikes; to the Committee on Interstate and Foreign Commerce.

3139. Also, resolution adopted by the board of directors of the Chamber of Commerce of Boise, Idaho, urging the curtailment of armaments and reducing appropriations for the Army and Navy; to the Committee on Appropriations.

3140. Also, resolutions officially signed by the Methodist Church, Montpelier, Idaho, proposing change in Constitution to prohibit sectarian schools; to the Committee on the Judiciary.

3141. By Mr. SNYDER: Petition of members of the Baptist Church of Remsen, N. Y.; the Methodist Church of Lowville, N. Y.; and the Methodist Church of Camden, N. Y., against legalizing the manufacture and sale of 2.75 per cent beer; to the Committee on Ways and Means.

3142. By Mr. WILLIAMSON: Resolutions on limitation of armaments of the congregation of St. Paul's Episcopal Church, Vermilion, S. Dak.; to the Committee on Foreign Affairs.

## SENATE.

MONDAY, November 21, 1921.

(Legislative day of Wednesday, November 16, 1921.)

The Senate reassembled at 11 o'clock a. m., on the expiration of the recess.

Mr. CURTIS. Mr. President, I suggest the absence of a quorum.

The VICE PRESIDENT. The Secretary will call the roll.

The reading clerk called the roll, and the following Senators answered to their names:

Ashurst	France	Nelson	Smoot
Borah	Freilinghuysen	Nicholson	Spencer
Brandegee	Gooding	Norris	Sterling
Broussard	Hale	Oddie	Townsend
Bursum	Harris	Overman	Trammell
Calder	Harrison	Penrose	Wadsworth
Capper	Heflin	Phipps	Walsh, Mass.
Caraway	Jones, Wash.	Pittman	Walsh, Mont.
Culberson	Kendrick	Poinexter	Warren
Cummings	Kenyon	Pomerene	Watson, Ga.
Curtis	Keyes	Robinson	Watson, Ind.
Dial	Ladd	Sheppard	Willis
Elkins	McCumber	Shields	
Ernst	McKellar	Simmons	
Fernald	McKinley	Smith	

Mr. TRAMMELL. I wish to announce the absence of my colleague [Mr. FLETCHER] on official business.

The VICE PRESIDENT. Fifty-seven Senators having answered to their names, a quorum is present.

## PETITIONS.

Mr. WARREN presented a resolution adopted by the Natrona County Stock Growers' Association, of Casper, Wyo., favoring the sale of vacant public lands in the State of Wyoming to stockmen at \$1.25 per acre, on a 20-year payment plan, the proceeds thereof to be used for soldier compensation, which was referred to the Committee on Public Lands and Surveys.

He also presented a resolution adopted by the Natrona County Stock Growers' Association, of Casper, Wyo., favoring increased appropriations for the extermination of predatory animals, which was referred to the Committee on Agriculture and Forestry.

Mr. WILLIS presented a resolution adopted by the Cleveland (Ohio) Council, Brotherhood of Railway and Steamship Clerks, Freight Handlers, Express and Station Employees, urging that any payments to the railroads under the provisions of the railroad relief bill be made only to those roads conforming strictly with existing laws covering the control of interstate commerce and rail transportation, etc., which was ordered to lie on the table.

Mr. ODDIE presented a resolution adopted by the Teachers Institute for the Fourth District and Washoe County, Nev., held November 2 to 5, 1921, favoring the enactment of legislation creating a department of education, etc., which was referred to the Committee on Education and Labor.

## BILLS INTRODUCED.

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. FRELINGHUYSEN:

A bill (S. 2745) to amend subdivision (3) of subsection (B) of section 9 of an act entitled "An act to define, regulate, and punish trading with the enemy, and for other purposes," approved October 6, 1917, as amended; to the Committee on the Judiciary.

By Mr. SWANSON:

A bill (S. 2746) for the relief of William Howard May, ex-marshal of the Canal Zone; William K. Jackson, ex-district attorney of the Canal Zone; and John H. McLean, ex-paymaster of the Panama Canal, now deceased; to the Committee on Claims.

Mr. POINDEXTER:

A bill (S. 2748) providing for a grant of land to the State of Washington for public park purposes; to the Committee on Public Lands and Surveys.

By Mr. KENYON:

A bill (S. 2749) to prepare for future cyclical periods of depression and unemployment by systems of public works; to the Committee on Education and Labor.

By Mr. BRANDEGEE:

A bill (S. 2750) to provide for the advancement on the retired list of the Regular Army of Second Lieut. Ambrose I. Moriarity; to the Committee on Military Affairs.

By Mr. ODDIE:

A bill (S. 2751) to correct the military record of James Mitchener, deceased; to the Committee on Military Affairs.

## ENCOURAGEMENT OF AGRICULTURAL RESOURCES.

Mr. McNARY. Mr. President, I introduce for the consideration of the Senate a bill to encourage the development of the agricultural resources of the country through the instrumentalities of irrigation and drainage, giving certain preferential rights to soldiers in the way of land settlements. I ask that it be read twice by its title and referred to the Committee on Irrigation and Reclamation.

The bill (S. 2747) to encourage the development of the agricultural resources of the United States through Federal and State cooperation, giving preference in the matter of employment and the establishment of rural homes to those who have served with the military and naval forces of the United States, was read twice by its title and referred to the Committee on Irrigation and Reclamation.

## MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. Overhue, its enrolling clerk, announced that the House had passed the bill (S. 1039) for the public protection of maternity and infancy, and providing a method of cooperation between the Government of the United States and the several States, with amendments, in which it requested the concurrence of the Senate.



## ENROLLED BILL SIGNED.

The message also announced that the Speaker of the House had signed the enrolled bill (H. R. 7294) supplemental to the national prohibition act, and it was thereupon signed by the Vice President.

## MICHIGAN SENATORIAL ELECTION.

The Senate resumed the consideration of the resolution (S. Res. 172) declaring Truman H. Newberry to be a duly elected Senator from the State of Michigan, the pending question being on the amendment in the nature of a substitute proposed by Mr. WALSH of Montana.

Mr. WALSH of Montana. Mr. President, I notice the senior Senator from Michigan [Mr. TOWNSEND] is in his seat this morning, and I desire to inquire of him, because he was not here when I mentioned the matter on Saturday afternoon, if his attention was called since to the testimony to the effect that in one district over which the witness presided he had employed workers on primary day and paid them \$7 apiece?

Mr. TOWNSEND. I did not catch the full import of the Senator's remark. To whom is he referring?

Mr. WALSH of Montana. The Senator from Michigan on Saturday, due to his unfamiliarity with the details of the record, advised the Senate that no worker was out on primary day. Thereafter, while the Senator was absent from the Chamber, I read to the Senate testimony disclosing that workers were hired to work on primary day and were paid \$7 a head.

Mr. TOWNSEND. I do remember indistinctly that there was some such testimony. I do know, however, that the chairman of the Newberry senatorial committee ordered or directed that no workers should be employed.

Mr. WALSH of Montana. Mr. President, I notice that the Senator from Georgia [Mr. WATSON] is now in his seat. If he will give me his attention for a moment, I desire to say that on Saturday last he said something—I do not claim to quote his exact words—which obviously conveyed the impression that Chief Justice White in his opinion had disposed of this controversy. I adverted in the opening of my discussion of this subject to the opinions of the Supreme Court in the case that went to that court and stated, in substance, the attitude taken by Chief Justice White.

Mr. TOWNSEND. May I interrupt the Senator from Montana to ask him to what testimony he was referring when he addressed himself to me?

Mr. WALSH of Montana. I will call the attention of the Senator to that directly—as soon as I have disposed of the matter to which I have just referred.

Mr. WATSON of Georgia. Mr. President—

The VICE PRESIDENT. Does the Senator from Montana yield to the Senator from Georgia?

Mr. WALSH of Montana. I yield.

Mr. WATSON of Georgia. The Senator from Montana misunderstood my position.

Mr. WALSH of Montana. Then I shall be very glad to be corrected.

Mr. WATSON of Georgia. Chief Justice White differed from the majority of the court as to the law, but he swept the bribery charge out of the case.

Mr. WALSH of Montana. Exactly; that is, as to the subject of the bribery of voters.

I read from the opinion of Chief Justice White what was read by the Senator from Georgia on Saturday, and also the following paragraph, which may have escaped his attention.

Mr. WATSON of Georgia. I only went so far as to state that Chief Justice White had swept the charge of bribery out of the case.

Mr. WALSH of Montana. I read from Chief Justice White's opinion, as follows:

The fifth count charged a conspiracy on the part of the defendants to commit a great number, to wit, 1,000, offenses against the United States, each to consist of giving money and things of value to a person to vote for Newberry at said election, and a great number, to wit, 1,000, other offenses against the United States, each to consist of giving money and things of value to a person to withhold his vote from Henry Ford at said general election. The sixth count charged a conspiracy to defraud by use of the mails.

The portion to which the Senator refers reads:

At the trial, before the submission of the case to the jury, the court put the fifth count entirely out of the case by instructing the jury to disregard it, as there was no evidence whatever to sustain it.

That is, the charge that there was a conspiracy to bribe voters to vote for Newberry "at the trial, before the submission of the case to the jury."

Mr. WATSON of Georgia. I ask the Senator from Montana to read the next sentence.

The VICE PRESIDENT. Does the Senator from Montana yield to the Senator from Georgia?

Mr. WALSH of Montana. I yield.

Mr. WATSON of Georgia. My recollection is that in the very next sentence the Chief Justice says: "Therefore, the charge of bribery disappears."

Mr. WALSH of Montana. I intend to read that. The opinion of the Chief Justice continues:

The bribery charge, therefore, disappeared. The second, third, and fourth counts, dealing, as I have said, with one general subject, were found by the court to be all in substance contained in the first count. They were, therefore, by direction of the court, either eliminated or consolidated with the first count. Thus, as contained in that count, the matters charged in the first four counts were submitted to the jury, as was also the sixth count; but the latter we need not further consider, as upon it there was a verdict of not guilty.

The case therefore reduces itself solely to the matters covered in the first count. That count charged a conspiracy on the part of the defendants, 135 in number, including Newberry, to commit an offense against the United States—that is, the offense on the part of Newberry of violating the corrupt practices act—

I am taking up this matter for the special information of the Senator from Georgia, but I notice he has been called from the Chamber. The opinion continues—

by giving, contributing, expending, and using and by causing to be given, contributed, expended, and used, in procuring his nomination and election as such Senator at said primary and general elections, a sum in excess of the amount which he might lawfully give, contribute, expend, or use, and cause to be given, contributed, expended, or used for such purpose under the laws of Michigan, and in excess of \$10,000, to wit, the sum of \$100,000; and on the part of the other defendants of aiding, counseling, inducing, and procuring Newberry as such candidate to give, contribute, expend, and use, or cause to be given, contributed, expended, or used, said large and excessive sum, in order to procure his nomination and election.

That is to say, Mr. President, that the court dismissed that count that Newberry was charged with having entered into a conspiracy to bribe voters, but left for determination by the jury the count in which it was charged that Newberry had entered into a conspiracy to contribute and expend more than the sum limited by law. Upon that question the Chief Justice held that the jury had been erroneously instructed. So the whole matter that is here was left wholly undetermined by the court.

I may say in this connection that the evidence to which I adverted was not introduced for the purpose of showing that any voter was bribed, but it was introduced for the purpose of showing that men were unlawfully hired to go about the State and work for Newberry, urging voters to vote for him. I repeat, for the information of the Senator from Georgia, that it is perfectly obvious, as stated by me, that the Chief Justice—who, of course, spoke only for himself, not for the court, for the opinion of the court was delivered by Mr. Justice McReynolds—the Chief Justice called attention to the fact that the bribery count was out of the case, but there was left for consideration and determination by the court the count charging a conspiracy to contribute and expend more than the lawful amount.

Mr. WATSON of Georgia. Mr. President, if the Senator will allow me, it is nothing unusual for the members of the Supreme Court to concur in on different grounds, and, as I understand, Chief Justice White did concur on a different ground, to wit, he held that the Federal law was constitutional while the majority of the court held that it was not.

Mr. WALSH of Montana. Of course, every Justice agreed that the judgment should be reversed; there is not any question about that. Five of them said it should be reversed because the act was unconstitutional and four of them said the act was constitutional but that an error had been made in instructing the jury in reference to the charge in count 1. That is the state of the record. They all agreed that the count charging conspiracy to bribe was out of the case.

Mr. McKELLAR. Mr. President—

Mr. WALSH of Montana. I yield to the Senator.

Mr. McKELLAR. But the judgment of the court as delivered by the Justice representing the majority decided the case solely on the ground of the unconstitutionality of the law, and not a word is said about any other question.

Mr. WALSH of Montana. Entirely so.

Mr. SPENCER. Mr. President, will the Senator yield for a moment.

Mr. WALSH of Montana. I yield.

Mr. SPENCER. Is it not a fair statement to say, as the Senator from Montana has already intimated, that the five justices who decided that the law was unconstitutional and void concerned themselves with nothing more than the technical legal construction of the act, and therefore they agreed to reverse the case without remanding it, and that ended their decision; but every one of the other four justices, including the Chief Justice, who did not think the law was absolutely void and who were therefore free to discuss the merits of the case condemned the interpretation of the trial judge by which alone a verdict of guilty was possible in that case?

Mr. WALSH of Montana. I do not agree with the Senator at all. Justice Pitney, expressing the views of Mr. Justice Clarke and Justice Brandeis, said that the case was properly submitted to the jury; that there was evidence enough to warrant the jury in returning a verdict of guilty on the first count; but they said also that the instruction was erroneous. So far as the majority of the court is concerned, I do not agree with the Senator from Missouri at all about that. It is true that that is all the majority of the court concerned themselves with, so far as the opinion is concerned, but the Senator will not dispute the proposition that the Supreme Court never holds an act unconstitutional until it is confronted with that proposition as necessary to the determination of the case.

Mr. SPENCER. I quite agree with that.

Mr. WALSH of Montana. Exactly; so that if the court thought that the evidence was wholly insufficient to warrant a verdict of guilty, they never would have reached the constitutional question.

Mr. SPENCER. I can not agree with that.

Mr. WALSH of Montana. That is my view.

Mr. SPENCER. A constitutional question when it is clearly presented to the court and is clearly involved in the case is decided. The five majority justices who rendered the decision of the court held, as the Senator from Montana so clearly states, that the law was unconstitutional, and that is all they were concerned with. They did not discuss the merits of the case at all.

Mr. WALSH of Montana. Of course not.

Mr. SPENCER. We agree as to that.

Mr. WALSH of Montana. We agree as to that.

Mr. SPENCER. Four justices who did not think that the law was unconstitutional, and among those four justices was the Chief Justice, commented upon the trial and commented upon the instruction, and they show in their opinion that the instruction under which the verdict of guilty was brought in was a misapplication of the law and was unfair.

Mr. WALSH of Montana. Yes.

Mr. SPENCER. And that no verdict that was rendered by the jury based upon that instruction could possibly stand.

Mr. WALSH of Montana. Of course.

Mr. SPENCER. That is the contention.

Mr. WALSH of Montana. We agree about that; the instruction was wrong, and that is all there is to that.

Mr. SPENCER. And the instruction went right to the heart of the matter.

Mr. WALSH of Montana. Oh, by no means, because Mr. Justice Pitney declares that the case was properly submitted to the jury and there was evidence enough to sustain a verdict of guilty upon an appropriate and proper instruction.

Mr. SPENCER. The language of the Chief Justice is clear, and he says:

I am nevertheless of opinion that there should be a judgment of reversal without prejudice—

That means to a new trial—

Mr. WALSH of Montana. Exactly.

Mr. SPENCER. He continues:

because of the grave misapprehension and grievous misapplication of the statute upon which the conviction and sentence below were based.

Mr. WALSH of Montana. Of course.

Mr. SPENCER. There could not be anything clearer than that.

Mr. WALSH of Montana. The Chief Justice said the instruction was wrong; that it misapplied the law, and therefore he concurred in reversal; but, Mr. President, because this aspect of the matter, which is not open to discussion at all, has been presented, I read from the opinion of Mr. Justice Pitney again. He says:

Since the majority of the court hold that the act is invalid, it would serve no useful purpose to spend time in discussing those assignments of error that relate to the conduct of the trial. It may be said, however, that, in my opinion—

And in that opinion Justice Clarke and Justice Brandeis concurred—

the trial court did not err in refusing to direct a verdict for the defendants for want of evidence of the alleged conspiracy.

In other words, the court properly let the matter go to the jury upon the question as to whether the defendants were guilty of the conspiracy as charged in the first count of the indictment—that is to say, there was evidence enough to warrant the jury in finding them guilty if they had been properly instructed. That is what this decision means.

Mr. SPENCER. Mr. President, will the Senator allow me to quote from Mr. Justice Pitney's opinion a few words following what he read?

Mr. WALSH of Montana. I will read the whole thing.

Mr. SPENCER. No; I do not ask to have that done. It is the beginning of the next paragraph, where he says:

I find prejudicial error, however—

Mr. WALSH of Montana. Of course, he found prejudicial error.

Mr. SPENCER. Let me finish the sentence:

I find prejudicial error, however, in that part of the charge which assumed to define the extent to which a candidate must participate in expenditures beyond the amount limited in order that he may be held to have violated the prohibition—

And here is what I call the Senator's attention to:

An instruction vitally important because it was largely upon overt acts supposed to have been done in carrying out the alleged conspiracy that the Government relied to prove the making of the conspiracy and its character.

Mr. WALSH of Montana. Of course.

Mr. SPENCER. In other words, if it had not been for that instruction, the verdict, as I read it, could not have followed. The Chief Justice says the verdict was based upon that instruction.

Mr. WALSH of Montana. Oh, well, I do not want to discuss that matter at all. I supposed that I was discussing this matter with somebody who desired to talk about it in a lawyerlike way.

Mr. SPENCER. May I say to the Senator—I will say it a little later, however.

Mr. WALSH of Montana. All right.

Mr. SPENCER. The Senator knows the fairness of what I am saying. The Senator knows the legality of what I am saying. The Senator, in his calm moments of justice, is a lawyer of great ability, and he knows what those decisions mean.

Mr. WALSH of Montana. And he is a lawyer right now, too.

Mr. McKELLAR. Mr. President, will the Senator yield?

The VICE PRESIDENT. Does the Senator from Montana yield to the Senator from Tennessee?

Mr. WALSH of Montana. I yield to the Senator.

Mr. McKELLAR. I want to call the attention of the Senate and of the Senator to the fact that again saying that the opinion of the Supreme Court does not pass upon the facts; it put the opinion of the court solely upon the constitutionality of the act. The only reference to the facts is in the paragraph that I will now read:

It should not be forgotten—

This is the opinion of the court. This is not any dissenting opinion of one justice or another justice. It is the opinion of the court—

It should not be forgotten that, exercising inherent police power, the State may suppress whatever evils may be incident to primary or convention. As "each House shall be the judge of the elections, qualifications, and returns of its own Members," and as Congress may by law regulate the times, places, and manner of holding elections, the National Government is not without power to protect itself against corruption, fraud, or other malign influences.

The necessary implication from that being that the majority of the court believed, as stated in this opinion, that the Senate itself was the forum to pass upon this question, and the court believed, from the facts that were adduced before it in that record, that it ought to pass on it; that they were amply sufficient for it.

Mr. WATSON of Georgia. Mr. President, will the Senator indulge me again?

Mr. WALSH of Montana. I yield to the Senator.

Mr. WATSON of Georgia. Will the Senator explain to the Senate why there has been no new trial?

Mr. WALSH of Montana. Mr. President, it needs no explanation. The court held that the Federal statute, upon which the jurisdiction of the Federal court rests so far as the primary is concerned, is unconstitutional, and no prosecution can be had under it.

Mr. WATSON of Georgia. There are the Michigan statutes.

Mr. WALSH of Montana. To be sure, Mr. President; but the Michigan statutes will not afford a basis for a prosecution in the Federal courts.

Mr. WATSON of Georgia. What about the State courts?

Mr. WALSH of Montana. Oh, well, of course, the authorities of the State of Michigan may prosecute in the Michigan courts if they care to do so.

Mr. WATSON of Georgia. Why have they not done so?

Mr. WALSH of Montana. Really, the Senator ought not to be doubtful about that. If Mr. Newberry was able thus to control the votes of the State of Michigan through the employment of practically every county officer in the State of Michigan, how easy it would be for him to control the enforcement of the criminal law!



Mr. WATSON of Georgia. Has Mr. Ford no control in Michigan?

Mr. WALSH of Montana. Perhaps the Senator has not had very much experience about this matter in our State; but the State of Montana has been brought into somewhat unenviable notoriety in this matter of the purchase of seats in the United States Senate. Does the Senator remember the case of Senator Clark, from my State?

Mr. WATSON of Georgia. Yes.

Mr. WALSH of Montana. No prosecution was ever had in that case.

Mr. WATSON of Georgia. Why not?

Mr. WALSH of Montana. Simply because the same influence that controlled the election controlled the machinery of the criminal law.

Mr. WATSON of Georgia. Then the Senator's State is in a worse fix than mine.

Mr. WALSH of Montana. I dare say. It is no worse than the State of Michigan, though.

Mr. WATSON of Georgia. I do not know about that, and I do not think the Senator from Montana knows.

Mr. WALSH of Montana. We have reformed in that regard, to some extent at least.

Mr. WATSON of Georgia. No warrant has been sworn out, and Henry Ford could have sworn out a warrant any day.

Mr. WALSH of Montana. No warrant was sworn out in Montana, either; and yet six members of the subcommittee of the Committee on Privileges and Elections reported against Senator Clark, and he resigned rather than have the matter come to a hearing in this Chamber.

Mr. WATSON of Georgia. Did he not come back by appointment of the governor?

Mr. WALSH of Montana. No; the appointment of the governor was contested, and he never took his seat under that appointment; and a subsequent election was held, and at that election he was returned.

Mr. WATSON of Georgia. It is the same thing in effect.

Mr. WALSH of Montana. Mr. President, I now proceed with the argument as I was prosecuting it when the recess was taken on Saturday.

Mr. CARAWAY. Mr. President, will the Senator yield for just a minute?

Mr. WALSH of Montana. I yield.

Mr. CARAWAY. The Senator from Michigan [Mr. Townsend] asked for a reference to the record on the question of paying primary workers. Two men appear in the record, one of whom paid workers \$5 a day, and the other paid them \$7 a day.

Mr. WALSH of Montana. Will the Senator have the kindness to call the attention of the Senator from Michigan to their testimony?

Mr. CARAWAY. May I do it now?

Mr. WALSH of Montana. If you please.

Mr. CARAWAY. I want to direct the attention of the Senator from Michigan [Mr. Townsend] to the evidence of the employment of workers on primary day.

Frank P. Bohn (record, p. 800) said:

I expended further \$125 for workers distributing literature and getting the vote out. Also had a list of voters in the various townships made, which I used. I employed about 15 men to work primary day; paid them \$5 apiece; two of them \$10, who worked before primary day.

Then, on pages 883 and 884 of the record, Myron J. Sherwood said that he employed men to work at the polls on election day; that there were five precincts in the city; he had put men in each of the four precincts, but none in the other. He said, "I paid these men \$7 per day."

Mr. WILLIS. Mr. President, will the Senator yield?

Mr. CARAWAY. The Senator from Montana has the floor.

Mr. WALSH of Montana. I yield to the Senator from Ohio.

Mr. WILLIS. I just want to ask the Senator from Arkansas a question. I understood the Senator to read just now a statement to the effect that this employment was had on election day.

Mr. CARAWAY. For workers on primary day; yes, sir.

Mr. WILLIS. That is a very important point. Were these charges made as to expenditures at the primary or at the election?

Mr. CARAWAY. At the primary.

Mr. WILLIS. At the primary?

Mr. CARAWAY. Yes, sir.

Mr. WILLIS. Not at the election?

Mr. CARAWAY. At the primary. No question was raised as to the employment of workers on election day.

Mr. WALSH of Montana. Mr. President, it is not necessary to go into the realm of doubt at all. Upon the undisputed evidence in this case Truman H. Newberry is not entitled to his

seat in this body. It is undisputed that with his knowledge, actual and constructive, an army of paid workers were employed who were to go about the State and argue his cause, organizing in his behalf, and inducing everybody whom they could influence to vote for him. I instance, for example, the man who was employed to go about among the Masons; another man who was to go about among fraternal organizations generally; another man who was to go about among the marine workers; and so on, and so on, in addition to the special workers in each county.

At pages 32 and 33 of the brief for Mr. Ford, submitted to the committee, is a condensed reference to the employment of a large number of these workers which I desire to read as an introduction to what I have to say on that branch of the case.

"Our Polish worker," as Mr. King calls him (bill of exceptions, p. 745), Mr. Ramon Glocheski, received \$600 salary and \$400 expenses for traveling over the State.

Zalile Clago, who worked out the "factory organization" in Detroit, as Mr. King says (record, p. 613), received a salary of \$300 per month.

Mr. President, I desire to say that I would not read from this brief had I not verified, by careful examination of the record, every statement made in the summary which I am now reading.

Charles De Land, who handled Jackson County for Mr. Newberry by arrangement with Mr. King (record, pp. 539, 613), received \$1,095 for services and some expenses.

Half of it, he declares, being "pure velvet."

Mr. King "arranged" with John Kern to handle the campaign in Midland County (record, p. 619), and Mr. Kern was handed a sealed envelope in the presence of Mr. King, which he afterwards opened on the train and found to contain \$400. (Bill of exceptions, p. 133.)

Edward O. McLean, of Ludington, was hired by Mr. King to work for Mr. Newberry at \$200 per month, and received \$800 in all as salary—and he worked among the marine voters.

He got altogether \$500 and \$1,200 expenses.

Rolla E. Prescott was hired by Mr. King to work in Alcona and two other counties at \$150 a month salary, and received in all \$750 salary and about \$600 expense money. (Record, p. 537.)

Mr. WILLIS. Mr. President—

The VICE PRESIDENT. Does the Senator from Montana yield to the Senator from Ohio?

Mr. WALSH of Montana. I yield to the Senator.

Mr. WILLIS. The Senator just read a statement there that Mr. Newberry employed so-and-so. Can he give me the page of the record? I am very anxious to get that clear.

Mr. WALSH of Montana. Mr. King was the one who employed him.

Mr. WILLIS. But just before that the Senator, as I understood him, read that Mr. Newberry employed somebody and paid him \$200 a month.

Mr. WALSH of Montana. If I said so, I had in mind that Mr. King and the rest of them were Mr. Newberry's agents; but I did not intend to put it that way. I intended to put it that paid workers were employed by this so-called Newberry senatorial committee.

Mr. WILLIS. The Senator did not mean to say at all that Mr. Newberry employed anybody?

Mr. WALSH of Montana. Not personally.

Mr. WILLIS. Will the Senator permit one other question?

Mr. WALSH of Montana. Yes.

Mr. WILLIS. Are all of these charges relative to the primary or the election?

Mr. WALSH of Montana. All relative to the primary.

Mr. WILLIS. I thank the Senator.

Mr. PITTMAN. Mr. President—

The VICE PRESIDENT. Does the Senator from Montana yield to the Senator from Nevada?

Mr. WALSH of Montana. I yield.

Mr. PITTMAN. I should like to know if it is not a fact that the law of the State of Michigan prohibits these expenditures at primaries?

Mr. WALSH of Montana. Undoubtedly.

Mr. PITTMAN. Then I do not gather the distinction which the Senator from Ohio is attempting to make between expenditures at primaries and expenditures at elections.

Mr. WILLIS. Mr. President, I do not desire to impose upon the Senator from Montana, but—

Mr. WALSH of Montana. I shall be very glad to yield.

Mr. WILLIS. I think, in answer to the inquiry of the Senator from Nevada, that it makes a very great difference whether these expenditures are made at the primary or at the election. That is why I am calling attention to these matters. I am perfectly frank to say to the Senate that if it can be shown here by this record that Mr. Newberry or anybody else with his authority purchased votes at the election, I should never in the world vote to seat him; but the showing that is made here, so far as I have been able to gather from the statements made by those

arguing the case, is that all the irregularities charged were at the primary contest for the nomination.

Mr. ASHURST. Mr. President—

Mr. WILLIS. That nomination subsequently was submitted to the people of Michigan at an election, and no charges at all have been made here on the floor of the Senate or in this record, so far as I have been able to discover—and I have read the record pretty carefully—that go at all to the election. I think it makes a tremendous difference whether these charges are made with reference to the primary or with reference to the election.

Mr. ASHURST. Mr. President—

Mr. WALSH of Montana. I yield to the Senator from Arizona.

Mr. ASHURST. Let us for a moment examine the Senator's statement and see where the view of our learned friend from Ohio would lead us. He intimates to the Senator from Montana that it makes some difference to him and to others whether the moneys were expended in the primary or in the election. Does he overlook the fact that large sums of moneys expended in the primary in Michigan were illegally expended? Does he overlook the fact that the rule he implies by his question would mean that in the States which are always Democratic or always Republican a man could buy his seat by spending his barrel of money in the primary, and there would be no practical opposition in the election? In many States the primary is conclusive for all practical purposes. In the State of Vermont and the State of Texas, for instance, the primary determines the election. Under the Senator's philosophy a man could spend \$1,000,000 in getting a nomination which inevitably would put him in the Senate, yet he would go free and could not be scourged from the presence of the Senate because, forsooth, he spent the million dollars in the primary and not in the election.

Mr. WILLIS. Does the Senator contend that Michigan is such a strictly partisan State as those which he suggests in the illustration?

Mr. ASHURST. No—

Mr. WALSH of Montana. Just a moment. The Senator from Michigan told us the other day that no Democrat has ever been elected to this body from the State of Michigan since Lewis Cass was elected, away back in 1845.

Mr. WILLIS. I did not hear that statement, and I do not know about that. But this I do know, that within a very short time a distinguished Democrat has been elected governor of the State of Michigan, and I know that Michigan is debatable ground. I know that the results of the primary were published, that the charges which are made here were published all over the State; I think that is quite a different thing from the situation which would exist if it were shown that bribery was resorted to at the election.

Mr. ASHURST. No, Mr. President—

Mr. WILLIS. Just one other thing. I am waiting for somebody to show the connection of Mr. Newberry with these expenditures, which has not yet been shown. If that can be brought home to him, that is one case; if it is not brought home to him, it is an entirely different case.

Mr. ASHURST. Will the Senator from Montana permit me to answer that?

Mr. WALSH of Montana. Certainly.

Mr. ASHURST. I am only stating that the philosophy of my learned friend from Ohio would mean that in a State which has never sent a Democratic Senator here—such as Iowa or Vermont—bribery could be practiced at the primary which would be conclusive, but we could not scourge the beneficiary of such bribery from the Senate because forsooth he did not spend the money in the election. Surely that philosophy can not stand the test, because the Senator will perceive at once where it would lead. But his feet are on the untried rock when he says that he is willing—and I believe he would do so—to vote to unseat a man, from whatsoever State he might come, if the illegal expenditure of money could be brought home to him. That is the question in the case. When a candidate orders publicity, when he sits in his office in New York and receives four or five reports weekly, and for a month receives reports by telephone and by telegraph daily, and when he gives orders in writing by the score to his managers to continue publicity, and constantly makes suggestions as to the practical methods and minute details of the campaign, surely he must know that some expenses are connected therewith. When a joint account which he holds with his brother is drawn upon and depleted so that he inquires, "When is this depletion of my account to stop?"

Mr. WILLIS. Does the Senator mean by this reference to contend that these moneys expended for publicity were paid out by Mr. Truman Newberry?

Mr. ASHURST. With his knowledge and consent; yes.

Mr. McKELLAR. And probably out of his own money.

Mr. WILLIS. I should be glad to have the Senator refer me to the page of the record, because I am looking for the truth of this matter. I understand the Senator's statement to be that he contends that this expenditure of some \$147,000 for publicity was out of Mr. Truman Newberry's money.

Mr. ASHURST. Yes, sir.

Mr. WILLIS. With his knowledge and consent.

Mr. ASHURST. Yes, sir.

Mr. WILLIS. I want to see the place in the record where that is proven.

Mr. ASHURST. If his family, if his brother—

Mr. WILLIS. I am talking about Truman Newberry. He is the man who is under inquiry here.

Mr. ASHURST. If his family, if his friends, if his business associate, if his attorney in fact, could expend this huge sum of money and he not know it, then he is too much of a babe in the woods to sit in the Senate. The Senator from Missouri—

Mr. WILLIS. The Senator did not give me the page of the record.

Mr. ASHURST. All right; let the Senator turn to page 703 of the bill of exceptions.

Mr. WALSH of Montana. Mr. President, I am quite willing that the discussion should go to the question addressed by the Senator from Ohio as to whether it is important that the wrongdoing should have occurred in the primary or in the general election, but I shall object to any further discussion of the question about whether Mr. Newberry furnished the money or not. That is not the question.

Mr. ASHURST. The Senator is correct about that.

Mr. WALSH of Montana. If anybody desires to submit anything on the question addressed to me by the Senator from Ohio, I shall be very glad to yield for that purpose; but, Mr. President, I have not prepared myself to discuss that question before the Senate. To my mind it does not make a bit of difference whether Truman Newberry went out and openly violated the law to get the Republican nomination for the Senate or whether he went out and openly violated the law to get elected after he was nominated. If he violated the law to get the nomination, the penalty ought to be visited upon him just exactly the same, and the Chief Justice in his opinion adverts to the same state of facts mentioned by the Senator from Arizona that in many States the nomination is practically equivalent to an election, and history discloses that, so far as the United States Senate is concerned, that is the case in the State of Michigan. A nomination for the Senate upon the Republican ticket in the State of Michigan is practically a title to a seat in this body.

Mr. ASHURST. Will the Senator yield to me for a moment?

Mr. WALSH of Montana. I yield.

Mr. ASHURST. With the permission of the Senator from Montana I want to ask the attention of the junior Senator from Missouri, and I read from his report, the majority report:

The amount of money spent at the primary was large—too large. \* \* \* Your committee condemns the use of such a large sum of money in any primary campaign.

This is not the minority insinuating; this is what the majority says:

Your committee condemns the use of such a large sum of money in any primary campaign.

Mr. SPENCER. Will the Senator be good enough to finish the sentence?

Mr. ASHURST. I have not any more of it to read; that is all I want to read. The Senator may finish it.

Mr. SPENCER. If that were all—

Mr. ASHURST. Of course, I am not going to take part in any controversy with the Senator from Missouri or anybody else when he frames my question. I frame my own question. He can answer it as he sees fit. I am not going to take part in any controversy where the opposition can frame my question. I have quoted his statement accurately. Now I ask, Whom does he condemn for the expenditure of this money?

Mr. SPENCER. May I have the privilege of answering the Senator?

Mr. WALSH of Montana. I yield.

Mr. SPENCER. The sentence which the Senator from Arizona did not complete when he saw fit to read from the majority report I will finish; not the next paragraph but the sentence which the Senator from Arizona offered incomplete. The sentence reads:

The amount of money spent at the primary was large—too large—but there was no concealment whatever with regard to it, and it was spent entirely for legal and proper purposes.

Mr. ASHURST. Then why do you condemn it?



Mr. SPENCER. More than that—

Mr. WALSH of Montana. Mr. President, I object to a further continuance of this colloquy.

Mr. SPENCER. Does not the Senator yield to me?

Mr. WALSH of Montana. I object.

Mr. SPENCER. More than that, the majority report shows beyond peradventure that not one dollar of that ever came from Truman H. Newberry or was ever solicited by him.

Mr. WALSH of Montana. I object. I objected a while ago to the discussion going into that question.

Mr. SPENCER. I was sure I would not be allowed to answer.

Mr. BORAH. Mr. President—

The VICE PRESIDENT. Does the Senator from Montana yield to the Senator from Idaho?

Mr. WALSH of Montana. I yield.

Mr. BORAH. I want to interject one suggestion here which I hope both sides will bear in mind while they are discussing this case. I want to know whether this body proposes to lay down the rule that a man who selects a political committee is not responsible for whatever that committee does. If the Senate proposes to say that a man can select a political committee and then not be responsible for that committee, the door is open so wide for corruption that it never can be closed again.

Mr. KENYON. Mr. President—

Mr. SPENCER. Mr. President, if I had permission to reply—

Mr. WALSH of Montana. I yield to the Senator from Iowa.

Mr. KENYON. I want to ask the Senator from Idaho if he does not know, as has been iterated and reiterated here at least a hundred times, that Mr. Newberry knew nothing about the committee, nothing at all; so how could he be responsible for what the committee did?

Mr. BORAH. The evidence in the record that Mr. Newberry selected this committee is so plain that if the same evidence were submitted to a jury in a case involving a question of crime, they would convict a man of the crime charged.

Mr. SPENCER. Mr. President—

The VICE PRESIDENT. Does the Senator yield to the Senator from Missouri?

Mr. WALSH of Montana. I yield to the Senator from Missouri.

Mr. SPENCER. The Senator from Idaho is entirely mistaken, in the face of the record. Mr. Newberry said to Mr. Templeton, "If I run, I hope my campaign will be managed by a committee of business men." The Senator can not point his finger to a place in the record as to the selection of a single man by Mr. Newberry. He can draw an inference or work out a suspicion to sustain the judgment which he has made up long ago, but he can never do it by the record.

Mr. BORAH. When the Senator says that the Senator from Idaho is sustaining a judgment which he made up long ago, he is stating that which he does not know to be true, which is the same thing as stating that which he knows to be untrue. I did not make up my mind long ago.

Mr. SPENCER. I hope that is true; I hope the Senator has not made up his mind.

Mr. BORAH. The Senator did not permit me to complete the sentence. I started to say that I did not make up my mind long ago. But when the Senator stated here upon the floor that the Senator from Michigan did not select this committee, I made it my business to go through both reports and through the record, and before the debate closes I will submit the uncontroverted evidence of the fact that he did select it, and not only that he selected it but that he kept in close touch with it until the committee closed its business. The evidence upon both these propositions seems to me most conclusive. I have examined the entire record anew on these questions since the debate opened.

Mr. WALSH of Montana. Mr. President, I merely desire to add to the Senator from Ohio, in explanation of the statement I made, that I have given no attention whatever to the question as to whether there is any difference at all, so far as the right of Mr. Newberry to occupy a seat in this body is concerned, whether the things charged against him were done at the primary or at the general election, and I made no investigation of that subject at all, because even the majority of the Committee on Privileges and Elections do not suggest such a difference.

Mr. WILLIS. The Senator contends that there is no difference?

Mr. WALSH of Montana. There is no difference.

Mr. WILLIS. I quite disagree with the Senator on that.

Mr. WALSH of Montana. I am calling attention to the fact that I did not go into that particular legal proposition, because it is not even suggested by any member of the ma-

jority who report in favor of seating Mr. Newberry. In other words, it is a proposition that seemed to them so perfectly plain that they did not even advance that in support of the contention they make that he ought to be seated.

Mr. WATSON of Georgia. Mr. President—

The VICE PRESIDENT. Does the Senator yield to the Senator from Georgia?

Mr. WALSH of Montana. I yield.

Mr. WATSON of Georgia. Merely a question, put in the best of humor and good faith. I ask the Senator from Montana and the Senator from Idaho whether there is any principle of law which imputes to them or to me, or to anyone else, the illegal practices which may be followed by a committee chosen to do things which are legal?

Mr. BORAH rose.

Mr. WALSH of Montana. I yield to the Senator from Idaho to answer that.

Mr. BORAH. My attention was distracted for the moment, and I did not hear the first part of the Senator's question.

Mr. WATSON of Georgia. The question is this: The whole debate now is hinging around the question of imputing knowledge to Truman Newberry of what his committee is alleged to have done illegally. I ask the Senator from Idaho, with the consent of the Senator from Montana, whether or not, when he chooses a campaign committee to do legal things and it does things that are illegal, the knowledge of what it does can be imputed to him?

Mr. BORAH. Mr. President, I take the position that it is as old as the common law, iterated and reiterated again and again, that in political matters, when a man chooses a political committee to carry on his campaign, the committee's knowledge is his knowledge and that he is responsible for whatever the committee does. If the committee corrupts the election, it is his corruption, and there is no way he can escape from that proposition so long as he permits the committee to act for him. He might repudiate his committee but he can not allow his committee to continue, take the fruits of its efforts, and not be responsible for whatever it does in the way of securing his nomination or election.

Mr. WATSON of Georgia. On the contrary, Mr. President, I state the law, as I understand it, that in civil matters responsibility can be imputed, but a crime must be proved.

Mr. BORAH. There is where the Senator makes a mistake. We are not trying Mr. Newberry for a crime. We are investigating the question of whether or not there was corruption of an election; whether the election was controlled by money. It would not make any difference if there was no statute whatever making it a crime. That is not the question here. That is the question which was tried in court. Here the public interest is the dominant question involved, the question of purity of an election, and if it was impure and corrupt no man can take advantage of that election in the way of enjoying the fruits of its corruption.

Mr. HEFLIN. Mr. President, if the Senator from Montana will permit me, I wish the attention of the Senator from Idaho [Mr. BORAH] a moment. Mr. Newberry not only indorses what Mr. Paul King did but he thanks him in the following letter:

AUGUST 26, 1918.

MY DEAR PAUL: While to-morrow's primary vote will record the result of your efforts, please know that every day I live will be a reminder of this obligation and debt to you, which I can never repay except when some fortunate hour arrives when I may reciprocate in actions instead of words, this sense of real and deep thankfulness that I have such friends as you and the other gentlemen associated with you on your committee.

TRUMAN H. NEWBERRY.

He is indorsing all that King did, and he never complained of any of it.

Mr. WALSH of Montana. Mr. President, we are getting diverted from the question, but for the information of the Senator from Georgia I read some excerpts to which I called the attention of the Senate on Saturday. I read from page 548 of Hodgkins's Election Cases for the Province of Ontario, as follows:

The law of agency as regards parliamentary elections is not the ordinary law of agency, but a special law. The usual rule is that where an agent acts contrary to his instructions the principal is not bound; but in parliamentary agency it is different, for there the principal is liable for all acts of the agent whatsoever, even though they be done contrary to his express instructions.

At page 665 it was said:

I do not doubt that if a candidate, who has appointed no agents, is made aware that some of his supporters are systematically working for him, and by any act (or perhaps even by forbearance to interpose) can be fairly deemed to recognize and adopt their proceedings in order to further his election, he makes them his agents and must take the consequences. A contrary rule would encourage fraud and corruption and facilitate evasions of the law.

Mr. WATSON of Georgia. That is the opinion of a man who may or may not be a lawyer, but the Senator well knows that that law or pretended law could be used by a man's enemies to oust him from a perfectly honest election and he could not help himself.

Mr. WALSH of Montana. He may or may not be a lawyer, I can not say as to that, but he is the chief justice of one of the courts of the Province of Ontario.

I continue reading from this list of paid workers:

William M. Connolly received \$600 for salary and \$600 for expenses for working in Ottawa County. (R., 509.)

Terry Corliss was hired by Mr. King at \$75 per month and worked 21 weeks organizing different counties for Mr. Newberry. He was not authorized to pay any of the county chairmen or secretaries he appointed any money; this was done by Mr. King personally. (R., 604.)

J. B. Burns, an insurance man of the town of Three Rivers, was hired by J. R. Davis, a Newberry field man, to work for Mr. Newberry and received \$300 salary and \$100 for expenses. (R., 653.)

Fay Donning, of Lansing, received \$500 as salary and \$300 for expenses—"Spend his time for Newberry" in Lansing. (R., 605.)

George W. John, of Mount Clemens, was paid \$450 and paid out \$187 for some expenses. (R., 881.)

William E. Rice received \$50 a month for working among the Spanish-American War veterans. (R., 874.)

Edward Fehling, of St. Johns, was hired by Charles Floyd to work for Mr. Newberry and received \$470 for his services. (R., 506.)

Charles Tufts, of Scottville, Mich., was hired by Paul King and Charles Floyd in March, 1918, "to work" for Mr. Newberry at \$200 a month and expense money. He worked for five months, and says:

"That in accordance with plans made in my conversation with King I worked the following counties: Mason, Newaygo, Iosco, Alpena, Cheboygan, Presque Isle, Grand Traverse, Manistee, Lake, and Montmorency. That I went to see the county officers in each of the above-mentioned counties, and if they were not lined up with anyone, tried to get them to work for Mr. Newberry. \* \* \* That E. O. McLean, of Ludington, Mich., a newspaper man, was employed by the Newberry organization to line up the marines, fishermen, life savers, etc., and write a number of articles in favor of Newberry for his publication; that McLean and I traveled the coast towns together for the purpose of lining up the vote and talked Newberry to the men we met. \* \* \* That my expenses in doing my work in behalf of Mr. Newberry were heavy at times, for when I would run into a place where things were right I would buy meals, cigars, etc., for parties of men, and, in accordance with my agreement with King, I was not limited in my expense, and I spent freely, but can not determine definitely the amount actually expended by me, but would judge it to be in the neighborhood of \$600."

By section 2 of the public acts, 1913, of Michigan, it is provided:

Every political committee shall appoint a treasurer, who shall receive, keep, and disburse all sums of money which may be collected or received by such committee or by any of its members for collection expenses; and unless such treasurer is first appointed, it shall be unlawful for a political committee or any of its members to collect, receive, or disburse money for any such purpose.

SEC. 3. No candidate and no treasurer of any political committee shall pay, give, or lend, or agree to pay, give, or lend, either directly or indirectly, any money or other valuable thing for any nomination or election expense whatever, except for the following purposes:

First. For traveling expenses and personal expenses incident thereto; for printing, stationery, advertising, postage, expressage, freight, telegraph, telephone, and public-messenger service.

Second. For dissemination of printed information to the public.

Third. For political meetings, demonstrations, and conventions.

Fourth. For the rent, maintenance, and furnishing of offices.

Fifth. For the payment of clerks, typewriters, stenographers, janitors, and messengers actually employed.

Sixth. For the employment of challengers at primaries and elections, to the number allowed by law as such.

Seventh. For the payment of public speakers and musicians at public meetings and their necessary traveling expenses.

Eighth. For copying and classifying of election registers or poll lists and investigating the right to vote of the persons listed or registered therein, and conducting proceedings to purge the registers and lists and prevent improper or unlawful registration or voting.

Ninth. For making canvasses of voters.

Tenth. For conveying infirm or disabled voters to and from the polls.

Eleventh. For employing as counsel attorneys licensed to practice in accordance with the laws of the State and for the necessary expenses of such counsel.

None of the provisions of this act shall be construed as relating to the rendering of services by speakers, writers, publishers, or others, for which no compensation is asked or given.

Mr. President, I defy anyone to find in this list of 11 different classes of expenditures authorized under the law of Michigan any justification whatever for the employment of this army of paid workers to which I have called attention. The esteemed Senator from Georgia [Mr. WATSON], however, suggested that justification could be found in the ninth class of expenditures warranted, namely, for making canvasses of voters. No member of the majority committee had the hardihood to make any such contention as that.

It never occurred to the learned and erudite Senator from Missouri [Mr. SPENCER] who has argued the case of Mr. Newberry in the Senate that it could be justified under that. Mr. Newberry was represented before the committee by astute and able counsel who exhausted every means at their command in justification of his contention, and they never thought that this would justify any of the expenditures challenged here at all. It remained for the Senator from Georgia to discover this loophole.

Mr. WATSON of Georgia. Mr. President, if the Senator will allow me—

Mr. WALSH of Montana. Certainly.

Mr. WATSON of Georgia. I remember that in the leading case, the Dartmouth case, the opinion of Chief Justice Marshall was based upon a minor point which was never argued by Daniel Webster.

Mr. WALSH of Montana. Of course, I do not mean to say that it is not possible that a point overlooked by the able counsel for Mr. Newberry, by the distinguished jurists who made the majority report and who argued the case upon the floor of the Senate, might not have been discovered by the Senator from Georgia. I submit that the probabilities are, however, that an idea thus occurring to him in the course of the discussion is open to further investigation.

I am reminded of a story told to me in my youth by Gen. Albert S. Bragg, who for many years represented our district in Congress. He was the author, as all Senators will recall, of the expression that Cleveland was loved for the enemies he had made. He told me that in his youth he practiced law before Timothy O. Howe, afterwards a Member of this body, and a judge of one of the courts of the State of Wisconsin; and Bragg, with the caustic sarcasm of which he was master, said that the way to practice law successfully before Judge Howe was never to expose to him the particularly strong point in your case, but to travel along so closely to it that he could not fail to appreciate the point, and that would give him an opportunity to say that a matter which apparently had been overlooked by counsel seemed to him of special importance, and he would proceed to elucidate that and decide the case accordingly. So it would appear that in this particular case a point overlooked by the able counsel has been discovered by the Senator from Georgia.

Mr. President, there is not any question of doubt as to what is meant by making a canvass of voters. Whenever a bill is approaching its final determination in this body it is quite a common thing for some one to make a canvass of the Senate to find out how many are going to be for it and how many votes are going to be against it. That is the usual custom; that is making a canvass of the Senate. We ask, Has a canvass of the Senate yet been made? The making of a canvass of voters means the employment of a man to go about and make a list of those who are going to vote, in this particular case, against Newberry and those who are going to vote for him. That is what that means; in other words, it is a purely mechanical employment. That is the dictionary definition of canvass.

I read from the Century Dictionary as follows:

Canvass. 1. Examination; close inspection; scrutiny; as a canvass of votes.

That is to say, after an election a canvass of votes is made. That is to say, the votes are counted up for the various candidates.

Specifically. 2. An examination or scrutiny of a body of men, in order to ascertain their opinions or their intentions, especially whether they will vote for or against a given measure or a candidate; an estimate of the number of votes cast or to be cast for or against a candidate or bill; as a canvass of the legislature disclosed a majority of six in favor of the measure.

Another definition is:

3. A seeking solicitation; specifically, systematic solicitation for the votes and support of a district or of individuals by a candidate for office or by his friends.

Mr. President, the particular character of people who may be employed in a campaign is set out in subdivisions 5, 6, and 7 of section 3, Michigan public act 109, as follows:

Fifth. For the payment of clerks, typewriters, stenographers, janitors, and messengers actually employed.

Sixth. For the employment of challengers at primaries and elections to the number allowed by law as such.

Seventh. For the payment of public speakers and musicians at public meetings and their necessary traveling expenses.

"Public meetings"—not the employment of speakers to go around privately and solicit voters or argue with voters, but at "public meetings." Expressio unius est exclusio alterius. They are forbidden to be hired for the purpose of going around privately to talk to voters, to endeavor to induce them to vote for the candidate. Now, we go on:

Eighth. For copying and classifying of election registers or poll lists and investigating the right to vote of the persons listed or registered therein, and conducting proceedings to purge the registers and lists and prevent improper or unlawful registration or voting.

You will observe that in every case, except in case of the seventh subdivision where the work can be done openly at public meetings, it relates not to men who are to exercise any influence at all, but to those who are to perform merely mechanical tasks, such as stenographers, janitors, canvassers of voters, and so on.

Let us direct our attention to the law, and let us ascertain what the law is with reference to the employment of workers of this character. The whole thing is disposed of by the



decision of the case of Eads against Stifel, reported in Two hundred and four Missouri, page 420. Before I pass to that, Mr. President, I want to say, however, that the Legislature of the State of Michigan, not content with enumerating the classes of expenditures which may be made in a campaign, went on specifically and denounced the employment of workers, such as the evidence shows were employed in such great numbers in this campaign. Section 45 of act 281 of the Michigan public acts reads as follows—and I now read the act as quoted in the brief of the attorney for Mr. Newberry—

SEC. 45. Every person who, directly or indirectly, by himself or by any other person in his behalf, gives, lends, or agrees to give or lend, or offers, or promises any money or valuable consideration, or promises, or endeavors to procure any money or valuable consideration or office, place, or employment, to or for any voter, or to or for any person on behalf of any voter, or to or for any person in order to induce or have such person induce any voter to vote or refrain from voting for, or support or oppose any candidate, or on account of such voter having voted or refrained from voting at any primary election in this State; every person who by any means receives, agrees, or contracts for any money, gift, fee, loan, or valuable consideration, office place, appointment, or employment for himself or any other person, for voting or agreeing to vote, or for refraining or agreeing to refrain from voting in a particular manner at any such primary election; or for inducing, or undertaking to induce any other person to vote in a particular manner, or to do or perform any of the acts or things forbidden by this act, or on account of doing or agreeing to do, or having done campaign work, electioneering, soliciting votes for such candidates on primary day or prior thereto, or who after any primary election in this State, directly or indirectly, by himself or by any other person in his behalf, gives or receives any money or valuable consideration or place, position, or employment on account of any person having voted or refrained from voting, or having induced any other person to vote or refrain from voting at any such primary election; or having induced or undertaken to induce any other person to vote in a particular manner or for any particular candidate at any such primary election, or on account of any person having done or been a party to doing anything forbidden by this act, it being the intent of this clause to prohibit the prevailing practice of candidates hiring with money and promises of positions, etc., workers on primary day and prior thereto; also every person who in behalf of any firm, partnership, association, or corporation, gives, lends, or receives, or agrees to give, lend, or receive, or offers or promises any money or valuable consideration, place, position, or employment, or promises or endeavors to procure any money or valuable consideration in order to aid or promote the nomination of any particular candidate, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not exceeding \$500 or by imprisonment for a period of not more than six months, or by both such fine and imprisonment in the discretion of the court."

Mr. President, what is the contention on behalf of Mr. Newberry with respect to this statute? The brief says:

This section, it will be observed, entirely refers to the bribery of voters, has always been so understood and construed.

That, I understand, is the contention of the Senator from Missouri, that it refers exclusively to the bribery of voters. Let us see if it does. Mr. President, in at least three separate places in this statute the employment of paid workers is plainly condemned. It says:

SEC. 45. Every person who, directly or indirectly, by himself or by any other person in his behalf, gives, lends, or agrees to give or lend, or offers or promises any money or valuable consideration, or promises or endeavors to procure any money or valuable consideration or office, place, or employment—

That is the consideration feature of it—any person who does this—

to or for any voter, or to or for any person on behalf of any voter, or to or for any person in order to induce or have such person induce any voter to vote or refrain from voting for—

Then it says—

or support or oppose any candidate—

That is to say, any person who gives money to a man to get him to go out to induce any voter to support or oppose any candidate is guilty of a misdemeanor—

or on account of such voter having voted or refrained from voting at any primary election in this State.

That is the end of that part of it. So, Mr. President, it is clearly a crime under the statute for anybody to give money to another upon consideration that he is to go out to induce anybody to support or oppose any candidate for an election. Observe the words "to induce." What were these men employed for except to go about the State and induce, if they could, people to vote for Mr. Newberry—

every person who by any means receives, agrees, or contracts for any money, gift, fee, loan, or valuable consideration, office, place, appointment or employment, for himself or any other person, for voting or agreeing to vote, or for refraining or agreeing to refrain from voting in a particular manner at any such primary election, or for inducing or undertaking to induce any other person to vote in a particular manner, or to do or perform any of the acts or things forbidden by this act, or on account of agreeing to do, or having done any campaign work, electioneering, soliciting votes for such candidate on primary day or prior thereto.

I will ask the attention of the Senator from Missouri, if he will have the kindness to follow me—

Every person who by any means receives, agrees, or contracts for any money, gift, fee, loan, or other valuable consideration, \* \* \* to do or perform any of the acts or things forbidden by this act, or on account of doing or agreeing to do, or having done campaign work, electioneering, soliciting votes for such candidates on primary day or prior thereto—

Is there any corruption contemplated there in the view of the Senator?

Mr. SPENCER. Is the Senator asking me a question?

Mr. WALSH of Montana. Yes.

Mr. SPENCER. There is corruption contemplated there; the Senator has read the section or a part of it; but I ask him in all candor, inasmuch as that section has been on the statute books in Michigan for many years, if the construction of the Senator is right; if it means that the man who hires another to go around and get voters to go to the polls is a criminal or that the man who receives the hire is a criminal—a thing that is done and always has been done at every election—if the Senator's construction is right, is it not passing strange, as the Senator from Georgia intimated this morning, that at no time in the history of the State of Michigan, either in this case, where the feeling was at its highest, or in any other, has there been on the part of a single prosecuting officer in the State of Michigan any attempt to give to that statute the construction which the Senator now seeks to give it?

Mr. WALSH of Montana. I am not giving it any construction at all; I was just reading the statute; and I should like to ask the Senator from Missouri another question.

Mr. SPENCER. Let me first finish the answer to the Senator's question. I say that by any fair construction the statute read in its entirety refers to the illegal influencing, the improper influencing of a voter for hire, to corruption or bribery or fraud; that it never has been in Michigan and is not now a crime in good faith to hire a man or for a man to accept the hire to canvass voters, to find out how many have not voted, to see that they go to the polls, to advance in what is thus a legitimate manner the cause of the candidate in whom he may be interested.

While I am on my feet, I may say to the Senator that he has in his hand and has just referred to a case in my own State, the case of Eads against Stifel. He had hardly completed the sentence that under the statute of Michigan it was entirely proper to hire men as canvassers, and then he saw fit to go to the dictionary and read the interpretation of a canvasser; but if he will read the Missouri case from which he quotes, he will find that in that Missouri case there was a reference to the prior case in twenty-third Missouri of Keating against Hyde, where it was stated that the employment of a canvasser was in common law and under the statutes of Missouri illegal so far as the enforcement of any contract for expenditures in connection with the matter was concerned. The court seems to have an entirely different view from the Senator from Montana as to what is meant by a canvasser, and yet the Senator from Montana admits that under the Michigan law canvassers are expressly allowed to be hired without limit as to the amount of money used for that purpose.

Mr. WALSH of Montana. The Senator is getting away from the question I addressed to him.

Mr. SPENCER. I thought I would answer the other question.

Mr. WALSH of Montana. We will talk about the Missouri case directly, when I get to it. I am going to ask the Senator this question:

An indictment charges, we will say, Paul King and others associated with him with having agreed for a valuable consideration with John Kern to electioneer and do campaign work for Truman H. Newberry, a candidate at the primaries. Would a crime be charged under this statute if it were averred in the indictment that Paul H. King and others agreed for money with John Kern to do electioneering and campaign work for Truman H. Newberry?

Mr. SPENCER. It depends entirely upon the intentment of the indictment.

Mr. WALSH of Montana. Never mind about the indictment. I told the Senator what the indictment charged.

Mr. SPENCER. If the Senator will make the illustration a fair one, and say "electioneering or campaign work without bribery, corruption, or fraud," I say it would not stand a moment.

Mr. WALSH of Montana. I am using the very language of the statute—on account of electioneering and having done campaign work.

Mr. SPENCER. Exactly; and I am saying that if the Senator will take that language of the statute free from cor-

ruption or bribery or fraud, answer the Senator, the indictment will not stand.

Mr. WALSH of Montana. So the Senator means that this statute should read that one who employs another to do campaign work and electioneering by corrupt means shall be guilty.

Mr. SPENCER. Not that it should read "alone," but that that is the fair intendment of the statute; and if I am wrong and the Senator is right, it is a strange thing that in all the history of that statute, with the multitude of elections in Michigan, the contention of the Senator from Montana has never once been either sustained or brought up.

Mr. WALSH of Montana. The Senator wants to interpret this as though it read: "For having done campaign work or electioneering by corrupt means." Unfortunately, however, the statute does not say so.

Mr. President, lest there should be any doubt about the thing at all, the statute says:

It being the intent of this clause to prohibit the prevailing practice of candidates hiring with money and promises of positions, etc., workers on primary day and prior thereto.

I suppose the Senator wants us to incorporate in there "workers who work by corrupt means."

Mr. SPENCER. It is incorporated there, not in language, but in the interpretation which has been given to that statute since it was enacted in Michigan.

Mr. WALSH of Montana. By whom?

Mr. SPENCER. By any court to which it has ever been presented.

Mr. WALSH of Montana. What court?

Mr. SPENCER. There has been election after election. That has happened a thousand times. If the Senator is right, there would have been a court and a complaint and a trial, but the Senator is wrong in his interpretation.

May I say to the Senator, in common fairness and justice, what is the Senator—with a brutality, as it seems to me, that is indescribable—trying to do? The Senator is trying to brand with disgrace the name of a man and unseat him from this body because of a difference of construction of the technical operation of a law. It is inconceivable.

Mr. WALSH of Montana. No, Mr. President; I propose to show, by a decision from the State of the Senator, that his construction of this statute is entirely unjustified, and that this statute, as well as the similar statute of his own State, condemns the hiring of workers, whether they are to do anything corrupt or not. That is the decision in Eads against Stifel. I might add that the statute in a further section makes penal anything done by anyone else which is forbidden to be done by the candidate; so that this statute must be regarded as condemning the hiring of paid workers, either by a candidate or by anyone else.

Now, let us see.

Mr. STANLEY. Mr. President—

Mr. WALSH of Montana. I yield to the Senator from Kentucky.

Mr. STANLEY. Under the contention of the Senator from Missouri, could any character of misrepresentation, or any character of solicitation, or any amount of bogus boosting, or the prostitution and subsidizing of the press, or the flooding of the country with any character of misinformation as to the quality and character of a candidate, be punished if he abstained from the crude buying of a voter to deliver a ballot or to stamp a ballot on election day?

Mr. WALSH of Montana. I understand that to be the position of the Senator from Missouri.

Mr. President, let us see whether this employment of paid workers must or must not carry with it the understanding that the worker is to work corruptly. I read from the opinion in the case to which I have adverted:

Reynolds, P. J.: This is an action by plaintiff against defendant, the petition in two counts. In the first count it is averred that on or about February 1, 1912, a certain agreement was made and entered into by and between plaintiff and defendant to the following effect:

"Plaintiff was employed to devote his time and services to promoting the candidacy of Mr. William H. Taft for nomination as President of the United States (and of Mr. Otto F. Stifel for national committeeman for Missouri), in the various congressional districts of Missouri, and for said time and services was to receive \$100 per week and the actual expenses incurred by him in carrying out the objects of his said employment."

He was not to do anything corrupt at all. He was to go about the State of Missouri and urge and advocate the nomination of William H. Taft as the Republican candidate for President, and the selection of Mr. Stifel as the national committeeman.

Mr. WALSH of Massachusetts. A perfectly honorable thing.

Mr. WALSH of Montana. An entirely legitimate contract, if it were not against public policy; but the point I am making

is that this man was not to do anything in the way of bribery or corruption of voters at all.

Plaintiff states that he has duly performed all the conditions of the contract on his part to be performed, and rendered the services contracted to be performed as aforesaid, whereby the sum of \$1,400 is due him from defendant for salary for such services; that defendant has paid him the expenses incurred in pursuance of the terms of the contract, and on April 24 paid him the sum of \$100 and on June 16, 1912, the further sum of \$50, leaving a balance due of \$1,250 for salary. Averring demand and failure and refusal to pay, plaintiff asks judgment for that amount.

The second count is on the same transaction but on quantum meruit. The words in brackets were stricken out of both counts on motion.

A general denial was filed and the cause tried before a jury. At the close of plaintiff's evidence the court gave a peremptory instruction for defendant. Verdict and judgment went accordingly, from which latter plaintiff, filing a notice for new trial, has duly appealed.

The contract, as testified to by plaintiff, was to the effect that defendant said he would pay plaintiff \$100 a week and his expenses, if he would go out and undertake the work such as he had laid out for him to do in this State—that is, use his personal influence in procuring delegates to the national convention favorable to Mr. Taft—that plaintiff's acquaintance with every one of the districts, with the different chairmen, was just what he wanted and he wanted plaintiff to interest himself in the campaign, and plaintiff consented and told defendant he would go out and enter the work for a short time.

You will observe that that is practically the same kind of employment as was the case in each one of these instances to which the attention of the Senate has been called.

On cross-examination plaintiff testified that the purpose for which Mr. Stifel employed him was to go around in the several counties where the counties were holding county conventions to elect delegates to the congressional and State conventions to see, or use his influence to see, that Taft delegates were elected in those counties and that ultimately the delegates sent to the convention would be for Taft. That was the ultimate result of his duty of going into each of the counties and getting men to work. Plaintiff testified that his long experience in politics in this State had given him an acquaintance throughout the State; that, as he stated in his petition, his expenses had been paid. Plaintiff also testified that in connection with this work he had looked after the interest of defendant in securing delegates who would vote for him as national committeeman. Plaintiff testified at great length as to his acquaintance throughout the State and as to his services rendered under this contract; that he went into different parts of the State, saw different men who were prominent and active in politics, and endeavored—used his acquaintance and influence—to secure delegates to the convention who were in favor of the nomination of Mr. Taft for President of the United States. Under cross-examination plaintiff was asked this question: "Mr. Stifel never asked you, then, for what consideration you would undertake this work, did he?" To which he answered, "I don't think so, for the reason I didn't want to undertake the work, but he said he would give \$100 if I would do that." Plaintiff was then asked, "What work?" To which he answered, "Such work as he wanted me to undertake to do in the campaign, to go into the different counties, wherever he asked me to go and to work; first, to secure delegates for Taft and at the same time to secure influence for Mr. Stifel" for national committeeman. Plaintiff further testified that when he went into a district he would go to people whom he thought approachable and try to interest them in the candidacy of Mr. Taft; that he would ascertain who were likely to be delegates from the county conventions and whether they were for Taft; and if not, take such steps as he could to induce them to be for him; that was generally his line of work.

He was not going around bribing and corrupting any of these voters. He was just using his influence with them, arguing with them, endeavoring to persuade them to support Mr. Taft for the nomination. I read further:

Asked what part of his services in the case were rendered for contests which he had assisted in conducting before the national committee, and what part was outside of that, he said that the services were so mingled together that he could not make a difference in charge or value of the services under the several accounts. It may be said here that the evidence showed that there were contests instituted before the national committee and plaintiff, with another lawyer, was engaged to attend to them, for which he was paid by the national committee; but his testimony was that included in those services was his employment by the defendant, for which he was charging.

Plaintiff produced a witness who testified that he had some correspondence with defendant, to whom he had written about the condition of political affairs in his county, and in reply defendant wrote that he had plaintiff hired and that he (plaintiff) would be in the county if he could get there; that plaintiff would come on and help in the campaign in his county.

Beyond testimony of a lawyer as to having been employed by plaintiff to institute this action, but who had thrown up the employment, which testimony was introduced for the purpose of showing why action had been delayed, the petition having been filed January 31, 1917, this was all the testimony in the case.

Without setting out the evidence in detail it is sufficient to say that the substance of plaintiff's own testimony is that he was hired to use his influence to secure delegates favorable to the candidate supported by defendant.

Again, I repeat, there is not an element of corruption in it, not a suggestion that he was to bribe any voter, not a contention that bribery or corruption was involved in that controversy at all. The court said:

Our court, in *Keating v. Hyde* (23 Mo. App., 555), held that a promise to pay for services rendered by another as a canvasser at a primary election to secure the promisor's nomination for an office was unlawful and void. In that case, at page 559, the court quotes section 1474, Revised Statutes, 1879, which is as follows:

"If any person shall, directly or indirectly, give or procure to be given, or engage to give any money, gift, or reward, or any office, place, or employment upon any engagement, contract, or agreement, that the



person to whom or to whose use, or on whose behalf, such gift or promise shall be made, shall by himself or any other procure or endeavor to procure the election of any person to any office, at any election by the electors, or any public body, under the constitution or laws of this State, the person so offending shall on conviction be adjudged guilty of bribery and punished by imprisonment in the penitentiary for a term not exceeding five years."

That was the statute to which the court appealed, and it held that by virtue of that statute the contract under consideration there, bribery and corruption not being a feature of it at all, was in violation of that statute, a penal statute, and therefore void. That is section 3722, Revised Statutes 1889, and I may say that you can not distinguish that statute from the statute of the State of Michigan to which I have just called the attention of the Senate.

The court say further:

This is section 3722, Revised Statutes 1889; section 2090, Revised Statutes 1899; and section 4401, Revised Statutes 1909.

Our court said, in *Keating v. Hyde*, supra, that this section had been in force since the revision of 1855, and that it is sufficient for the conclusion of our court, since it clearly indicates the policy of the State. The conclusion of our court in the *Keating* case was that the agreement was void as against public policy. That decision has been cited approvingly by law writers, as see notes to *Exchange National Bank of Fitzgerald v. Henderson* (139 Ga., 260, in 51 L. R. A. (N. S.), 551), and is amply supported by the decisions of courts of other States. These cases are so fully cited in the notes in 51 L. R. A., supra, and there commented upon that we do not think it necessary to reproduce them here. Among the cases sustaining this is *Trist v. Child* (21 Wall., 441), where the principle is recognized, and it was there held that a contract to take charge of a claim before Congress by personal solicitation by the agent and others supposed to have personal influence in any way with Members of Congress to procure the passage of a bill—lobbying for its passage—was void.

So they held that that contract was void and that no recovery could be had upon it because it was contrary to that penal statute of the State of Missouri, and it necessarily follows that if either of the parties to that contract was charged with a violation of that statute he would be held guilty under the laws of the State of Missouri.

Under those circumstances how can the Senator say that corruption or bribery is a necessary incident of a contract of that character in order to bring them under the condemnation of the statute?

But the Senator says, "Oh, that is a civil case, and this one before us is a criminal case." What is the difference whether this is a civil case or a criminal case? The court holds that the contract is in violation of that criminal statute and therefore is void, holding, necessarily, as I said, that if either of the parties was charged under that statute with having made this contract he would be subject to conviction.

Mr. President, the suggestion that that is a civil case, and that this one before us is in the nature of a criminal case, in some other place I might designate as scarcely to be dignified by the characterization that it was pettifoggery.

There is nothing extraordinary about this. That decision simply conforms to the common law. That statute of the State of Missouri is nothing more than an expression of the common law upon this subject.

Before I enter upon that, though, I want to say a word about the contention that this is in the nature of a criminal proceeding.

Mr. WATSON of Georgia. Mr. President—

The PRESIDING OFFICER (Mr. JONES of Washington in the chair). Does the Senator yield to the Senator from Georgia?

Mr. WALSH of Montana. I yield.

Mr. WATSON of Georgia. Will not the Senator read so much of the common law as holds that?

Mr. WALSH of Montana. Yes; I will do that directly.

Mr. WATSON of Georgia. Anything the Senator may read to that effect will be in contradiction of the Supreme Court decision.

Mr. WALSH of Montana. I am quite sure the Senator is in error about that.

Mr. WATSON of Georgia. Possibly so.

Mr. WALSH of Montana. Mr. President, this is not a criminal proceeding by any means, nor do any of the rules peculiar in character applicable to criminal proceedings have any place in this controversy.

In one of the reports filed in the *Lorimer* case attention was called to that aspect. I read as follows:

In election cases before the Senate a mistake is frequently made in drawing a comparison between such a trial and a criminal trial in court. Analogies are frequently misleading, and an analogy between the trial of an election case by the Senate and a criminal case is most misleading. The comparison, if drawn, should be between the trial of a Senate election case and a civil case before a court.

Thus much for the suggestion that the Missouri case is a civil case and applies the rule applicable to civil trials.

The statement thus made in the minority report is supported by the decision of the Supreme Court of the United States in the case of *Ames v. Kansas* (111 U. S., 459). Election contests are not criminal in their character, no matter how bitterly the right of the party to the office is challenged.

I read from the body of the opinion in the *Ames* case, at page 459:

In Kansas the writ of quo warranto and the proceeding by information in the nature of quo warranto have been abolished, and the remedies which were obtainable at common law in those forms are had by civil action. (Dassler's Comp. Laws, sec. 4192; code, sec. 652.) Such an action may be brought in the Supreme Court when "any person shall usurp, intrude into, or unlawfully hold or exercise any public office, or shall claim any franchise within this State, or any office in any corporation created by authority of this State," or "when any association or number of persons shall act within this State as a corporation without being legally incorporated," or when any corporation do or admit [omit] acts which amount to a surrender or a forfeiture of their rights as a corporation, or when any corporation abuses its power, or exercises powers not conferred by law. (Id., sec. 4193; code, sec. 653.)

By the Code of Civil Procedure (id., sec. 3525; code, sec. 4) "an action is an ordinary proceeding in a court of justice by which a party prosecutes another party for the enforcement or protection of a right, the redress or prevention of a wrong, or the punishment of a public offense." (Sec. 3527; code, sec. 6.) "Actions are of two kinds—first, civil; second, criminal." (Sec. 3528; code, sec. 7.) "A criminal action is one prosecuted by the State as a party, against a person charged with a public offense, for the punishment thereof." (Sec. 3529; code, sec. 8.) "Every other action is a civil action." (Sec. 3531; code, sec. 10.) "The distinction between actions at law and suits in equity, and the forms of all such actions and suits, heretofore existing, are abolished; and in their place there shall be hereafter but one form of action, which shall be known as a civil action."

The original common-law writ of quo warranto was a civil writ, at the suit of the Crown, and not a criminal prosecution. (Rex v. Marsden, 3 Burr., 1812, 1817.) It was in the nature of a writ of right by the King against one who usurped or claimed franchises or liberties, to inquire by what right he claimed them (Com. Dig. Quo Warranto A), and the first process was summons. (Id., C. 2.) This writ, however, fell into disuse in England centuries ago, and its place was supplied by an information in the nature of a quo warranto which in its origin was "a criminal method of prosecution as well to punish the usurper by a fine for the usurpation of the franchise as to oust him or seize it for the Crown." (3 Bl. Com., 263.) Long before our revolution, however, it lost its character as a criminal proceeding in everything except form, and was "applied to the mere purposes of trying the civil right, seizing the franchise, or ousting the wrongful possessor, the fine being nominal only." (3 Bl. Com., supra; The King v. Francis, 2 T. R., 484; Bac. Ab. Tit. Information D; 2 Kyd on Corp., 439.) And such, without any special legislation to that effect, has always been its character in many of the States of the Union. (Commonwealth v. Browne, 1 S. & R., 385; People v. Richardson, 4 Cow., 102, note; State v. Hardie, 1 Iredell Law, 42, 48; State Bank v. State, 1 Blackf., 267, 272; State v. Lingo, 26 Mo., 496, 498.) In some of the States, however, it has been treated as criminal in form, and matters of pleading and jurisdiction governed accordingly. Such is the rule in New York, Wisconsin, New Jersey, Arkansas, and Illinois, but in all these States it is used as a civil remedy only. (Attorney General v. Utica Insurance Co., 2 Johns., ch. 370, 377; People v. Jones, 18 Wend., 601; State v. West Wisconsin Railway Co., 34 Wis., 197, 213; State v. Ashley, 1 Ark., 279; State v. Roe, 2 Dutcher, 215, 217.) This being the condition of the law, it seems to us clear that the effect of legislation like that in Kansas, as to the mode of proceeding in quo warranto cases, is to relieve the old civil remedy of the burden of the criminal form of proceeding with which it had become encumbered, and to restore it to its original position as a civil action for the enforcement of a civil right. The right and the remedy are thus brought into harmony, and parties are not driven to the necessity of using the form of a criminal action to determine a civil right. This has been the construction put upon similar laws in other States.

So it is universally held that an election contest is a civil proceeding, not a criminal proceeding.

Now I proceed to the consideration of the common law. It is expressed in a note in 51 L. R. A., found at page 511, from which I read, and I ask the Senator from Georgia [Mr. Watson] to give me his attention:

Contracts purchasing or hiring the influence of another to further a particular election are wholly void. (Wilcox v. Puryear, 12 Ky. L. Rep., 556; Gaston v. Drake, 14 Nev., 175, 33 Am. Rep., 548; Swayze v. Hull, 8 N. J. L., 54, 14 Am. Dec., 399; King v. Raleigh & P. S. R. Co., 147 N. C., 263, 125 Am. St. Rep., 546, 60 S. E., 1133, 15 Ann. Cas., 40; Nichols v. Mudgett, 32 Vt., 546; Livingston v. Page, 74 Vt., 356, 59 L. R. A., 336, 93 Am. St. Rep., 901, 52 Atl., 965 (furthering a nomination); Whitman v. Ewin, — Tenn., —, 39 S. W., 742; Exchange Nat. Bank v. Henderson.)

In *Whitman v. Ewin* (— Tenn., —, 39 S. W., 742, *infra*) the court said:

"The greater his influence, the more powerful his eloquence, the more persuasive and effective his arts and skill, the more important it is that such powers and capabilities should be preserved and protected, unbought and unpurchasable, for the benefit of the State and the public weal, and only allowed to be brought into pernicious activity from purely patriotic and unselfish motives. \* \* \* All such contracts as the one alleged are corrupt, contrary to public policy, illegal, void, and unenforceable in the courts."

"A contract by which one agrees, for money or other personal profit, to use his efforts, influence, etc., to induce a majority of the voters at an election to vote for a particular candidate or for any proposition, as for a subscription by a city or county in aid of a railroad, is against public policy, and therefore void." (Wilcox v. Puryear, *supra*.)

A promissory note is void which was made in consideration that the promisee should give the promisor his interest in pursuing his election to the office of sheriff, the note being payable after the election if the promisor was elected, and no recovery can be had upon it by the promisee against the promisor. (Swayze v. Hull, 8 N. J. L., 54; 14 Am. Dec., 399.)

So a contract between partners that one of them should become a candidate for the office of district attorney, the other to use his best efforts to secure his partner's election, and the fees of the office to be divided is void and will not support an action by the nonofficial partner, alleging the agreement to divide the fees and that he had rendered services to the other partner in his official capacity. (*Gaston v. Drake*, 14 Nev., 175; 33 Am. Rept., 548.)

The same is true of contracts securing the support of newspapers. Thus, a contract by a railroad to pay a newspaper editor for endeavoring in his paper to carry an election authorizing the issue of bonds for the building of a railroad and to gain for the railroad the good will of the citizens, etc., is void and will not sustain a recovery.

I am perfectly certain that in his sober moments the Senator from Georgia will indorse and support that proposition and that view of the law.

What is the occasion giving rise to statutes of this character? In the first place, it is often next to impossible in this case to determine whether the employment was really for the purpose of engaging the services of the person employed, or whether the employment was not to cover up plain bribery and corruption. In the second place, whether the employment is, from the standpoint of strict legality, a justifiable one or not every man who takes employment, by that very employment practically pledges himself to vote for the candidate in whose interest he is employed, for how could a man go about the State urging others to vote in favor of Mr. Newberry unless he himself purposed to do that same thing? So really every one of these employments is actually a purchase of the vote of the person who is thus employed.

These parties themselves understood perfectly well that what they were doing was contrary to the law. Indeed, the majority of the committee themselves must have been of the view that the employment of this whole army of paid workers, who were to go out in the State endeavoring to cause other citizens to become active in the interest of Mr. Newberry, was contrary to law because when they made their report to the Senate they told the Senate that the money was spent for the employment of clerks, stenographers, field men, and publicity men, which they say are not in any sense within the prohibition of the Michigan statute, leaving out of consideration the great body of employees who could not be brought under any one of those classes.

The committee knew, and they knew it because they took particular pains to pay these hired workers in cash as a general rule and not in checks. That is a feature of the case to which I desire to advert briefly.

Mr. WALSH of Massachusetts. Mr. President, will the Senator yield for a question?

Mr. WALSH of Montana. Certainly.

Mr. WALSH of Massachusetts. Does it appear anywhere in the record how much money was paid to these hired workers?

Mr. WALSH of Montana. No; there is no summary that I know anything about.

Mr. WALSH of Massachusetts. I understand the Senator to state that it was very generally carried on throughout the whole State.

Mr. WALSH of Montana. Every county had its chairman and its secretary, every precinct had its captain, and every one of them was paid. In addition to that, special men were hired and paid to canvass the Masons, others were hired to go through the fraternal organizations generally, another to go through the Spanish War veterans, another to canvass the laborers' end of the situation.

Mr. WALSH of Massachusetts. It is fair to assume from the statement made by the Senator that the expenses for that purpose must have been many thousands of dollars.

Mr. WALSH of Montana. Oh, many thousands, beyond question.

Mr. CARAWAY. Mr. President, may I call the Senator's attention to the fact also that they hired men to go through the Army and the Navy enlisted personnel.

Mr. STANLEY. Mr. President, it has been stated that all this was publicly done and avowed. Does it appear in the record whether the men who went into the fraternal organizations, into the Masonic organizations as brother Masons, and into the Elks as brother Elks, and among the marines as comrades, made manifest and published the fact that they were paid by the day or the month to do that? Does that appear in the record?

Mr. WALSH of Montana. My attention was diverted. Will the Senator kindly state his question again?

Mr. STANLEY. Did these paid agents advertise the fact that they were paid when they were appealing as Masons to Masons, and as Poles to Poles, and as marines to marines?

Mr. WALSH of Montana. It does not so appear, and it is not presumed that they went around advertising how much they were being paid, or that they were being paid at all.

Mr. President, when this campaign started off about the 1st of March an account was opened at one of the banks in the name of "Paul King, chairman," and deposits were made in

that account to the amount of something over \$5,000. Checks were drawn on that account and when, according to the brief of Mr. Newberry, Blair was appointed treasurer that account was discontinued. I read from his brief at page 82, as follows:

The "Paul King, chairman," account was discontinued as soon as Mr. Blair had been chosen treasurer and the organization was perfected.

That account was closed out on the 7th day of May, 1917. Apparently, then, the 7th day of May is the time when Mr. Blair was appointed treasurer. Up to that time \$5,000 had been drawn out of that account and paid out by some one.

Mr. WALSH of Massachusetts. Four months before the primary?

Mr. WALSH of Montana. Yes. Although the statute of the State of Michigan provides that no money shall be paid out by anyone except by the treasurer of a political committee, yet upon the undisputed record here over \$5,000 was paid out before Mr. Blair was ever appointed treasurer, as appears from the brief of Mr. Newberry.

However, Mr. President, about that time, instead of continuing the payment by check of all the obligations contracted in this campaign, a new system was adopted. A box in a vault in the basement of the Ford Building, in which the committee so called had its headquarters, was hired, the account being kept in the bank across the street—the Commonwealth Federal Savings Bank. A box was hired in the Ford Building across the street from the bank, a box in the vault in the basement, and in that box there were kept large amounts of cash that were employed for the payment of obligations of the committee. There were only two employees who had access to that box. One was the witness Emery, who has not been produced, and the other was the witness Turner, one of the men employed in the office.

Now, Mr. President, no kind of justification at all is made for the use of cash in the transactions of this committee except as I shall speak of directly. The treasurer, Blair, never knew about the existence of this box in which the cash was kept. At page 410 of the record he is interrogated upon this subject, as follows:

Senator POMERENE. Were there any moneys used in connection with this campaign which did pass through the hands of the treasurer?

Of course, that should read "did not."

Mr. BLAIR. I know of none.

Senator WOLCOTT. You have no knowledge on that subject?

Mr. BLAIR. I have no knowledge on that subject.

Mr. ALFRED LUCKING. Did you learn they had a bank vault or box of very large size where they kept cash in large amounts?

Mr. BLAIR. I heard that story. I heard lots of other stories.

Mr. ALFRED LUCKING. Did you investigate it?

Mr. BLAIR. I did not; it seemed foolish.

Mr. ALFRED LUCKING. It would seem a very foolish thing to do. They had a bank right in their own building, where their office was?

Mr. BLAIR. Yes, sir.

Mr. ALFRED LUCKING. And your bank is just across the road?

Mr. BLAIR. Yes, sir.

The witness testified that he saw at one time in that box at least three or four thousand dollars that was used. Of course, the testimony here to which I have heretofore adverted discloses that many of the payments were made in cash, and yet the statute of Michigan plainly provides that—

Every political party shall appoint a treasurer, who shall receive, keep, and disburse all sums of money which may be collected or received by such committee or by any of its members for election expenses; and unless such treasurer is first appointed it shall be unlawful for any political committee or any of its members to collect, receive, or disburse money for any such purpose.

Whatever money was kept in the box in that vault was kept without any knowledge whatever upon the part of Mr. Blair, and of course was paid out without his knowledge, because he did not even know about the existence of the box. Moreover, the record is replete with instances of payments having been made in utter defiance of the statute by Tom, Dick, and Harry; by Floyd; by King; by a lot of those paid agents. I agree that a campaign can not be carried on very well, as this was carried on, without cash for distribution, but it was just because it was carried on in violation of the law that that was necessary, and the cash was used beyond question for the purpose of concealing the employment or the payment of paid workers. Everybody knows that in these corrupt campaigns, in the use of corrupt practices of any kind, the usual payment by check is avoided and cash is used in order that it can not be traced.

What excuse is made for the use of this cash? In the first place, it was said that it was inconvenient to pay by check the people who were employed at headquarters; that they were asking cash. That is very foolish. Every employee of the Government here in Washington, 100,000 of them, is paid by check. There is no occasion to pay them by cash. Every great business corporation pays its employees by check and not by cash. It is much more convenient to do it by check. A record is preserved. A man goes home not with his pay cash but with



his pay check ordinarily. Those of us who have run political campaigns recognize how utterly foolish it is to say that the pay roll at campaign headquarters can not be met by checks just as well if not better than it can be done by cash.

Mr. SPENCER. Mr. President, will the Senator yield to me?

Mr. WALSH of Montana. Very gladly. I should like to hear from the Senator on this subject.

Mr. SPENCER. I thought the Senator would. Here are the facts, and I am wondering whether the Senator thinks there is the slightest criticism to be attached. One witness, as I remember it, did say in the exuberance of his testimony that he saw what he thought must have been a million dollars in that little box; but, of course, we agree that that was perfectly ridiculous.

Mr. WALSH of Montana. Of course it looked big to him.

Mr. SPENCER. The testimony is, as the Senator has related, that somewhere between one and two or three thousand dollars was in the box.

Mr. WALSH of Montana. Three to four thousand dollars.

Mr. SPENCER. No; the testimony is one or two thousand dollars. But the testimony of Mr. Turner, who had access to it, is not to that effect. As the Senator has well said, there were two who had access to it, Mr. Turner and Mr. Emery, and I do not believe we would have any doubt about the fact that it was a smaller amount; but whether it was \$4,000 or \$1,000, here is the fact of the case—

Mr. POMERENE. Mr. President—

The PRESIDING OFFICER. Does the Senator from Missouri yield to the Senator from Ohio?

Mr. SPENCER. In just a moment, when I shall have finished the answer, I shall yield.

Mr. POMERENE. I merely wanted to state the amount.

Mr. SPENCER. This money was in a safe deposit company vault. It was found, for example, that very frequently late in the afternoon when they wanted to buy stamps when their supply had run out or when they wanted to put an advertisement in a newspaper, strange as it may seem, the testimony was that—

Mr. WALSH of Montana. I was going to come to that. That was the second excuse.

Mr. SPENCER. A newspaper would receive no political advertisement accompanied by a check or any other guaranty in payment except cash. When those who had to do with the matter found that circumstance and that many times in the office some of the employees wanted their payments made in cash or desired to cash checks they found it convenient to have a certain amount of cash available. May I say to the Senator that that is just what the Senator avails himself of in this Chamber and what every one of us does. We are paid by check; we go to the cashier's office; there we give our personal checks and cash is obtained. That is for convenience and in order to have some place after the banks are closed and at inconvenient hours at which to get money. That is right here within 100 feet of where the Senator is standing, and it would be inconvenient to run the Senate without that cash in the cashier's office in this building. That is also true as to every business; a certain amount of cash is kept to meet the emergencies of the hour. That was done in this case.

The Senator, in looking from the beginning of the record to the end, will not find a single improper use of a dollar of that cash. All is suspicion and inference; there is nothing of fact.

Mr. WALSH of Montana. Mr. Kern got \$400 of it in one envelope.

Mr. SPENCER. Certainly he did; it was in payment of his legitimate services.

Mr. WALSH of Montana. Of course, the Senator from Missouri has given the best explanation he can of the matter, and I submit the sufficiency of it to the Senate. We have some cash here, as a matter of course, in the office of the Secretary of the Senate; but any Senator who goes there to get a dollar of cash is obliged to give his check for it, and there is a record of it.

Mr. WALSH of Massachusetts. Mr. President—

The PRESIDING OFFICER. Does the Senator from Montana yield to the Senator from Massachusetts?

Mr. WALSH of Montana. I yield to the Senator from Massachusetts.

Mr. WALSH of Massachusetts. Does the Senator from Montana or does the Senator from Missouri know from what source this money which was contained in the vaults came? Was there any effort by the committee to trace the source from which it came and to find out how it was distributed in cash?

Mr. SPENCER. The testimony shows that every dollar of contributions was entered and that the money in the vault was simply a part of the money that had been contributed for the

campaign. It was not a separate fund; it was not an outside amount. Either a check was drawn on the bank and the cash was put in the safe deposit vault or it was put in there when some one came in and contributed in cash.

Mr. WALSH of Massachusetts. Do I understand the Senator from Missouri to say that the check was drawn upon the treasurer for the cash and the cash was deposited in the vault?

Mr. SPENCER. Yes; either that or—

Mr. WALSH of Massachusetts. How many such checks for cash were drawn upon the treasurer?

Mr. SPENCER. I could not tell the Senator; but I was going to add either that, or if a man came in and made a contribution in cash, after his contribution had been entered some of it may have gone into the vault.

Mr. WALSH of Massachusetts. So that the committee, from any investigation they made, does not know whether there were \$3,000 or \$30,000 or \$300,000 in that vault?

Mr. SPENCER. I was not there, and I only know from the testimony.

Mr. WALSH of Massachusetts. The committee could have inquired?

Mr. SPENCER. We did inquire, and the testimony of the man who did know about the vault was, as I recollect it, that there was kept in the vault an amount somewhere between \$1,000 and \$2,000 or \$3,000, and that man, as I remember, was Mr. Turner.

Mr. WALSH of Massachusetts. And the treasurer says he knew nothing about one dollar?

Mr. SPENCER. He did not.

Mr. WALSH of Massachusetts. He knew nothing about the cash, and yet the Senator says checks were drawn upon the treasurer and cash was deposited in the vault.

Mr. SPENCER. That is undoubtedly one way by which that money went into the vault—by check on the treasurer—but the treasurer did not go there. He was the treasurer of the committee and did not have the minute management of the campaign any more than the treasurer of any other committee.

Mr. WALSH of Montana. Let me ask the Senator from Missouri what does the statute mean?

Mr. SPENCER. There, Mr. President, we find again—and I may refer to that later on, as I have once before in all kindness—to what seems to me the brutal lack of proportion in this case. Certainly the Senator does not mean that when the statute says that disbursements by the committee must be made by the treasurer that the treasurer himself personally shall stand at the counter and pay every dollar that goes out from the committee. It merely means that he must be responsible for the disbursements of the committee; and Blair was responsible for the disbursements of the committee, and he made a statement under oath and filed it of every dollar that came in and of every dollar that was expended. That is all that the statute was intended to cover. Any other interpretation, I submit to the distinguished Senator from Montana, is technical; it is a sticking to the bark of the tree, which is a sticking to the letter of it. Qui haeret in litera, haeret in cortice—a man who sticks to the strict letter of the law and forgets its purpose, its reason, and its justice always loses sight of things in their just relationship.

The Senator knows from his remembrance of Blackstone that the law read that no man shall shed blood in the market place. That was the letter of the law. I can hear now some Senator vociferously demanding that the letter of the law be enforced, and so there were such men in that day, for they came before the tribune and said that a man had shed blood in the market place, and he was arrested and haled before the tribune, when it transpired that the blood which he had shed in the market place was the blood of a sheep which he had killed in the market place, and yet, sticking to the letter of the law, it was insisted that he was a criminal because he had killed in the market place a sheep which he intended to sell, and had thus shed blood in the market place. There is a sticking to technicalities that works brutal injustice. It may sound for a moment as if it were fair, but in working it out neither right nor justice comes from it.

Mr. WALSH of Montana. The statute has a meaning; it was intended to secure purity of elections and it was intended to compel a record to be kept so that every payment, however it was made, should go through a particular officer, and that he should be responsible for the transaction. If the treasurer draws a check to some one for an unlimited amount of cash and that person gets that cash and pays it out at libitum, then what becomes of the statute?

Mr. POMERENE. Mr. President, may I make a suggestion?

The PRESIDING OFFICER. Does the Senator from Montana yield to the Senator from Ohio?

Mr. WALSH of Montana. I yield to the Senator.

Mr. POMERENE. The campaign committee apparently appreciated the requirements of the statute, because they had a bookkeeping department and an auditing department, but there is neither a book nor a paper of original entry that can be found anywhere by the committee or anybody else, and such records as we have here are simply copies from some other things which were thrown together.

Mr. WALSH of Montana. That is true. Since the Senator from Missouri said they did not keep books, I refer him to the testimony of Mr. Blair, who says that he did not know anything about it because Emery kept the books.

Mr. President, the Senator has anticipated me. I tried to tell the Senate what excuse is offered for keeping a large amount of cash on hand in a vault in the basement of the building in which the committee so-called had its headquarters. The answer is that it was necessary in order to pay for the help in the office, who were not satisfied to take checks; and now the Senator has supplemented that by saying that they needed some money to buy postage. Why, Mr. President, that is a very easy matter. The same statement is true with reference to the other excuse to which the Senator has called attention, namely, that the newspapers in the city of Detroit, it is said, had a rule by which they declined to accept checks from anybody on account of bills which had been incurred at their offices. Nobody ever went to a newspaper office, so far as the record in this case is concerned, from the Newberry headquarters to find out about the matter. We are simply told that the newspaper offices had a rule. Nobody sought to get any credit from the newspapers at all, but, Mr. President, suppose they did have such a rule as that, what difference does it make? It is not necessary to hire a vault in a bank in order to get large sums of money. When a bill is brought from a newspaper office, if the newspaper refuses to accept a check, the treasurer may draw a check to the secretary, indicating on it the statement that it is for the purpose, for instance, of paying the bill of the Detroit Evening News, and the secretary may go and get the cash, and pay the Detroit Evening News, and there will thus be a record of the transaction upon the books. So it is with the petty cash proposition for stamps and that kind of thing.

Mr. President, I have myself managed a campaign. It was no trouble at all to go to the post office and buy stamps. A check was drawn to the treasurer marked "for stamps" and he went to the post office with the cash and got the stamps, and there was a record that that amount of cash was released upon that check and that the money was used for the purpose of purchasing stamps.

Mr. SPENCER. Where would the check be cashed if it was drawn at 4 o'clock for an advertisement in the next morning's paper—in a drug store? The banks are all closed.

Mr. WALSH of Montana. There is no trouble about cashing it anywhere.

Mr. SPENCER. Where—at some hotel?

Mr. WALSH of Montana. On Sunday afternoon, Mr. President, right in this city I have cashed checks.

Mr. SPENCER. That is because the Senator has such excellent credit. Some of us do not have.

Mr. WALSH of Montana. Mr. Newberry's credit in the State of Michigan is pretty good.

Mr. SPENCER. Mr. Newberry did not cash a check.

Mr. WALSH of Montana. Mr. Blair was supposed to have drawn the checks, and he was vice president of the Union Trust Co.

Mr. SPENCER. And the Senator thinks because these checks were cashed out of a sum of money kept in a cash room that the Senator from Michigan ought to be unseated.

Mr. WALSH of Montana. No; but I do state that the fact that these people paid off a large amount of money, as disclosed by the evidence, to men all over the State in cash is a suspicious circumstance and points clearly to the fact, first, that these payments were made in cash to hired workers and not by check because the committee recognized that they were violating the law in hiring them; and, in the second place, it lends powerful corroboration to the testimony of one witness that contributions were made by a large number of New York banks for the purpose of promoting the nomination of Mr. Newberry, none of which appear in the report at all.

Mr. President, there are some other features of this controversy that I should like to speak of, but I feel that I have already taken too much of the time of the Senate. It will be recalled no doubt that when the Senator from Ohio [Mr. POMERENE], at the close of his very masterly address, read from the scathing letter written by Gov. Osborn to Truman H. Newberry after the primary election, as he was approaching the

termination of the letter was feverishly appealed to by the Senator from Missouri to read the concluding portion, in which the writer stated that it was his purpose to support the nominee of his party, however tainted his title as such nominee might be, in order to preserve the country from the menace of Fordism.

Mr. SPENCER. Mr. President, I want to assure the Senator that there was no fever on the part of the Senator from Missouri.

Mr. WALSH of Montana. I spoke of the manifest impatience of the Senator.

Mr. SPENCER. I assure the Senator that the Senator from Missouri was not even impatient.

Mr. WALSH of Montana. But, Mr. President, that is neither here nor there. No such alternative as confronted Gov. Osborn presents itself here. No Senator is under any obligation to make a choice between Henry Ford on the one side and Truman H. Newberry on the other, nor can he excuse himself to his constituents for any vote he may give here upon the matter pending upon any such ground. It is the unanimous conviction of the members of the committee that Mr. Ford was not elected, and no one is claiming that he is entitled to a seat in this body. He is out of the case. One may be pardoned, however, for regretting that, whatever may be his faults or his failings, his errors, or his deficiencies, the intimate of two successive Presidents—one a Democrat and the other a Republican—should not sit in this body to aid us with his counsel upon matters concerning which he is entitled to speak as one who speaks with authority.

Under a monarchical system social blemishes are all washed away when the subject of them is presented at court; and much ought to be regarded as forgiven to Mr. Ford on the Republican side of the Chamber since he is deemed worthy to go off on a fishing trip with President Harding. But, Mr. President, if "Fordism" were the peril which it was deemed to be by Gov. Osborn, it would not be anything like such a menace to have Henry Ford elected a Member of this body as would the seating of a man whose election was encompassed by the corruption that is so roundly and so justly denounced in the letter.

There are very few Henry Fords in this country. We do not produce them in quantity. One in a century is a pretty good average. On the other hand, there never has been any dearth of corrupt and corrupting millionaires who would, if they could, by fair means or by foul, break into the United States Senate. The vote on the pending resolution will be either an encouragement or a deterrent to those who harbor such an unholy ambition. It will be a measure of the public morality of the times.

There was a time in our history, not more than a generation ago, when it was regarded as no discredit to a man to have achieved a seat in this body by corrupt means, or to hold it by virtue of the favor of some great corporation whose interests, consequently, he was under obligation to protect and promote.

My own State, as I remarked a while ago, in that time achieved some unenviable notoriety. It came to be quite generally considered that a man had no business to aspire to represent his State here unless he was worth a million. A revulsion of public sentiment followed that at one time threatened to revolutionize our system and accomplish the abolition of the Senate. I address myself to Members upon the Republican side of this body: Are you prepared to publish to the world that the return of the Republican Party to power marks the restoration of the era when seats in the United States Senate were purchasable? It is a matter of very little consequence, so far as the public interest is concerned, whether the vast sums spoken of here as having been spent in the campaign were contributed by Truman Newberry or some one else. No poor man, no man of moderate means, could stand up against the expenditure. Practically unknown in his State, as the record conclusively shows, a man who, according to the testimony of a well-informed witness, would not be recognized by a thousand men throughout the broad State of Michigan if they saw him walking on the street, he yet bowled over every competitor, including William Alden Smith, who had had a long and honorable career in both Houses of Congress; Gov. Osborn, who shows himself a virile personality, if nothing else; Gov. Warner, three times elected chief executive of the State of Michigan; and Mr. C. B. Warren, member of the Republican committee from the State of Michigan and now minister to Japan.

Take warning! If you admit Newberry you will have a horde like him to deal with. Each will plead the fact that you took to your bosom others not less guilty. Take once the fatal



step and you must prepare for the wrath to come, for the people of this great Republic who love it so well that they bared their breasts and poured out their treasure to repel a foreign foe will not suffer it to fall into ruin because of the more insidious but not less deadly enemies who assail it from within. The integrity of our institutions is justly said to be at stake in this controversy. It is, and the permanence of the existing social order is no less involved.

#### PROTECTION OF MATERNITY AND INFANCY.

During the speech of Mr. WALSH of Montana,  
Mr. KENYON. I wish to ask concurrence in the House amendment to what is known as the maternity bill, but I do not know that it is proper to do it in the midst of the Senator's speech.

Mr. WALSH of Montana. If the Senator desires to press it, I shall, of course, yield to him.

Mr. KENYON. Will the Senator permit me to do that?

Mr. WALSH of Montana. I am glad to yield for that purpose.

Mr. KENYON. I desire to ask that the Senate concur in the House amendment which has just been received by the Senate, to what is known as the maternity bill.

The VICE PRESIDENT. Does the Senator from Montana yield the floor?

Mr. WALSH of Montana. I yield for the consideration of the subject proposed by the Senator from Iowa, of course, if I do not lose the floor. I have not concluded my argument. I did not suppose any objection would be made on that ground, however. I yield.

The VICE PRESIDENT. The Chair lays before the Senate the amendment of the House of Representatives, which will be read.

The ASSISTANT SECRETARY. Strike out all after the enacting clause of the bill (S. 1039) for the public protection of maternity and infancy and providing a method of cooperation between the Government of the United States and the several States, and insert a substitute; also the House amends the title.

Mr. KENYON. Mr. President, there are only a few changes made by the House. The amount of the appropriation is lessened and there are one or two other matters which I think are very minor matters, even though the bill has been entirely redrawn and passed by the House. I do not wish to ask that the House substitute shall be read. I do not think it would be fair to take the time of the Senator from Montana for that purpose.

Mr. WALSH of Montana. Then I suggest that the Senator withhold the matter until I shall have concluded.

Mr. KENYON. Very well.

Mr. CURTIS. I ask that the House amendment may lie on the table.

The VICE PRESIDENT. It will lie on the table.

After the conclusion of the speech of Mr. WALSH of Montana, Mr. WATSON of Georgia obtained the floor.

Mr. KENYON. Mr. President, before the Senator proceeds, will he permit me to bring up the matter we had up a few moments ago during the speech of the Senator from Montana [Mr. WALSH]?

Mr. WATSON of Georgia. With the understanding that I retain the floor.

Mr. KENYON. I ask the Chair to lay before the Senate the amendments of the House to Senate bill 1039.

The VICE PRESIDENT laid before the Senate the amendments of the House of Representatives to the bill (S. 1039) for the public protection of maternity and infancy and providing a method of cooperation between the Government of the United States and the several States, which were to strike out all after the enacting clause and insert:

That there is hereby authorized to be appropriated annually, out of any money in the Treasury not otherwise appropriated, the sums specified in section 2 of this act, to be paid to the several States for the purpose of cooperating with them in promoting the welfare and hygiene of maternity and infancy as hereinafter provided.

Sec. 2. For the purpose of carrying out the provisions of this act, there is authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, for the current fiscal year \$480,000, to be equally apportioned among the several States, and for each subsequent year, for the period of five years, \$240,000, to be equally apportioned among the several States in the manner hereinafter provided: *Provided*, That there is hereby authorized to be appropriated for the use of the States, subject to the provisions of this act, for the fiscal year ending June 30, 1922, an additional sum of \$1,000,000, and annually thereafter, for the period of five years, an additional sum not to exceed \$1,000,000: *Provided further*, That the additional appropriations herein authorized shall be apportioned \$5,000 to each State and the balance among the States in the proportion which their population bears to the total population of the States of the United States, according to the last preceding United States census: *And provided further*, That no payment out of the additional appropriation herein authorized shall be made in any year to any State until an equal sum

has been appropriated for that year by the legislature of such State for the maintenance of the services and facilities provided for in this act.

So much of the amount apportioned to any State for any fiscal year as remains unpaid to such State at the close thereof shall be available for expenditures in that State until the close of the succeeding fiscal year.

Sec. 3. There is hereby created a board of maternity and infant hygiene, which shall consist of the Chief of the Children's Bureau, the Surgeon General of the United States Public Health Service, and the United States Commissioner of Education, and which is hereafter designated in this act as the board. The board shall elect its own chairman and perform the duties provided for in this act.

The Children's Bureau of the Department of Labor shall be charged with the administration of this act, except as herein otherwise provided, and the Chief of the Children's Bureau shall be the executive officer. It shall be the duty of the Children's Bureau to make or cause to be made such studies, investigations, and reports as will promote the efficient administration of this act.

Sec. 4. In order to secure the benefits of the appropriations authorized in section 2 of this act, any State shall, through the legislative authority thereof, accept the provisions of this act and designate or authorize the creation of a State agency with which the Children's Bureau shall have all necessary powers to cooperate as herein provided in the administration of the provisions of this act: *Provided*, That in any State having a child-welfare or child-hygiene division in its State agency of health, the said State agency of health shall administer the provisions of this act through such divisions. If the legislature of any State has not made provision for accepting the provisions of this act the governor of such State may in so far as he is authorized to do so by the laws of such State accept the provisions of this act and designate or create a State agency to cooperate with the Children's Bureau until six months after the adjournment of the first regular session of the legislature in such State following the passage of this act.

Sec. 5. So much, not to exceed 5 per cent, of the additional appropriations authorized for any fiscal year under section 2 of this act, as the Children's Bureau may estimate to be necessary for administering the provisions of this act, as herein provided, shall be deducted for that purpose, to be available until expended.

Sec. 6. Out of the amounts authorized under section 5 of this act the Children's Bureau is authorized to employ such assistants, clerks, and other persons in the District of Columbia and elsewhere, to be taken from the eligible lists of the Civil Service Commission, and to purchase such supplies, material, equipment, office fixtures, and apparatus, and to incur such travel and other expense as it may deem necessary for carrying out the purposes of this act.

Sec. 7. Within 60 days after any appropriation authorized by this act has been made, the Children's Bureau shall make the apportionment herein provided for and shall certify to the Secretary of the Treasury the amount estimated by the bureau to be necessary for administering the provisions of this act, and shall certify to the Secretary of the Treasury and to the treasurers of the various States the amount which has been apportioned to each State for the fiscal year for which such appropriation has been made.

Sec. 8. Any State desiring to receive the benefits of this act shall, by its agency described in section 4, submit to the Children's Bureau detailed plans for carrying out the provisions of this act within such State, which plans shall be subject to the approval of the board: *Provided*, That the plans of the States under this act shall provide that no official, or agent, or representative in carrying out the provisions of this act shall enter any home or take charge of any child over the objection of the parents, or either of them, or the person standing in loco parentis or having custody of such child. If these plans shall be in conformity with the provisions of this act and reasonably appropriate and adequate to carry out its purposes they shall be approved by the board and due notice of such approval shall be sent to the State agency by the Chief of the Children's Bureau.

Sec. 9. No official, agent, or representative of the Children's Bureau shall by virtue of this act have any right to enter any home over the objection of the owner thereof, or to take charge of any child over the objection of the parents, or either of them, or of the person standing in loco parentis or having custody of such child. Nothing in this act shall be construed as limiting the power of a parent or guardian or person standing in loco parentis to determine what treatment or correction shall be provided for a child or the agency or agencies to be employed for such purpose.

Sec. 10. Within 60 days after any appropriation authorized by this act has been made, and as often thereafter while such appropriation remains unexpended as changed conditions may warrant, the Children's Bureau shall ascertain the amounts that have been appropriated by the legislatures of the several States accepting the provisions of this act and shall certify to the Secretary of the Treasury the amount to which each State is entitled under the provisions of this act. Such certificate shall state (1) that the State has, through its legislative authority, accepted the provisions of this act and designated or authorized the creation of an agency to cooperate with the Children's Bureau, or that the State has otherwise accepted this act, as provided in section 4 hereof; (2) the fact that the proper agency of the State has submitted to the Children's Bureau detailed plans for carrying out the provisions of this act, and that such plans have been approved by the board; (3) the amount, if any, that has been appropriated by the legislature of the State for the maintenance of the services and facilities of this act, as provided in section 2 hereof; and (4) the amount to which the State is entitled under the provisions of this act. Such certificate, when in conformity with the provisions hereof, shall, until revoked as provided in section 12 hereof, be sufficient authority to the Secretary of the Treasury to make payment to the State in accordance therewith.

Sec. 11. Each State agency cooperating with the Children's Bureau under this act shall make such reports concerning its operations and expenditures as shall be prescribed or requested by the bureau. The Children's Bureau may, with the approval of the board, and shall, upon request of a majority of the board, withhold any further certificate provided for in section 10 hereof whenever it shall be determined as to any State that the agency thereof has not properly expended the money paid to it or the moneys herein required to be appropriated by such State for the purposes and in accordance with the provisions of this act. Such certificate may be withheld until such time or upon such conditions as the Children's Bureau, with the approval of the board, may determine; when so withheld the State agency may appeal to the President of the United States, who may either affirm or reverse the action of the bureau with such directions as he shall consider proper: *Provided*, That before any such certificate shall be withheld from any State, the chairman of the board shall give notice in writing to the

authority designated to represent the State, stating specifically wherein said State has failed to comply with the provisions of this act.

SEC. 12. No portion of any moneys apportioned under this act for the benefit of the States shall be applied, directly or indirectly, to the purchase, erection, preservation, or repair of any building or buildings or equipment, or for the purchase or rental of any buildings or lands, nor shall any such moneys or moneys required to be appropriated by any State for the purposes and in accordance with the provisions of this act be used for the payment of any maternity or infancy pension, stipend, or gratuity.

SEC. 13. The Children's Bureau shall perform the duties assigned to it by this act under the supervision of the Secretary of Labor, and he shall include in his annual report to Congress a full account of the administration of this act and expenditures of the moneys herein authorized.

SEC. 14. This act shall be construed as intending to secure to the various States control of the administration of this act within their respective States, subject only to the provisions and purposes of this act.

And to amend the title so as to read: "An act for the promotion of the welfare and hygiene of maternity and infancy, and for other purposes."

Mr. KENYON. I move that the Senate concur in the amendments of the House of Representatives.

The motion was agreed to.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. Overhue, its enrolling clerk, announced that the House had passed without amendment the following Senate bills:

S. 2555. An act to construct, maintain, and operate a bridge and approaches thereto across Great Pee Dee River, S. C.;

S. 2594. Authorizing the counties of Allendale, S. C., and Screven, Ga., to construct a bridge across the Savannah River, between said counties, at or near Burtons Ferry;

S. 2722. An act to extend the time for constructing a bridge across the White River at or near the town of Des Arc, Ark.; and

S. 2724. An act to authorize the construction of a bridge across the White River, in Prairie County, Ark.

The message also announced that the House had passed a bill (H. R. 8347) to authorize the New York Central Railroad Co. to construct a bridge across the Grand Calumet River within the corporate limits of the town of Gary, Ind., in which it requested the concurrence of the Senate.

#### HOUSE BILL REFERRED.

The bill (H. R. 8347) to authorize the New York Central Railroad Co. to construct a bridge across the Grand Calumet River within the corporate limits of the town of Gary, Ind., was read twice by its title and referred to the Committee on Commerce.

#### MICHIGAN SENATORIAL ELECTION.

The Senate resumed the consideration of the resolution (S. Res. 172) declaring Truman H. Newberry to be a duly elected Senator from the State of Michigan, the pending question being on the amendment in the nature of a substitute proposed by Mr. WALSH of Montana.

Mr. WATSON of Georgia. Mr. President, it seems to me an extraordinary thing that the Senator from Idaho [Mr. BORAH] and the Senator from Montana [Mr. WALSH] should not have drawn attention to the fact that the Supreme Court in passing upon this case disposed of the very question which they raised and upon which I took issue with them. In the opinion of Justice Pitney, concurred in by Justices Brandeis and Clarke, will be found this paragraph:

It follows that one's entry upon a candidacy for nomination and election as a Senator with knowledge that such candidacy will come to naught unless supported by expenditure of money beyond the specified limits, is not within the inhibition of the act unless it is contemplated that the candidate shall have a part in procuring the excessive expenditures beyond the effect of his mere candidacy in evoking spontaneous contributions and expenditures by his supporters; and that his remaining in the field and participating in the ordinary activities of the campaign with knowledge of such activities furnish in a general sense the "occasion" for the expenditure is not to be regarded as a "causing" by the candidate of such expenditure within the meaning of the statute.

In that one paragraph in the decision of the highest legal tribunal on earth the entire argument on the law made by the able Senator from Montana [Mr. WALSH] is smashed. I will add, further, that in civil law there has always been the principle that if it comes to my knowledge, by reason of a fact conveyed to me, that I ought to inquire into the activities of some one acting for me and I do not do it, I am charged with civil responsibility for whatever that investigation would have developed. Beyond that the common law does not go. Beyond that the rule of reason does not go.

The Senator from Montana [Mr. WALSH] was under the necessity of going to Canada to get an English law book to govern the votes of this body, which is made by the Constitution the judge of this case and every similar case. The Senator from Montana surely knows that the Canadian law follows that of

England; and, if my information of the present English law is correct, no candidate can furnish a vehicle or conveyance of any kind to convey a voter to the polls, although he knows that that voter wants to vote for himself. It would void his seat in the House of Commons, if I have been correctly informed as to the rigor of recent English law; and of course the Canadian law follows that of the mother country.

There is no such law in Georgia; there is no such law in Kentucky; there is no such law in Missouri; there is no such law in the Federal statute books.

There are parts of these decisions in which there is no divided court at all, except upon the ground of the decision. I hold the opinions of all the justices in my hand, and every justice who spoke concurs in saying that the trial judge below misconstrued the statute upon which the defendants were being tried and that the case would have to go back for a new trial, and while Mr. Justice McReynolds held that the congressional law, known as the corrupt practices act, was void because it interfered with our power to be the full judges of the qualifications of the Members of this body, Chief Justice White simply differed from him in saying that he thought Congress had the right to pass such a law. That was the only difference, on a mere question of law on which two lawyers differ, just as two doctors might differ.

In discussing the case, it may interest the Senator from Montana, who is here—it will not interest the Senator from Idaho, because he is not here—to learn that Mr. Justice McReynolds disposed fully and finally of every contention set up by the Senator from Ohio [Mr. POMERENE] and the Senator from Montana [Mr. WALSH]. I read that much. The court is quoting the opinion of the court below, and the full significance of this paragraph is contained in the last sentences. Therefore I ask Senators to reserve their opinion until I reach that last sentence. The court said:

Taken with the State enactment, the Federal statute in effect declares a candidate for the United States Senate punishable by fine and imprisonment, if (except for certain specified purposes), he give, contribute, expend, use, promise or cause to be given, contributed, expended, used or promised in procuring his nomination and election, more than \$3,750—one-half of one year's salary. Under the construction of the act urged by the Government and adopted by the court below it is not necessary that the inhibited sum be paid, promised, or expended by the candidate himself, or be devoted to any secret or immoral purpose. For example, its open and avowed contribution and use by supporters upon suggestion by him or with his approval and cooperation in order to promote public discussion and debate touching vital questions or to pay necessary expenses of speakers, etc., is enough—

Now I come to the last sentence—

and upon such interpretation the conviction below was asked and obtained.

Then the court goes forward and overturns the decision of the court below. It holds, further, that Congress may not set a limit, minimum or maximum, to what may be spent for the election of a candidate. That is the law as laid down by the Supreme Court, our Supreme Court, and since that decision was rendered apparently no steps have been taken by the Government or by any citizen to have anybody prosecuted under the State law of Michigan.

Mr. WALSH of Montana. Mr. President—

The PRESIDING OFFICER (Mr. JONES of Washington in the chair). Does the Senator yield to the Senator from Montana?

Mr. WATSON of Georgia. With pleasure.

Mr. WALSH of Montana. The Senator will recall that no steps were taken in the State of Illinois to prosecute anybody connected with the Lorimer matter. My recollection is that the Senator quite roundly denounced the flagrant corruption in the Lorimer case.

Mr. WATSON of Georgia. I did.

Mr. WALSH of Montana. There was no prosecution in the State of Illinois that the Senator ever heard of, was there?

Mr. WATSON of Georgia. I do not know of any.

Mr. WALSH of Montana. Mark Hanna is reputed to have corrupted the legislature of the State of Ohio. I rather think the Senator made some charges to that effect, and quite roundly denounced the election of Mark Hanna by the Legislature of Ohio.

Mr. WATSON of Georgia. That is quite probable; I do not remember.

Mr. WALSH of Montana. There was no prosecution in the State of Ohio that the Senator ever heard of, was there?

Mr. WATSON of Georgia. I also stated that there were some charges made in regard to the State of Montana.

Mr. WALSH of Montana. Quite right, and I referred to that, and there was no prosecution in the State of Montana.

Mr. WATSON of Georgia. I do not see that that gets us anywhere.



Mr. WALSH of Montana. No; but the Senator contends that there is much properly to be inferred from the fact that there were no prosecutions in the State of Michigan.

Mr. WATSON of Georgia. I am not proceeding upon inference at all, Mr. President; I am going to argue the law and the facts; and before I shall have finished I will endeavor to lessen the heat of this debate and to increase the illumination. We have had a vast deal of noise, but we have not had much light. We are going to have some if I live to finish this speech.

I took occasion to say that the opinion of Chief Justice White was not a dissenting opinion, as was claimed by the junior Senator from Tennessee [Mr. McKELLAR]. It shows for itself that it is not. Chief Justice White concurred in the reversal of the judgment of the court below and remanded the case for a new trial, which it has never had and which it could have had if Mr. Ford had wanted it.

In this decision the Chief Justice expressly declared that there was no evidence whatever to sustain the charge of bribery. If that was not the essence of the case, I am unable to understand it. What was the charge? It was a charge that there was a conspiracy. To do what? To use money improperly; in other words, to corrupt; in other words, to bribe. The great Chief Justice, whose voice now speaks from the tomb in behalf of the living, said there was no evidence whatever to sustain the charge of bribery. Then upon what ground are we to be driven into expelling this man from the Senate, we, his jurors and judges?

There is another paragraph of his opinion which I will read into the record. He said:

Conspiracy to contribute and expend in excess of the amount permitted by the statute was, then, the sole issue, wholly dissociated from and disconnected with any corrupt or wrongful use of the amount charged to have been illegally contributed and expended. As putting out of view the constitutional question already considered, the errors assigned are based solely upon asserted misconstructions of the statute by the court in its charge to the jury, we bring the statute at once into view.

There the Chief Justice said again that the excess amount had nothing to do with the case.

Then he added a very pertinent suggestion, which I in a feeble and briefer way put to the Senator from Montana and the Senator from Idaho: If you, Mr. Senator, had a campaign committee appointed to do legal work for your election, and that committee is duped by some spy or agent of your opponent into authorizing that spy or that agent to do some illegal thing, ostensibly in your behalf, then away goes your seat, your enemies will take it from you by a stratagem, and you will defend yourself upon the well-known maxim that all tricks are justifiable in love and war.

I tried to point out to my distinguished friend from Montana [Mr. WALSH] that his construction of the law would put every innocent candidate at the mercy of the guilty. How could he know what his campaign committee was doing through his agent? How could he know when a spy would be put into his citadel and the gates opened to the enemy? He could not possibly know it.

Mr. WALSH of Montana. Mr. President, I do not like to interrupt the Senator, but I rise to say that no one, so far as I know, contends, certainly I do not, that under such circumstances the election would be void. It was only on the supposition that the candidate knew that the illegal practices were going on, or had reason to believe they were going on, or that they were so general and widespread as that the illegal practice really brought about the election, that the election would be void.

Mr. WATSON of Georgia. Mr. President, it amounts to the same thing. You impute criminality to an innocent man, and there is no principle of law, written or unwritten, that imputes to me a crime or imputes to you a crime. It may impute to us civil liability, but not crime. Crime must be proved by competent testimony beyond a reasonable doubt, and if it is circumstantial evidence, such as is relied on in this case to connect Truman Newberry with what was being done in his behalf that testimony must exclude every other reasonable hypothesis. If that is not the law, I do not know what the law is.

Proceeding where my friend the Senator from Montana interrupted me, I will read further from the opinion of the Chief Justice. He said:

To illustrate: Under the instruction given, in every case where to the knowledge of the candidate—

Now, I am coming right straight to the Senator from Montana, if he will pay a little attention—

to the knowledge of the candidate a sum in excess of the amount limited by the statute was contributed by citizens to the campaign, the candidate, if he failed to withdraw, would be subject to criminal prosecution and punishment. So, also, contributions by citizens to the expenses of the campaign, if only knowledge could be brought home to

them that the aggregate of such contributions would exceed the limit of the statute, would bring them, as illustrated by this case, within the conspiracy statute and accordingly subject to prosecution. Under this view the greater the public service and the higher the character of the candidate, giving rise to a correspondingly complete and self-sacrificing support by the electorate to his candidacy, the more inevitably would criminality and infamous punishment result both to the candidate and to the citizen who contributed.

That sounds to me like good law, like good common sense, and it does not in any way dissent from the majority opinion of the court, because Mr. Justice McKenna had already said substantially the same thing as Mr. Justice Pitney afterwards said. Again, the Chief Justice continued:

For the reasons stated, although I dissent from the ruling of the court as to the unconstitutionality of the act of Congress I, nevertheless, think its judgment of reversal should be adopted, qualified, however, so as to reserve the right to a new trial.

Does anyone call that a dissenting opinion? Why, it is not. It is a concurring opinion based upon a different ground. Nothing is much more common than that in Supreme Courts.

What has become of that new trial? When I asked that question the Senator from Montana, imagining himself to be in a justice of the peace court or arguing a case before a notary public, said, "Did you hear any more of the Lorimer case? Did you hear any more of the Clarke case? Did you hear any more of the Montana cases?"

Mr. WALSH of Montana. Mr. President, I do not want the Senator to misquote me.

Mr. WATSON of Georgia. I do not wish to do so.

Mr. WALSH of Montana. I answered the Senator frankly. The court held that the Federal statute was unconstitutional and therefore there was no foundation for a new trial.

Mr. WATSON of Georgia. Oh, yes, there was; if the Senator will pardon me.

Mr. WALSH of Montana. They could not try a man under an unconstitutional statute.

Mr. WATSON of Georgia. But where are the Michigan State laws?

Mr. WALSH of Montana. I am not talking about them. The Supreme Court of the United States could not order a new trial in the State courts.

Mr. WATSON of Georgia. There was no power in the United States Supreme Court to inhibit in any way a State prosecution in the State court in Michigan. There were the statutes. It is said they have been violated. It has been said that Newberry was a party to the violation. Why has he not been prosecuted? Why have none of his agents been prosecuted in Michigan, in the vicinity where the crime was committed and before a jury of their peers?

Mr. President, before I came to this body the newspapers instilled me with the idea that Newberry had bought his seat. That was the saying everywhere, that "Newberry had bought his seat." Therefore, when the case was entered upon in this final court I expected to hear overwhelming testimony convicting Mr. Newberry of having bought his seat. When the Senator from Missouri [Mr. SPENCER] fairly and fully flung his challenge to this side of the Chamber to point out the evidence of a single witness showing that Truman H. Newberry had spent one dollar or had been a party to the spending of one dollar for his election, I expected him to be crushed by replies from this side. But no reply was made then and no reply has yet been made. The Senator from Ohio [Mr. POMERENE] spoke parts of three days, large parts of two of them; the Senator from Montana [Mr. WALSH] spoke parts of two days, large parts of both; but up to this time I have yet to hear a single scrap of testimony to sustain the charge that Truman H. Newberry bought his seat or had it bought for him. No such evidence had been presented.

Mr. HEFLIN. Mr. President, will the Senator from Georgia yield?

Mr. WATSON of Georgia. With pleasure.

Mr. HEFLIN. The Senator overlooks the testimony of Alfred Smith, set forth on page 24 of the majority report, where he testified, in response to questions from Judge Lucking, that Truman H. Newberry's funds were in this sum of money from which he was drawing.

Mr. WATSON of Georgia. I think I have heard that statement about a dozen times.

Mr. HEFLIN. Here it is, if the Senator desires to read it.

Mr. WATSON of Georgia. Oh, yes; I know it is there. But if the Senator thinks that statement of that oft-quoted witness carries home to Truman H. Newberry the fact that he knew his funds were being illegally spent for his election, his construction of evidence is different from that of Greenleaf and different from that of myself.

Not one Senator on this side of the Chamber has yet said that Mr. Newberry had been the accomplice of anybody who had im-

properly used money. Does anybody say it now? Nobody says it.

Mr. HEFLIN. Mr. President, I can not permit that challenge to go unanswered.

Mr. WATSON of Georgia. Well, answer it then.

Mr. HEFLIN. I hold that all over \$3,750 expended by Mr. Newberry, by his brother, by his sisters, by his partners in business, by anybody for him, was illegally spent, and that the procuring of the nomination through the use of those funds was illegal.

Mr. WATSON of Georgia. Then, if the Senator from Alabama, my good friend Mr. HEFLIN, had argued his point of view before the Supreme Court the decision might have been different. Not having had the benefit of his legal lore, his splendid eloquence, and his forceful presentation of the facts, the Supreme Court did not decide that way.

Mr. President, on last Saturday, while the Senator from Montana [Mr. WALSH] was speaking, I asked him a question in regard to what was said in the decision of the Supreme Court exonerating Truman H. Newberry from bribery, and the Senator said, with his usual frankness, "Oh, well, there is no bribery." Well, if there was no bribery, he did not buy his seat. If there was no bribery, nobody bought his seat. It seems to me that the admission of the Senator from Montana puts his case out of court, except for mere oratorical purposes and for campaign use.

I mean to let the country know that there is not a particle of testimony here that Truman H. Newberry bought his seat or had it bought for him—not a particle. I have not read all the thousands of pages of these questions and answers in the record. Our State supreme court, and I suppose other supreme courts, do not now tolerate the presentation of a case in that way. They require that the narrative form be adopted, so that the reader will not have to straggle and struggle with question and answer and cross-question and cross-answer through thousands of pages. But I have done this: I listened most of the three days to the very able speech of the Senator from Ohio [Mr. POMERENE]. I listened most of the two days of the very able speech of the Senator from Montana [Mr. WALSH]. I heard them read into the record what they supposed to be the strongest evidence against Truman H. Newberry. I have read the report of the majority. I have read the report of the minority. I studied carefully the decision of the Supreme Court of the United States. It would seem that I studied it with more care than is customary with those who are contending that this man and his State should both suffer the greatest indignity which this body could put upon them. Acting as a juror and under oath, I must have evidence, competent testimony, which convinces me beyond a reasonable doubt that Truman H. Newberry was a party to the crime that put him in the Senate, if anybody committed a crime in that connection, else my own conscience would not be satisfied, and I think a good deal more of that than I do of the opinions of others.

Mr. TOWNSEND. Mr. President—

The PRESIDING OFFICER. Does the Senator from Georgia yield to the Senator from Michigan?

Mr. WATSON of Georgia. With pleasure.

Mr. TOWNSEND. Does the Senator desire to have a quorum call?

Mr. WATSON of Georgia. Oh, no; not at all.

Mr. President, it seems to me that the issue in Michigan in the election between Mr. Ford and Mr. Newberry was pretty much the same as it was in Georgia, to wit, the League of Nations. We can not start up a rabbit on this side and chase him for 15 minutes, but what we find him running into the League of Nations. Well, the rabbit may go in, but we are not going in. Michigan is normally a Republican State, just as Georgia is normally a Democratic State; and it is no more extraordinary that Michigan should send two Republican Senators here than it is that Georgia should send two Democratic Senators here. It is a normal state of things. Anything else would be abnormal and would of itself excite suspicion and court investigation. As to the methods used and the money used and the laws of Michigan, I shall come to them later, and I shall discuss them like a lawyer talking to lawyers.

First of all, how did Mr. Ford get into the senatorial race? The man who helped him found his magazine alleges, in the issue of September 17, 1921, that Mr. Ford did not wish to enter the race; that he came to Washington upon the invitation of President Wilson; that Mr. Ford was accompanied on that trip by his attorney; that the attorney had a written statement in his pocket ready to give to the press telling the country that he would not be a candidate; and that after going into the White House and having an interview with President Wilson, he came out and told his lawyer to destroy that statement because he had determined to enter the race. Has that state-

ment been denied? Will anybody now deny it? Now is a pretty good time to deny it.

President Wilson, holding the views he did, with the golden 14 points—his famous 14, which are now the "lost golden fleece" of nations, very naturally wanted a vote here in the Senate in favor of the League of Nations. Consequently he conscripted Mr. Henry Ford. He wanted Mr. Newberry defeated because he knew or believed that Mr. Newberry would vote against the league. It was necessary to bring into action another Senator who would support Wilsonism and the League of Nations. That is the real secret of the mighty effort made in Michigan to overcome a normal Republican majority and that is the real secret of the savage hatred against Mr. Newberry such as has been shown on the floor of the Senate by the left-over Wilsonites. There are a few of them left, but there will be fewer the next time the people get a whack at them.

Who is Henry Ford and what were his qualifications for a seat in this Chamber, the most august lawmaking body in the world or that ever was in the world? He is a man who has made a wonderful success in accumulating millions of dollars. If he were in Wall Street, he would feel the thunder and lightning of my friend the Senator from Alabama at least once a week. [Laughter.]

Mr. HEFLIN. I am trying to keep Wall Street from seating a Member of this body now.

Mr. WATSON of Georgia. Since Henry Ford is getting Muscle Shoals, the Senator from Alabama had better look out for Alabama. [Laughter.]

Mr. HEFLIN. We want Muscle Shoals to be operated by somebody.

Mr. WATSON of Georgia. I notice that the Senator from Alabama is retiring from the combat. That is his privilege.

Mr. HEFLIN. The Senator from Alabama has not retired. He merely stepped to the cloakroom in order to get a tablet to make a note of some of the propositions which the Senator from Georgia is making in order to respond to them later.

Mr. WATSON of Georgia. The Senator from Alabama has returned, and that is all right. It is his privilege to go and it is his privilege to return.

Mr. HEFLIN. I merely wish to take a few notes of what the Senator from Georgia is saying.

Mr. WATSON of Georgia. The Senator may take all the notes he desires.

Henry Ford is a man who brought a libel suit against a certain newspaper in Chicago. He went on the witness stand, was sworn, and examined in his own behalf, and, according to the newspapers, he swore that he did not know how to read. He is as marvelous a witness as he has been a marvelous gatherer of gold. Talk about golden chariots! The Newberry family could hardly furnish pin money for Henry Ford's family.

Mr. STANLEY. Mr. President—

The PRESIDING OFFICER. Does the Senator from Georgia yield to the Senator from Kentucky?

Mr. WATSON of Georgia. I yield with pleasure, Mr. President.

Mr. STANLEY. If this were a case between Henry Ford and Newberry, we might well say "dog eat dog." Ford, however, is a man of marked characteristics. The difference between Ford and Newberry apparently is that Ford is more than a millionaire, while Newberry seems to be a typical mere millionaire.

Mr. WATSON of Georgia. The same thing might have been said—

Mr. STANLEY. But, be that as it may, I would not permit Henry Ford or Truman H. Newberry or any other man born of woman to buy a seat in the Senate. The charge against Ford is a mere smoke screen to the offenses that have been proved against the contestee—offenses not against an individual; that is a matter of small importance, for, as I see it, Newberry is not on trial here; Ford is not on trial here; but the Senate is on trial.

Mr. WATSON of Georgia. I did not yield for a speech. The Senator from Kentucky may make a speech in his own time. I thought he wanted to ask me a question.

Mr. STANLEY. I thought I would tell the Senator about this race.

Mr. WATSON of Georgia. The Senator from Kentucky has not told me much about it.

Mr. STANLEY. It is more than a race between a golden chariot and a "tin Lizzie."

Mr. WATSON of Georgia. I repeat, the Senator has not told me much about it. I am going to tell him something about it; I promise him that.

Recurring to the point where the interruption cut me off, Henry Ford is reported to have sworn that he could not read,



and yet he is editing a weekly paper devoted to war upon the Jewish race—not upon some criminal Jew, convicted or unconvinced, but upon the whole race—the race that produced Moses, Solomon, David, Rachel, Gambetta, Disraeli, Sir Moses Montefiore, and Jesus Christ. All Christendom rests upon a Book, and that Book is the Book holding the creed of the Jew. Nevertheless, Henry Ford condemns the whole race, forgetting that in all our wars the Jew has fought side by side with the Gentile, forgetting that the soundest principles of democracy and good government and catholic humanity are to be found in the sacred parchments of the Jews, forgetting that the present French Republic was founded by a Jew, and that Jews compose music that will perhaps outlive the Pyramids and every government that now stands upon the globe.

I would wage relentless warfare upon a convicted Jew, and would have him punished for a heinous crime, as the Jewish law itself provides, but I doubt the senatorial fitness of a man who indicts a whole race because of the faults of some of its black sheep.

In that famous Chicago case Henry Ford is reported to have sworn that he did not know who Benedict Arnold was, but was inclined to believe that he was the man who wrote Matthew Arnold's literary works. It is a wonder to me that Mr. Ford did not say that one or the other of these Arnolds wrote Shakespeare's plays and Washington's Farewell Address.

What were the relations between Mr. Henry Ford and President Woodrow Wilson? Mr. President, as my friend from Alabama [Mr. HEFLIN] would say, this is a serious question. Did not Henry Ford give \$50,000 to Wilson's campaign fund during the last month of the struggle in 1916, and do so at the personal request of Mr. Tumulty? It is so stated in this paper published by Henry Ford's ex-partner, and it was published in September, and now we are nearly at December, and nobody has denied it. Will anybody now deny it? It is a pretty good time to make a denial.

My friend from Alabama says he is making notes. Let him make one of this.

Mr. HEFLIN. I will state to my friend from Georgia that I never heard of that contribution before; but if he made the contribution to the Democratic campaign fund when Wilson was the candidate he could not have contributed to a better cause.

Mr. WATSON of Georgia. I expected some such reply as that from my friend from Alabama. It was the best that could be made, of course.

Mr. STANLEY. Mr. President—

The PRESIDING OFFICER. Does the Senator from Georgia yield to the Senator from Kentucky?

Mr. WATSON of Georgia. For a question, yes; not for another beautiful speech.

Mr. STANLEY. I am not going to make a speech. The Senator seems to be proceeding upon the idea that this is a contest between Newberry and Ford.

Mr. WATSON of Georgia. If the Senator will just wait upon me a moment, because I am not going to speak two days—

Mr. STANLEY. It will not take the Senator two minutes to answer that.

Mr. WATSON of Georgia. I will get to that in less than two minutes, if I am not again interrupted.

Mr. STANLEY. All right.

Mr. WATSON of Georgia. Did that liberal gift have anything to do with keeping Henry Ford's son out of the Army, when so many hundreds of thousands of other men's sons were in the Army, thousands of them fighting, suffering, dying in Flanders and in France, while Edsel Ford was continuing to make tin Lizzies to run against golden chariots? Mr. President, I supposed that the last golden chariot that we ever had went up to heaven when a Jewish prophet went up. Did the Senator from Kentucky ever see a golden chariot?

Mr. STANLEY. Not until Ford started on his tour—I mean, not until Newberry started on his tour through Michigan.

Mr. WATSON of Georgia. Oh! The Senator gets there mixed. He has got the evidence mixed, too.

Mr. President, what else did Henry Ford get out of Wilson's honest and patriotic administration? It was reported that he got \$14,000,000 for the construction of Eagle boats which were either useless or not constructed; and when that fact was brought home to Henry Ford he said he was going to return the money to Uncle Sam. I was anxious to have a front seat and see Henry do that, but he never has done it.

Let us come to something more specific, proven by the records of the War Department.

The Ford Motor Co., according to the War Department, received from Wilson's administration \$249,000 for tools which

were never delivered. I suppose Henry has them yet. He also has the money, unless he has spent it on this election.

The Ford Motor Co., for tractors: Number delivered, none. Amount paid, \$1,209,000. Where are those tractors? They might be converted into golden chariots, for all I know.

The Ford Motor Co., for spare parts: Number delivered, none. Amount paid, \$5,517,000. That leaves out the Eagle boats.

Those facts came from the War Department to Congressman Bege, and they came out after the fishing trip which Mr. Ford took with President Harding. If President Harding now knows those facts, Henry Ford may not again go fishing with the President.

There was a prosecution of Truman H. Newberry and a number of his workers—135 as I remember the number. The records of the Department of Justice show that Mitchell Palmer, the Attorney General, paid out \$73,000 for fees for extra lawyers. If there was such a plain and simple case against Truman Newberry and these 135 men, why could not the Attorney General or one of his assistants, or the district attorney and one of his assistants, conduct the case?

Besides that, the Department of Justice sent to Michigan more than 100 detectives to rake the State with a comb to find evidence of criminality on the part of Truman Newberry and his workers. Did they find it? If it was there, they should have done so. If they found it, what became of it; it is not in this record. Talk about loss of papers! We heard a great deal about loss of papers. Who lost the papers from Mitchell Palmer's Department of Justice as to the expense accounts of these 100 detectives during the months and months that they were combing Michigan in the effort to find testimony upon which to convict Mr. Newberry and his workers? It is not in the Department of Justice. How were these detectives paid? Were they paid by checks? If so, where are the checks? Was there a stub for each check? If so, where is the stub? Was there an expense account? If so, where is it? Let my friend from Alabama make another note right there.

Mr. HEFLIN. The Senator forgets that the testimony here shows that Mr. Newberry's man failed to produce those records when summoned specifically to do so.

Mr. WATSON of Georgia. Yes; and the testimony shows why.

Mr. HEFLIN. He said they had been lost, or something.

Mr. WATSON of Georgia. When a Government loses its records, it seems to me that there is something more mysterious about it than when a private individual loses one; and I do not think it lies in the mouth of the Government to be making criminal charges against Newberry and his friends when it paid out so much of the people's money without authority.

How many people in this country know that in addition to the district attorney and his assistants, the Attorney General and his, \$73,000 of their money was put into the pockets of lawyers to have convicted Mr. Newberry and his friends? How many of the people of this country know that the Department of Justice was so eager to put Newberry in the penitentiary, where he could not vote against the League of Nations, that they sent more than 100 Secret Service men to Michigan and kept them there for months hard at work to drum up testimony which they could not find?

It is said that the Department of Justice under Mr. Mitchell Palmer spent more than \$400,000 in their efforts to convict Mr. Newberry and send him to the penitentiary. Were they simply trying to get rid of Newberry, or were they trying to get Ford in? That is a common-sense question. A mere vacancy here was not worth \$400,000. It is not worth that much now.

Mr. HEFLIN. Does not the Senator think that the Government, though, would be justified in spending almost any amount to keep these seats from becoming a matter of barter?

Mr. WATSON of Georgia. Mr. President, that question would come with better grace from somebody who had not supported a President who asked \$50,000 from Henry Ford and got it, and in whose behalf money was spent like water from one end of this country to the other, and everybody knows it was spent like water.

Now I come to the amendment offered by the Senator from Montana [Mr. WALSH]. In substance that amendment says that Michigan held a primary in which rival candidates ran for the nomination and that nobody got the nomination. It says, in effect, that Michigan had a general election in which there were rival candidates, and in that election nobody got elected. Oh, what a strange state of imbecility Michigan has fallen into—nominating primaries, and no nomination; general elections, and nobody elected. Well, if Mr. Newberry was not elected, why was not Ford the man who should have had the commission? Usually, when two men run, one of them is entitled to the commission; and they were so anxious to get Mr. Ford in here, with his vote in favor of the League of Nations,

that they had a recount. That does not look very much like they were ignoring the claims of Mr. Ford.

It has been said here with a good deal of emphasis that Mr. Newberry was not known in his own State. Mr. President, that is no unusual thing in a public servant. One of the best men who ever represented Georgia in Washington city sat on the Interstate Commerce Commission in his earlier days, Judson C. Clements, and I do not suppose he was known to a hundred men in Georgia. A. O. Bacon was Senator here for many years, and he mixed so little among our people that not half the people of his own city—Macon, Ga.—knew him by sight. He was a name, an honored name, but only that; and had he run for something else, or indeed when he did run for reelection, he needed publicity and he got it in the daily papers and in the weekly papers, and I assume that it cost something; and I think if it did he violated no law.

Mr. President, there is pending in the House of Representatives a very serious charge, made, not by an obscure Frenchman, but by the eminent author of the latest history of France, Gabriel Hanoteaux.

In that statement, first given out in Paris, and which came to my notice two years ago, this historian says that our country was "propagandaed" into the war by the international banking house of J. P. Morgan & Co. A Congressman has introduced a bill in the other House to have that charge investigated, and no investigation is made. As the Senator from Alabama [Mr. HEFLIN] would say, "Mr. President, this is a very serious matter."

How was the sale of the Liberty bonds to our people, to the amount of \$25,000,000,000, put over?

Mr. STANLEY. Mr. President—

The PRESIDING OFFICER (Mr. ODDIE in the chair). Does the Senator from Georgia yield to the Senator from Kentucky?

Mr. WATSON of Georgia. Certainly.

Mr. STANLEY. Does the Senator from Georgia, speaking seriously, now, with his learning, with his knowledge of this body and of the House of Representatives, in his heart harbor the remotest suspicion that J. P. Morgan & Co., or any other gang of financiers, or any other concern, ever had gold enough to buy the House of Representatives and the Senate and the President of the United States into a declaration of war, carrying with it the honor and the life of our country? That is what his statement means.

Mr. WATSON of Georgia. Mr. President, the question is quite aside from any opinion I expressed, but I will answer it frankly. The time when our Government should have entered into the war, in my opinion, was when the Germans torpedoed the *Lusitania* and killed 119 American men, women, and children who were peaceful travelers.

Mr. STANLEY. I agree with the Senator.

Mr. WATSON of Georgia. Did the Senator agree with me then?

Mr. STANLEY. I thought that was the time when we should have gone in.

Mr. WATSON of Georgia. Did the Senator say so then?

Mr. STANLEY. I did. Before the national convention at St. Louis I urged the resolutions committee, of which Senator WALSH was the chairman, to pass a resolution to that effect. I spoke for it there and urged that we take a battle flag into that convention. But that does not make Wilson a crook or the House of Representatives and the Senate superserviceable tools of J. P. Morgan & Co.

Mr. WATSON of Georgia. Mr. President, as I have said, I think we lost the golden opportunity, when we had a real cause of war, and it should have been chiefly a naval war, aided by such men as chose to volunteer to go across the water. That is my frank answer. But if the Senator from Kentucky wants to defend the banking firm of J. P. Morgan & Co. for its activities before the war, during the war, since the war, and right now, he is quite welcome to do it, so far as I am concerned.

I was asking, how did we float the Liberty bonds? Were there any newspapers paid to carry full page advertisements? Were there any speakers hired to make speeches? Were there any commissions given? What was the power that compelled our people to go into the depths of debt and misery to buy this enormous issue of bonds, \$25,000,000,000 of them, if not publicity, just such as is charged was used in this campaign, or propaganda? It was propaganda. Human nature is so constituted that the reader of a daily paper, seeing the same thing written day after day, and nobody allowed to deny, finally takes it to be the truth. Some Frenchman, I think it was Mirabeau, said that the wisest man would come to believe the silliest thing, if his valet repeated it to him every morning while he was dressing. A great many of our people take their opinions

from the headlines of the daily papers. Comparatively few read anything else, and I am sure the Senator from Kentucky will agree with me about that. The point I wished to make was that the method employed by Truman H. Newberry to make himself known to the voters of Michigan, while he was serving in New York, was substantially the same used by the Wilson administration in putting over those vast issues of bonds.

My friend the Senator from Ohio [Mr. POMERENE] became humorous when he spoke of the picture which Commander Newberry had taken of himself on a wooden ship in Central Park, N. Y. That is a good deal nearer than you ever got Henry Ford to the war, and it was a good deal nearer than you ever got Edsel Ford to it. You never got him on any wooden ship or any other kind of a ship. You got him in "tin Lizzies" all right, and you got him in the United States Treasury all right, and you did not get any "Eagle" boats worth mentioning, but he got millions of your money for goods he never delivered. He was the man who was commandeered to come in here as a Senator, and he said himself that he thought Benedict Arnold wrote Matthew Arnold's essays.

Mr. President. I find that the Michigan statutes are quoted in the very able brief filed in the Supreme Court by Mr. Charles E. Hughes, now Secretary of State, who last Monday made that noble speech before the Limitation of Armament Conference which still rings round the world, and will have its benign influence on generations yet unborn, not only in this, but in every other country.

I will read from the brief, because the print is better than the print used in the Pomerene report, and therefore it is easier for me to read. The statutes of Michigan are exceedingly broad as to the money which a candidate may use, or which his friends may use for him. There is virtually no limit to these expenditures. The first group of activities for which money may be spent includes traveling expenses, printing, stationery, advertising, postage, expressage, freight, telegraph, telephone, and public messenger services. That is a pretty broad scope, and would permit the expenditure properly of a very large amount of money. I know that during my campaign in Georgia there was a speech of my own which I wanted to get in a certain daily paper, and I asked what would be charged to print it, and the price was so high as to be prohibitive, and I could not and did not have it printed. Everybody knows that a campaign year is a picnic year for newspapers—weekly, triweekly, daily, and monthly. I read now from the brief the list of those things for which expenditures might be made:

- Second. For dissemination of printed information to the public.
- Third. For political meetings, demonstrations, and conventions.
- Fourth. For the rent, maintenance, and furnishing of offices.
- Fifth. For the payment of clerks, typewriters, stenographers, janitors, and messengers actually employed.
- Sixth. For the employment of challengers at primaries and elections to the number allowed by law as such.
- Seventh. For the payment of public speakers.

Mr. President, I have been making public speeches since I was 19 years old. I never got paid for a public speech in my life, except a strictly advertised lecture, confined to a lecture hall, and to a lecture audience who paid their admission fee. But the statute of Michigan allowed Henry Ford and Truman Newberry to hire speakers to go out, accompanied by bands of musicians, to influence voters. You would not want a speaker who could not influence a voter, would you? You would not hire a speaker who would drive off voters, would you? You would not want a band that did not play good music, would you? You would not want a band that would make such a jangle of discord that everybody would run off, would you? You would hire the best that was in the market, and that would take a good deal of money.

I tried to hire a band once in my campaign in Georgia, and I found that they wanted a hundred dollars, and as that was more than I thought the music was worth, I did not hire them.

- Eighth. For copying and classifying, etc.
- Ninth. For making canvasses of voters.

It is as to the construction of that last clause that my friend from Montana differs from me, as to the hiring of canvassers for voters. He says that simply means to find out how a man is going to vote. I think that is a very narrow construction. If it did not mean something more than that, they would not be worth paying for. It means what a speaker means; it means what a band means; it means, in my judgment, the presentation to the voters of whatever claims the candidate may have.

Mr. WALSH of Montana. Let me ask the Senator, if that is the proper interpretation, why this other provision, that you may hire public speakers for these public meetings?

Mr. WATSON of Georgia. Because it is not every canvasser who can speak, and it is not every speaker who can canvass.



Mr. WALSH of Montana. If "canvassers" includes them all, what is the use of the other provision?

Mr. WATSON of Georgia. They are in separate clauses.

Mr. WALSH of Montana. Exactly; but the Senator's definition of "canvassers" would include them all?

Mr. WATSON of Georgia. Not at all; not by any means. You select your public speaker. Did you know beforehand how he stood? Does the fee you pay him influence his opinion? Does not the Michigan law put him in the position of an attorney, who may have no opinion at all about a case until he is hired to plead it for one side or the other?

Mr. WALSH of Montana. Will the Senator suffer another interruption?

Mr. WATSON of Georgia. With pleasure.

Mr. WALSH of Montana. I understand the Senator to say that the ninth clause, "For making canvasses of voters," includes those who are to canvass and induce the voters to vote. If so, I inquire why should subdivision 7 be put in, providing for the payment of public speakers and musicians at public meetings, and their necessary traveling expenses, if all of them are covered in subdivision 9?

Mr. WATSON of Georgia. Mr. President, I had already answered that, as I thought, but I will make another attempt.

A man may be a very finished orator; he may be able to make the welkin ring, to use our old friend as an expression; he may be able to sway the multitude by his voice and by his eloquence. He is hired for that purpose, and yet in private conversation he might be as dull as a grindstone which sharpens other things and never gets sharp itself.

Why, Mr. President, if the hiring of men to make canvasses does not necessarily imply that they canvass, what is the meaning of the word canvassers? A canvasser is a man who does canvass, presumably with legal propriety.

I read further:

Eleventh. For employing as counsel, attorneys licensed to practice in accordance with the laws of the State, and for the necessary expenses of such counsel.

That covers almost everything that one could expect to be done to carry an election. It absolutely covers everything that is in this record. The man who was Henry Ford's partner in the establishment of his magazine and who could not agree with him about his policy has said that Henry Ford's managers had the Michigan statutes before them all the time and carried them out to the letter and in the spirit as far as they understood them.

Much has been said here about the failure to produce a witness whose illness, as claimed by the Senator from Missouri [Mr. SPENCER], was somewhat derisively referred to by Senators on this side. In this magazine of September that very matter is referred to. The name of the witness is B. F. Emery, a clerk in the Newberry headquarters during the campaign. What does this ex-partner of Ford say about that witness? He said:

I have never seen him that I know of, but I have looked into his case and had a personal experience that impressed me. There were many sneers in the Ford report, and one would think that the illness which kept him from going to Washington was a fake. By a coincidence Emery was injured by one of Henry Ford's automobiles—that is, belonging to Ford. The machine tipped over—

Not the golden chariot, but the "tin Lizzie"—

pinning Emery under it. There were three fractures of the skull, an injured chest, broken ribs, dislocated hip, and other bruises. He was in the hospital many weeks and is still a great sufferer from his injuries.

For which, by the way, he has brought suit against Mr. Ford.

Another interesting item in this paper is that Mr. Henry Ford made a present of an automobile to every Ford club in Michigan. If that is allowed by the Michigan statutes, I fail to get their meaning.

A good deal has been said about the failure of Mr. Newberry to appear before the committee. Well, he has been absent from the Senate during the whole time that these savage attacks have been made upon him. Supposing him to be a gentleman of some feeling, I can respect his absence. I would not have wanted to sit here and listen to such tirades of abuse leveled at me as were leveled at him. If I could not then and there have replied, I would have absented myself from the Chamber and remained away until the storm passed over, leaving it to my friends and all fair-minded men to take care of the justice of my cause.

Speaking for myself, I do not know Mr. Newberry by sight. I passed him one day in the corridor when the Senator from South Dakota [Mr. STERLING] had been suddenly taken ill. That is the only time I ever saw Mr. Newberry. I was there to do what I could for the Senator from South Dakota, rather than anything else.

Mr. Newberry had already made solemn oath to the fact that he spent nothing to gain his seat and did not consent to or know of the use of any money in his behalf. His swearing to it a

second time would not have added to the strength of his first affidavit.

Mr. President, I think it an unfortunate thing that Senators from the South should take such a prominent part in what I consider a political persecution. If I may be allowed the expression of an opinion, it is that unless the evidence absolutely compelled us to speak it would have been better for us not to have spoken. We should remember that Michigan held the frontier in the War of 1812, met the Kentuckians at the River Raisin, fought side by side with the Kentuckians there, and gave Andrew Jackson time to come up to the defense of New Orleans. It is true that poor old Gen. Hull, from New England, and not from Michigan, did surrender Detroit when the court-martial said he should not have done it. I am glad to remember that it was a southern President, James Madison, who reversed the finding of that court-martial and gave that old man back his honor and his freedom.

The passions of the Civil War, the most deplorable war that mankind had ever known prior to the late World War, are far from dead. The ashes cover them, but the live coals are there, and we meet the sectional feeling on every turn where it is sectional against section, interest against interest. It would be a wise policy if it could be made consistent with principle and conviction for us never to do a thing that would blow those cooling embers into another blazing flame. When we do so, we simply injure our own people and our own selves.

Mr. President, during the time when the passions of the Civil War were still raging and the waves of hatred were leaping up like storm-tossed waves on the ocean Congress endeavored to impeach a southern man, Andrew Johnson, a man whose powerful speeches had done more to save the border States to the Union than all other influences combined. But when he ventured to differ from the radical Republicans of that day they endeavored to impeach him and to bring everlasting disgrace upon him, his family, and his State. They failed by one vote, and that vote came from Kansas. So great were the passions of that era that the man who was brave enough to speak his convictions to save that southern man never again held a public office. According to my recollection, he died last year. But Tennessee resented the persecution of Andrew Johnson on what they now commonly accept as frivolous charges and she returned him to the Senate, where he could face on equal terms the men who had arraigned him and tried to disgrace him.

Of course, it is in the power of the Senate to expel Truman H. Newberry, who has been sitting here for more than a year and who will, as surely as day follows night, come back if we do expel him. The work would be entirely futile, would defeat itself if it were done. I am finding no fault with the Senators whose convictions lead them to speak against him or to vote against him, but I have studied this case as thoroughly as any Senator here, and my convictions are perfectly satisfactory to my own conscience and I shall answer for them to the only people to whom I am responsible, the people of Georgia.

Mr. HEFLIN obtained the floor.

Mr. WALSH of Montana. Will the Senator from Alabama yield to me for a moment?

Mr. HEFLIN. I shall be glad to yield to the Senator.

Mr. WALSH of Montana. Merely to keep history right, I desire to say that in the course of a colloquy between myself and the esteemed Senator from Georgia [Mr. WARSON] he stated as a matter of history that the so-called Dartmouth College case was decided by Chief Justice Marshall upon a point that was not even raised by Daniel Webster. I have heard that statement made before, and I rise for the purpose of correcting it. I have before me the report of the case and the brief of Mr. Webster. I read from page 588 as follows:

The plaintiffs contend, in the second place, that the acts in question are repugnant to the tenth section of the first article of the Constitution of the United States. The material words of that section are: "No State shall pass any bill of attainder, ex post facto law, or law impairing the obligation of contracts."

Mr. Webster then discusses the question as to whether the repeal of the charter or an amendment to the charter does violate that provision of the Constitution. He argues that a charter is a contract, and he canvasses all the decisions of the Supreme Court down to that time dealing with the provision of the Constitution which forbids any State to pass a law impairing the obligation of contracts, which was the point upon which the case turned. Then he concludes the argument, as is reported at page 595 of the same volume, as follows:

It is therefore contended that this case falls within the true meaning of this provision of the Constitution, as expounded in the decisions of this court; that the charter of 1769 is a contract, a stipulation, or agreement, mutual in its consideration, express and formal in its terms, and of a most binding and solemn nature. That the acts in question impair this contract has already been sufficiently shown. They repeal and abrogate its most essential parts.

Mr. WATSON of Georgia. Mr. President, I hope the Senator from Alabama will allow me a moment.

The PRESIDING OFFICER (Mr. STERLING in the chair). Does the Senator from Alabama yield to the Senator from Georgia?

Mr. HEFLIN. I yield to the Senator from Georgia.

Mr. WATSON of Georgia. The point upon which Chief Justice Marshall decided that case was not in the brief from which the Senator from Montana [Mr. WALSH] has read at all. It was in the brief of Jeremiah Mason. My authority for my statement that Mr. Webster did not originate the point—perhaps, I ought to have used that word—is Henry Cabot Lodge's Life of Washington, in which he gives a very full and very interesting history of that case.

Mr. HARRISON. Mr. President—

The PRESIDING OFFICER. Does the Senator from Alabama yield to the Senator from Mississippi?

Mr. HEFLIN. I yield to the Senator.

Mr. HARRISON. I suggest the absence of a quorum.

The PRESIDING OFFICER. The Senator from Mississippi suggests the absence of a quorum. The Secretary will call the roll.

The reading clerk called the roll, and the following Senators answered to their names:

Ashurst	Hefflin	McKinley	Spencer
Ball	Hitchcock	McLean	Stanley
Borah	Johnson	McNary	Sterling
Bursum	Jones, N. Mex.	Nelson	Swanson
Capper	Jones, Wash.	Nicholson	Townsend
Curtis	Kendrick	Norris	Trammell
Dial	Kenyon	Oddie	Wadsworth
Fernald	Keyes	Phipps	Walsh, Mont.
France	King	Poinexter	Watson, Ga.
Glass	Ladd	Pomerene	Watson, Ind.
Gooding	La Follette	Robinson	Williams
Hale	Lenroot	Sheppard	Willis
Harris	McCormick	Smith	
Harrison	McKellar	Smoot	

Mr. TRAMMELL. I desire to announce the absence of my colleague [Mr. FLETCHER] on official business.

The PRESIDING OFFICER. Fifty-four Senators have answered to their names. There is a quorum present.

Mr. HEFLIN addressed the Senate. After having spoken, with interruptions, for about two hours,

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. Overhulse, its enrolling clerk, announced that the House agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 8245) to reduce and equalize taxation, to amend and simplify the revenue act of 1918, and for other purposes.

#### TAX REVISION—CONFERENCE REPORT.

Mr. PENROSE. Mr. President, will the Senator from Alabama permit me to interrupt him to address the Chair on a privileged question, a conference report?

Mr. HEFLIN. Certainly. How long does the Senator think it will take?

Mr. PENROSE. Not more than a few moments, I think.

Mr. HEFLIN. Very well; or if Senators on the other side desire to take a recess after the report is received, I can conclude in the morning.

Mr. PENROSE. I think we are working toward that end, if the Senator will permit me. I do not intend to push the report now. I simply want to have it before the body.

The VICE PRESIDENT. The report will be received.

Mr. PENROSE submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 8245) to reduce and equalize taxation, to amend and simplify the revenue act of 1918, and for other purposes, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 15, 41, 114, 132, 456, 622, and 703.

That the House recede from its disagreement to the amendments of the Senate numbered 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 16, 17, 18, 19, 23, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 65, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 116, 117, 118, 119, 120, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 151, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 189,

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Amendment numbered 20: That the House recede from its disagreement to the amendment of the Senate numbered 20, and agree to the same with an amendment as follows: In lieu of the matter proposed to be stricken out by said amendment insert the following:

"(c) Any distribution (whether in cash or other property) made by a corporation to its shareholders or members otherwise than out of (1) earnings or profits accumulated since February 28, 1913, or (2) earnings or profits accumulated or increase in value of property accrued prior to March 1, 1913, shall be applied against and reduce the basis provided in section 202 for the purpose of ascertaining the gain derived or the loss sustained from the sale or other disposition of the stock or shares by the distributee," and a period.

And the Senate agree to the same.

Amendment numbered 21: That the House recede from its disagreement to the amendment of the Senate numbered 21, and agree to the same with an amendment as follows: On page 6 of the Senate engrossed amendments, line 12, strike out "(c)" and insert "(d)"; and the Senate agree to the same.

Amendment numbered 22: That the House recede from its disagreement to the amendment of the Senate numbered 22, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by said amendment insert "(e)"; and on page 15 of the House bill, line 1, strike out "(d)" and insert "(e)"; and the Senate agree to the same.

Amendment numbered 24: That the House recede from its disagreement to the amendment of the Senate numbered 24, and agree to the same with an amendment as follows: On page 7 of the Senate engrossed amendments, line 2, strike out "(e)" and insert "(f)"; and the Senate agree to the same.

Amendment numbered 64: That the House recede from its disagreement to the amendment of the Senate numbered 64, and agree to the same with an amendment as follows: On page 11 of the Senate engrossed amendment, line 19, strike out "receiveds" and insert "received"; and the Senate agree to the same.

Amendment numbered 66: That the House recede from its disagreement to the amendment of the Senate numbered 66, and agree to the same with an amendment as follows: On page 12 of the Senate engrossed amendments, line 13, strike out "a" and insert "as"; and the Senate agree to the same.



Amendment numbered 115: That the House recede from its disagreement to the amendment of the Senate numbered 115, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by said amendment insert the following:

"(b) In the case of any taxpayer (other than a corporation) who for any taxable year derives a capital net gain, there shall (at the election of the taxpayer) be levied, collected, and paid, in lieu of the taxes imposed by sections 210 and 211 of this title, a tax determined as follows:

"A partial tax shall first be computed upon the basis of the ordinary net income at the rates and in the manner provided in sections 210 and 211, and the total tax shall be this amount plus 12½ per cent of the capital net gain; but if the taxpayer elects to be taxed under this section the total tax shall in no such case be less than 12½ per cent of the total net income. The total tax thus determined shall be computed, collected, and paid in the same manner, at the same time, and subject to the same provisions of law, including penalties, as other taxes under this title" and a period.

And the Senate agree to the same.

Amendment numbered 121: That the House recede from its disagreement to the amendment of the Senate numbered 121, and agree to the same with an amendment as follows: On page 18 of the Senate engrossed amendments, line 4, strike out "(a)"; and on page 18 of the Senate engrossed amendments strike out lines 12 to 17, both inclusive; and on page 23 of the House bill, line 7, after the word "them" and before the semicolon insert a period and the following: "In no case shall the reduction of the personal exemption from \$2,500 to \$2,000 operate to increase the tax, which would be payable if the exemption were \$2,500, by more than the amount of the net income in excess of \$5,000"; and the Senate agree to the same.

Amendment numbered 149: That the House recede from its disagreement to the amendment of the Senate numbered 149, and agree to the same with an amendment as follows: Restore the matter proposed to be stricken out by said amendment and on page 16 of the House bill, line 4, strike out the quotation marks; and the Senate agree to the same.

Amendment numbered 150: That the House recede from its disagreement to the amendment of the Senate numbered 150, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by said amendment insert the following: "(9)"; and the Senate agree to the same.

Amendment numbered 152: That the House recede from its disagreement to the amendment of the Senate numbered 152, and agree to the same with an amendment as follows: In lieu of the matter proposed to be stricken out by said amendment insert the following:

"(10) So much of the amount received by an individual after December 31, 1921, and before January 1, 1927, as dividends or interest from domestic building and loan associations, operated exclusively for the purpose of making loans to members, as does not exceed \$300" and a semicolon.

And the Senate agree to the same.

Amendment numbered 153: That the House recede from its disagreement to the amendment of the Senate numbered 153, and agree to the same with an amendment as follows: On page 32 of the Senate engrossed amendments, line 7, strike out "(9)" and insert "(11)"; and the Senate agree to the same.

Amendment numbered 154: That the House recede from its disagreement to the amendment of the Senate numbered 154, and agree to the same with an amendment as follows: On page 32 of the Senate engrossed amendments, line 11, strike out "(10)" and insert "(12)"; and the Senate agree to the same.

Amendment numbered 177: That the House recede from its disagreement to the amendment of the Senate numbered 177, and agree to the same with an amendment as follows: On page 35 of the Senate engrossed amendments, line 7, after "property," insert a comma and the following: "and the property so acquired is held by the taxpayer for any period after such sale or other disposition"; and the Senate agree to the same.

Amendment numbered 188: That the House recede from its disagreement to the amendment of the Senate numbered 188, and agree to the same with an amendment as follows: On page 36 of the Senate engrossed amendments, line 22, strike out "1918 or 1919" and insert "1918, 1919, 1920, or 1921"; and the Senate agree to the same.

Amendment numbered 278: That the House recede from its disagreement to the amendment of the Senate numbered 278, and agree to the same with an amendment as follows: On page 51 of the Senate engrossed amendments, lines 3 and 4, strike out "under Title II of the revenue act of 1918," and on page 51 of the Senate engrossed amendments, line 5, strike out "under such title"; and the Senate agree to the same.

Amendment numbered 354: That the House recede from its disagreement to the amendment of the Senate numbered 354, and agree to the same with an amendment as follows: On page 63 of the Senate engrossed amendments, before line 20, insert the following heading in small capitals: "Incorporation of individual or partnership business" and a period; and on page 63 of the Senate engrossed amendments, line 21, strike out "from" and insert "after"; and on page 64 of the Senate engrossed amendments, lines 14 and 15 and again in line 18, strike out "paragraph" and insert "section"; and the Senate agree to the same.

Amendment numbered 355: That the House recede from its disagreement to the amendment of the Senate numbered 355, and agree to the same with an amendment as follows: On page 65 of the Senate engrossed amendments, line 6, strike out "15" and insert "12½"; and the Senate agree to the same.

Amendment numbered 365: That the House recede from its disagreement to the amendment of the Senate numbered 365, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by said amendment insert the following:

"(5) Cemetery companies owned and operated exclusively for the benefit of their members or which are not operated for profit; and any corporation chartered solely for burial purposes as a cemetery corporation and not permitted by its charter to engage in any business not necessarily incident to that purpose, no part of the net earnings of which inures to the benefit of any private stockholder or individual" and a semicolon.

And the Senate agree to the same.

Amendment numbered 376: That the House recede from its disagreement to the amendment of the Senate numbered 376 and agree to the same with an amendment as follows: On page 69 of the Senate engrossed amendments, line 2, after "corporation" insert "or of a corporation entitled to the benefits of section 262"; and the Senate agree to the same.

Amendment numbered 401: That the House recede from its disagreement to the amendment of the Senate numbered 401, and agree to the same with an amendment as follows: On page 72 of the Senate engrossed amendments, line 11, after "property," insert "and the property so acquired is held by the taxpayer for any period after such sale or other disposition" and a comma; and the Senate agree to the same.

Amendment numbered 406: That the House recede from its disagreement to the amendment of the Senate numbered 406, and agree to the same with an amendment as follows: On page 74 of the Senate engrossed amendments, line 7, strike out "1918 or 1919" and insert "1918, 1919, 1920, or 1921"; and the Senate agree to the same.

Amendment numbered 422: That the House recede from its disagreement to the amendment of the Senate numbered 422, and agree to the same with an amendment as follows: On page 79 of the Senate engrossed amendments, line 10, after "\$2,000" insert a semicolon and the following: "but if the net income is more than \$25,000 the tax imposed by section 230 shall not exceed the tax which would be payable if the \$2,000 credit were allowed, plus the amount of the net income in excess of \$25,000"; and the Senate agree to the same.

Amendment numbered 423: That the House recede from its disagreement to the amendment of the Senate numbered 423, and agree to the same with an amendment as follows: On page 80 of the Senate engrossed amendments, line 17, strike out "15" and insert "12½"; and the Senate agree to the same.

Amendment numbered 440: That the House recede from its disagreement to the amendment of the Senate numbered 440, and agree to the same with an amendment as follows: On page 85 of the Senate engrossed amendments strike out lines 12 to 17, both inclusive, and insert the following:

"(c) There shall be included in the return or appended thereto a statement of such facts as will enable the commissioner to determine the portion of the earnings or profits of the corporation (including gains, profits, and income not taxed) accumulated during the taxable year for which the return is made, which have been distributed or ordered to be distributed, respectively, to its stockholders or members during such year" and a period.

And the Senate agree to the same.

Amendment numbered 445: That the House recede from its disagreement to the amendment of the Senate numbered 445, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by said amendment insert "computed as provided in subdivision (b) of section 236" and a period; and the Senate agree to the same.

Amendment numbered 489: That the House recede from its disagreement to the amendment of the Senate numbered 489, and agree to the same with an amendment as follows: On page

91 of the Senate engrossed amendments, line 8, after "\$2,000" insert a semicolon and the following: "but if the net income is more than \$25,000 the tax imposed by section 243 shall not exceed the tax which would be payable if the \$2,000 credit were allowed, plus the amount of the net income in excess of \$25,000"; and the Senate agree to the same.

Amendment numbered 495: That the House recede from its disagreement to the amendment of the Senate numbered 495, and agree to the same with an amendment as follows: On page 92 of the Senate engrossed amendments, line 22, after "the," insert "taxable"; and on page 92 of the Senate engrossed amendments, line 25, after "preceding," insert "taxable"; and on page 93 of the Senate engrossed amendments, line 22, strike out the period and insert a semicolon; and on page 95 of the Senate engrossed amendments, line 8, after "\$2,000," insert a semicolon and the following: "but if the net income is more than \$25,000 the tax imposed by section 246 shall not exceed the tax which would be payable if the \$2,000 credit were allowed, plus the amount of the net income in excess of \$25,000"; and the Senate agree to the same.

Amendment numbered 521: That the House recede from its disagreement to the amendment of the Senate numbered 521, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by said amendment insert the following: "made under the revenue act of 1916, the revenue act of 1917, the revenue act of 1918, or this act"; and the Senate agree to the same.

Amendment numbered 523: That the House recede from its disagreement to the amendment of the Senate numbered 523, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by said amendment insert the following: "after such notice is sent by registered mail"; and the Senate agree to the same.

Amendment numbered 556: That the House recede from its disagreement to the amendment of the Senate numbered 556, and agree to the same with an amendment as follows: On page 110 of the Senate engrossed amendments strike out all after "President" in line 11, down to and including "Congress" in line 12; and the Senate agree to the same.

Amendment numbered 557: That the House recede from its disagreement to the amendment of the Senate numbered 557, and agree to the same with an amendment as follows: On page 111 of the Senate engrossed amendments, line 14, strike out "(a)"; and on page 111 of the Senate engrossed amendments strike out lines 21 to 25, both inclusive, and lines 1 to 17, both inclusive, on page 112; and the Senate agree to the same.

Amendment numbered 559: That the House recede from its disagreement to the amendment of the Senate numbered 559, and agree to the same with an amendment as follows: On page 113 of the Senate engrossed amendments, line 24, strike out all after "States" down to and including line 3 on page 114 and insert in lieu thereof a period; and the Senate agree to the same.

Amendment numbered 561: That the House recede from its disagreement to the amendment of the Senate numbered 561, and agree to the same with an amendment as follows: On page 115 of the Senate engrossed amendments, line 6, before "business" insert "trade or"; and on page 115 of the Senate engrossed amendments strike out all after "income" in line 15 down to and including "1918," in line 16; and on page 115 of the Senate engrossed amendments, after line 18, insert the following new subdivision:

"(c) As used in this section the term 'possession of the United States' does not include the Virgin Islands of the United States" and a period.

And the Senate agree to the same.

Amendment numbered 566: That the House recede from its disagreement to the amendment of the Senate numbered 566, and agree to the same with an amendment as follows: On page 117 of the Senate engrossed amendments, line 3, after "such," strike out "a"; and on page 119 of the Senate engrossed amendments strike out all after "1917" in line 25 down to and including "unpaid" in line 1 on page 120; and on page 126 of the Senate engrossed amendments, line 13, strike out "war-profits or excess-profits" and insert "war profits or excess profits"; and the Senate agree to the same.

Amendment numbered 582: That the House recede from its disagreement to the amendment of the Senate numbered 582, and agree to the same with an amendment as follows: On page 132 of the Senate engrossed amendments, line 2, after the semicolon, insert "and"; and on page 132 of the Senate engrossed amendments, line 4, strike out all after "\$10,000,000" down to and including "\$100,000,000" in line 12; and the Senate agree to the same.

Amendment numbered 614: That the House recede from its disagreement to the amendment of the Senate numbered 614, and agree to the same with an amendment as follows: On page 141 of the Senate engrossed amendments, line 5, after "after" insert "the"; and the Senate agree to the same.

Amendment numbered 625: That the House recede from its disagreement to the amendment of the Senate numbered 625, and agree to the same with an amendment as follows: On page 150 of the Senate engrossed amendments, line 24, strike out "the passage of this act" and insert "January 1, 1922"; and the Senate agree to the same.

Amendment numbered 627: That the House recede from its disagreement to the amendment of the Senate numbered 627, and agree to the same with an amendment as follows: Omit the matter proposed to be inserted by said amendment and restore the matter proposed to be stricken out by said amendment except lines 18 and 19 on page 66 of the House bill; and on page 65 of the House bill, line 23, strike out "601. Subdivision" and insert "600. That subdivision"; and on page 66 of the House bill, line 9, strike out "602. Section" and insert "601. That section"; and the Senate agree to the same.

Amendment numbered 628: That the House recede from its disagreement to the amendment of the Senate numbered 628, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by said amendment insert "Sec. 602" and a period; and the Senate agree to the same.

Amendment numbered 637: That the House recede from its disagreement to the amendment of the Senate numbered 637, and agree to the same with an amendment as follows: On page 158 of the Senate engrossed amendments, line 19, strike out "10" and insert "12 1/2"; and the Senate agree to the same.

Amendment numbered 639: That the House recede from its disagreement to the amendment of the Senate numbered 639, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by said amendment insert "of 9"; and the Senate agree to the same.

Amendment numbered 640: That the House recede from its disagreement to the amendment of the Senate numbered 640, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by said amendment insert "of 9"; and the Senate agree to the same.

Amendment numbered 641: That the House recede from its disagreement to the amendment of the Senate numbered 641, and agree to the same with an amendment as follows: Omit the matter proposed to be inserted by said amendment and strike out on page 67 of the House bill, line 22, "where" and insert "in the case of any such sirups intended to be used in the manufacture of carbonated beverages sold in bottles or other closed containers the rate shall be 5 cents per gallon," and a period; and on page 67 of the House bill, line 22, before the word "any" insert "Where"; and on page 67 of the House bill, line 22, strike out "manufacturing carbonated beverages or"; and on page 68 of the House bill, line 2, strike out "and except that the" and insert "and where any person manufacturing carbonated beverages manufactures and uses any such sirups in the manufacture of carbonated beverages sold in bottles or other closed containers there shall be levied, assessed, collected, and paid on each gallon of such sirups a tax of 5 cents per gallon. The"; and the Senate agree to the same.

Amendment numbered 643: That the House recede from its disagreement to the amendment of the Senate numbered 643, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by said amendment insert "4"; and the Senate agree to the same.

Amendment numbered 644: That the House recede from its disagreement to the amendment of the Senate numbered 644, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by said amendment insert "Sec. 603" and a period; and the Senate agree to the same.

Amendment numbered 645: That the House recede from its disagreement to the amendment of the Senate numbered 645, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by said amendment insert "602"; and the Senate agree to the same.

Amendment numbered 646: That the House recede from its disagreement to the amendment of the Senate numbered 646, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by said amendment insert "602"; and the Senate agree to the same.

Amendment numbered 648: That the House recede from its disagreement to the amendment of the Senate numbered 648, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by said amendment insert "602"; and the Senate agree to the same.



Amendment numbered 651: That the House recede from its disagreement to the amendment of the Senate numbered 651, and agree to the same with an amendment as follows: On page 164 of the Senate engrossed amendments, line 10, strike out "702" and insert "703," and on page 165 of the Senate engrossed amendments, line 8, strike out "703" and insert "704"; and the Senate agree to the same.

Amendment numbered 662: That the House recede from its disagreement to the amendment of the Senate numbered 662, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by said amendment insert the following: "any post of the American Legion or the women's auxiliary units thereof" and a comma; and the Senate agree to the same.

Amendment numbered 701: That the House recede from its disagreement to the amendment of the Senate numbered 701, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by said amendment insert "10 per centum" and a period; and the Senate agree to the same.

Amendment numbered 745: That the House recede from its disagreement to the amendment of the Senate numbered 745, and agree to the same with an amendment as follows: On page 183 of the Senate engrossed amendments, after line 9, insert the following heading in small capitals: "Capital stock tax" and a period; and the Senate agree to the same.

Amendment numbered 746: That the House recede from its disagreement to the amendment of the Senate numbered 746, and agree to the same with an amendment as follows: On page 184 of the Senate engrossed amendments, before line 13, insert the following heading in small capitals: "Miscellaneous occupational taxes" and a period; and the Senate agree to the same.

Amendment numbered 747: That the House recede from its disagreement to the amendment of the Senate numbered 747, and agree to the same with an amendment as follows: On page 189 of the Senate engrossed amendments, before line 15, insert the following heading in small capitals: "Special tobacco manufacturers' tax" and a period; and the Senate agree to the same.

Amendment numbered 748: That the House recede from its disagreement to the amendment of the Senate numbered 748, and agree to the same with an amendment as follows: On page 191 of the Senate engrossed amendments, before line 12, insert the following heading in small capitals: "Special tax on use of boats" and a period; and on page 192 of the Senate engrossed amendments, line 13, strike out "The taxes herein imposed" and insert "This section"; and the Senate agree to the same.

Amendment numbered 749: That the House recede from its disagreement to the amendment of the Senate numbered 749, and agree to the same with an amendment as follows: On page 192 of the Senate engrossed amendments, before line 18, insert the following heading in small capitals: "Penalty for nonpayment of special taxes" and a period; and the Senate agree to the same.

Amendment numbered 750: That the House recede from its disagreement to the amendment of the Senate numbered 750, and agree to the same with an amendment as follows: On page 193 of the Senate engrossed amendments, before line 2, insert the following heading in small capitals: "Tax on narcotics" and a period; and the Senate agree to the same.

Amendment numbered 765: That the House recede from its disagreement to the amendment of the Senate numbered 765, and agree to the same with an amendment as follows: On page 208 of the Senate engrossed amendments, line 10, after "share" insert a comma; and the Senate agree to the same.

Amendment numbered 783: That the House recede from its disagreement to the amendment of the Senate numbered 783, and agree to the same with an amendment as follows: On page 224 of the Senate engrossed amendments, line 24, strike out "603" and insert "602"; and the Senate agree to the same.

Amendment numbered 789: That the House recede from its disagreement to the amendment of the Senate numbered 789, and agree to the same with an amendment as follows: On page 228 of the Senate engrossed amendments, line 4, strike out "20" and insert "Twentieth"; and the Senate agree to the same.

Amendment numbered 793: That the House recede from its disagreement to the amendment of the Senate numbered 793, and agree to the same with an amendment as follows: On page 235 of the Senate engrossed amendments, line 10, after "any" insert "other"; and the Senate agree to the same.

Amendment numbered 799: That the House recede from its disagreement to the amendment of the Senate numbered 799, and agree to the same with an amendment as follows: On page 237 of the Senate engrossed amendments, line 5, strike out "1917" and insert "1916, the revenue act of 1917" and a comma; and the Senate agree to the same.

Amendment numbered 807: That the House recede from its disagreement to the amendment of the Senate numbered 807, and agree to the same with an amendment as follows: On page 242 of the Senate engrossed amendments, line 5, before "No" insert "Sec. 177" and a period; and on page 242 of the Senate engrossed amendments, line 14, at the end of the line insert quotation marks; and the Senate agree to the same.

Amendment numbered 825: That the House recede from its disagreement to the amendment of the Senate numbered 825, and agree to the same with an amendment as follows: On page 248 of the Senate engrossed amendments, line 17, strike out all after "capital," down to and including "1917," in line 20, and insert the following: "For the purposes of this section, public service corporations which (1) were operated independently, (2) were not physically connected or merged, and (3) did not receive special permission to make a consolidated return, shall not be construed to have been affiliated; but a railroad or other public utility which was owned by an industrial corporation and was operated as a plant facility or as an integral part of a group organization of affiliated corporations which were required to file a consolidated return, shall be construed to have been affiliated"; and the Senate agree to the same.

Amendment numbered 826: That the House recede from its disagreement to the amendment of the Senate numbered 826, and agree to the same with an amendment as follows: On page 250 of the Senate engrossed amendments, line 23, strike out "herein" and insert "by this section"; and on page 251 of the Senate engrossed amendments, lines 15 and 16, strike out "the period herein limited" and insert "such period of six months"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate to the title of the bill and agree to the same.

BOIES PENROSE,  
P. J. McCUMBER,  
REED SMOOT,

*Managers on the part of the Senate.*

J. W. FORDNEY,  
W. R. GREEN,  
NICHOLAS LONGWORTH,

*Managers on the part of the House.*

Mr. PENROSE. Now, I understand, the report is before the Senate, and the unfinished business is temporarily laid aside. Is that the status of the matter?

Mr. SPENCER. I ask that the pending unfinished business be temporarily laid aside in order to make way for the conference report.

Mr. HEFLIN. Mr. President, I can go on in the morning and finish then?

Mr. SPENCER. Surely.

The VICE PRESIDENT. Without objection, the unfinished business will be temporarily laid aside.

Mr. PENROSE. Mr. President, I should like to make a brief statement.

I desire to inform the Senate that I shall call up the conference report the first thing in the morning. I will not ask to have the report read now, but it will appear in the RECORD and it can be read, if necessary. I desire further to inform the Senate that I shall hope to have the report adopted by this body to-morrow; and, if the Senator from Alabama does not object, I shall move that the Senate take a recess until 11 o'clock to-morrow morning; but, in the meanwhile, that the Senate shall proceed to the consideration of executive business.

The VICE PRESIDENT. The Senator from Pennsylvania moves that after the consideration of executive business the Senate will take a recess until 11 o'clock to-morrow morning. The question is on the motion of the Senator from Pennsylvania. The motion was agreed to.

#### EXECUTIVE SESSION.

Mr. CURTIS. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to, and the Senate proceeded to the consideration of executive business. After 20 minutes spent in executive session the doors were reopened.

#### GRAND CALUMET RIVER BRIDGE, INDIANA.

Mr. SHEPPARD. I report back favorably, without amendment, from the Committee on Commerce the bill (H. R. 8347) to authorize the New York Central Railroad Co. to construct a bridge across the Grand Calumet River within the corporate limits of the town of Gary, Ind., and I submit a report (No. 321) thereon. I ask for the immediate consideration of the bill. There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill, and it was read, as follows:

*Be it enacted, etc.,* That the New York Central Railroad Co., a consolidated corporation of the States of Ohio, Indiana, Illinois, Pennsylvania, New York, and Michigan, is hereby authorized to construct, maintain, and operate a bridge across the Grand Calumet River within the corporate limits of the town of Gary, Lake County, Ind., in accordance with the provisions of an act entitled "An act to regulate the construction of bridges over navigable waters," approved March 22, 1906.

Sec. 2. That the right to alter, amend, or repeal this act is hereby expressly reserved.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

#### EXTENSION OF JURISDICTION OF COURTS.

Mr. CUMMINS. I report back favorably, from the Committee on the Judiciary, with amendments, the bill (H. R. 6053) to amend section 955 of the Revised Statutes by extending the jurisdiction of courts in cases of revivor. I ask that the bill be put on its passage.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill.

The amendments were, on page 2, line 12, after the word "extend," at the end of line 11, to strike out "over foreign executors and administrators of any party who dies before final judgment or decree equally with their jurisdiction over executors and administrators appointed under the laws of a State within the judicial district of the court in which the action is pending," and to insert "to and over executors and administrators of any party, who dies before final judgment or decree, appointed under the laws of any State or Territory of the United States," and on the same page, in line 24, after the words "suit," to strike out "And for such purposes the territorial limits of the court in which the suit may be pending at the time of the death of a party are hereby expressly extended so as to include the State or Territory in which an executor or administrator of the deceased party may be appointed," so as to make the bill read:

*Be it enacted, etc.,* That section 955 of the Revised Statutes of the United States is hereby amended to read as follows:

"Sec. 955. When either of the parties, whether plaintiff or petitioner or defendant, in any suit in any court of the United States, dies before final judgment, the executor or administrator of such deceased party may, in case the cause of action survives by law, prosecute or defend any such suit to final judgment. The defendant shall answer accordingly, and the court shall hear and determine the cause and render judgment for or against the executor or administrator, as the case may require. And if such executor or administrator, having been duly served with a scire facias from the office of the clerk of the court where the suit is depending 20 days beforehand, neglects or refuses to become party to the suit, the court may render judgment against the estate of the deceased party in the same manner as if the executor or administrator had voluntarily made himself a party. The executor or administrator who becomes a party as aforesaid shall, upon motion to the court, be entitled to a continuance of the suit until the next term of said court.

"The provisions of this section shall apply to suits in equity and in admiralty as well as to suits at law, and the jurisdiction of all courts of the United States shall extend to and over executors and administrators of any party who dies before final judgment or decree appointed under the laws of any State or Territory of the United States, and such court shall have jurisdiction within two years from the date of the death of the party to the suit to issue its scire facias to executors and administrators appointed in any State or Territory of the United States which may be served in any judicial district by the marshal thereof: *Provided, however,* That no executor or administrator shall be made a party unless such service is made before final settlement and distribution of the estate of said deceased party to the suit."

Sec. 2. That the provisions of section 955 of the Revised Statutes of the United States as amended by this act shall apply to suits in which any party has deceased prior to the passage of this amendatory act as well as to suits in which any party may die hereafter.

The amendments were agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time and passed.

#### RECESS.

Mr. CURTIS. I move that the Senate take a recess until tomorrow morning at 11 o'clock.

The motion was agreed to, and (at 5 o'clock and 55 minutes p. m.) the Senate took a recess until to-morrow, Tuesday, November 22, 1921, at 11 o'clock a. m.

#### CONFIRMATIONS.

*Executive nominations confirmed by the Senate November 21 (legislative day of November 16), 1921.*

#### PROMOTIONS IN THE CONSULAR SERVICE.

##### CONSUL OF CLASS 4.

Henry P. Starrett.

##### CONSUL OF CLASS 5.

Samuel W. Honaker.

##### CONSULS OF CLASS 6.

William P. Blocker.

Homar Brett.

#### UNITED STATES MARSHAL.

Walter Akerman to be United States marshal for the northern district of Georgia.

#### PROMOTIONS IN THE ARMY.

##### To be brigadier generals.

Richard Coulter.	Karl Daenzer Klemm.
William Church Davis.	Leroy Vernon Patch.
Charles I. De Bevoise.	Milton Atchison Reckord.
Leigh Robinson Gignilliat.	Sanford Bailey Stanbery.
Edgar Stilson Jennings.	

##### To be captain, with rank of lieutenant colonel.

Samuel James Smith.

#### MEDICAL CORPS.

##### To be brigadier generals.

Lewis Atterbury Conner.	Fred Towsley Murphy.
George Washington Crile.	Frederick Fuller Russell.
Joel Ernest Goldthwait.	Thomas William Salmon.
Charles Horace Mayo.	William Holland Wilmer.

#### FINANCE.

Samuel Herbert Wolfe to be a brigadier general.

#### CAVALRY.

Stuart Heintzelman to be colonel.

#### CHEMICAL WARFARE SERVICE.

James Wilson Rice to be captain.

#### FIELD ARTILLERY.

Parker Gillespie Tenney to be captain.

#### MEDICAL CORPS.

Lester Eastwood Beringer to be captain.

William Harvey Merriam to be captain.

#### PROMOTIONS IN THE NAVY.

##### TO BE REAR ADMIRALS.

Sumner E. W. Kittelle.

William V. Pratt.

Louis M. Nulton.

##### TO BE CAPTAINS.

William D. Leahy.	Adolphus E. Watson.
William T. Tarrant.	Harry L. Brinser.
Thomas L. Johnson.	James H. Tomb.
Yancey S. Williams.	Edgar B. Larimer.
George T. Pettengill.	Willis McDowell.
David C. Hanrahan.	Edward C. Kalbfus.
Charles P. Nelson.	Joseph K. Taussig.
Edward B. Fenner.	John W. Greenslade.
Victor A. Kimberly.	Charles E. Courtney.
Henry E. Laekey.	

##### TO BE COMMANDERS.

Arthur H. Rice.	Isaac C. Johnson, jr.
Roscoe C. MacFall.	Richard P. McCullough.
Stanford C. Hooper.	George V. Stewart.
Walter H. Lassing.	Nelson H. Goss.
John J. London.	Burton H. Green.
Laurance N. McNair.	Isaac F. Dortch.
Vaughn K. Coman.	Gordon W. Haines.
Reed M. Fawell.	William Baggaley.
Chester W. Nimitz.	Halford R. Greenlee.
Joseph V. Ogan.	Conant Taylor.
William R. Furlong.	

##### TO BE LIEUTENANT COMMANDERS.

William C. Barker, jr.	Franklin S. Steinwachs.
Penn L. Carroll.	Earle C. Metz.
Frank D. Manock.	Wadleigh Capehart.
Stuart S. Brown.	Lyal A. Davidson.
Chauncey A. Lucas.	Donald B. Beary.
Howard H. J. Benson.	Charles J. Moore.
James B. Glennon.	William A. Richardson.
Vance D. Chapline.	Lawrence F. Reifsnider.
Frank A. Braisted.	Earl A. McIntyre.
Raleigh C. Williams.	Willis A. Lee, jr.
Henry G. Cooper, jr.	Joel W. Bunkley.
Edgar A. Logan.	Charles C. Davis.
Percy T. Wright.	Thomas E. Van Metre.
Harold A. Waddington.	Richard W. Wuest.
Zachary Lansdowne.	Frank E. Johnson.
Alger H. Dresel.	James R. Barry.
Archibald McGlasson.	Alfred T. Clay.
Robert P. Guiler, jr.	Percy K. Robottom.
Rush S. Fay.	Joseph P. Norfleet.
Howard K. Lewis.	Francis P. Traynor.
Walter D. Seed, jr.	



## TO BE LIEUTENANTS.

Joseph H. Hoffman.  
Walter M. A. Wynne.  
Robert M. Farrar.  
John M. Field, jr.  
Maxwell Cole.  
Lowell Cooper.  
Haiden T. Dickinson.

Gerard H. Wood.  
Edward P. Sauer.  
Seldon L. Almon.  
Einar R. Johnson.  
Edmund D. Duckett.  
George R. Henderson.  
Cyril T. Simard.

## TO BE LIEUTENANTS (JUNIOR GRADE).

Walter M. A. Wynne.  
Albert P. Burleigh.  
Ten Eyck De Witt Veeder.  
Edward P. Sauer.  
Seldon L. Almon.  
Einar R. Johnson.

Adolph O. Gieselmann.  
John J. Patterson, 3d.  
Frank A. Saunders.  
Guy McLaughlin.  
Harvey R. Bowes.

## TO BE SURGEONS.

James G. Omelvena.  
Jasper V. Howard.  
Joseph J. O'Malley.  
Clarence C. Kress.  
Robert F. Sheehan.  
Chester McI. George.  
Luther Sheldon, jr.  
Edward E. Woodland.  
John C. Parham.  
Robert F. Jones.  
John T. Borden.  
Jesse B. Helm.  
Charles L. Beeching.

William E. Findeisen.  
Carroll R. Baker.  
Howard Priest.  
Ovid C. Foote.  
Arthur E. Younie.  
Louis H. Roddis.  
Frank H. Haigler.  
James D. Bobbitt.  
William H. Massey.  
Harvey R. McAllister.  
William E. Eaton.  
Lester L. Pratt.  
Richard H. Laning.

## TO BE PASSED ASSISTANT SURGEONS.

John R. White.  
Philip S. Sullivan.  
John E. Porter.  
William D. Small.  
William J. C. Agnew.  
Frank L. Kelly.  
Louis E. Mueller.

Herbert L. Shinn.  
Edgar F. McCall.  
Albert H. Faber, jr.  
Roy J. Leutscher.  
Isaac B. Polak.  
Ray E. A. Pomeroy.

## TO BE PAY DIRECTORS.

Robert H. Orr.  
George C. Schafer.  
Trevor W. Leutze.

## TO BE PAY INSPECTORS.

Henry deF. Mel.  
Neal B. Farwell.

## TO BE PASSED ASSISTANT PAYMASTERS.

Charles E. Swithenbank.  
Leland S. Steeves.  
George M. Snead.

Harry M. Mason.  
Daniel M. Miller.

## TO BE ASSISTANT PAYMASTERS.

William M. Christie.  
Alexander Riffin.

## TO BE PASSED ASSISTANT DENTAL SURGEONS.

De Witt C. Emerson.  
William F. Hawthorn.

Frederick W. Mitchell.  
Charles L. Tompkins.

## TO BE ASSISTANT NAVAL CONSTRUCTOR.

Edward W. Rounds.

## TO BE ENSIGNS.

Jens Nelson.  
George Schneider.  
Howard E. West.

Alexis O. Kustel.  
Fred J. Barden.

## TO BE CHIEF PHARMACISTS.

Charles Schaffer.  
Thomas A. Stareck.  
Paul V. Tuttle.  
Carl A. Setterstrom.  
James Holden.  
Fred A. Payne.  
Henry L. Gall.  
Allen F. Bigelow.  
Albert H. Benhard.  
Charles F. Wood.  
Roy Aikman.  
Jason H. Barton.  
Edwin G. Swann.  
William T. Gildberg.  
Thomas J. Murphy.  
John H. Schreiter.  
Lawrence Zembsch.  
Joseph A. Ortolan.  
Abraham T. Schwartz.  
Joseph C. Gill.  
Samuel J. Seckelman.

William M. Benton.  
Henry B. Schreurs.  
Loring Nottingham.  
Harold B. Sanford.  
Corliss P. Dean.  
Nord F. Smith.  
Clyde E. Snider.  
Glen D. Sipe.  
Benjamin W. Claggett.  
Edgar L. Sleeth.  
Jeremiah Harris.  
Rodney J. Youngkin.  
Walter H. MacWilliams.  
Roscoe C. Rowe.  
Willie R. Joiner.  
George L. Crain.  
Paul Hapke.  
Leon H. French.  
Lloyd C. Sims.  
Newton W. Parke.  
Harry G. Danilson.

Fred H. Stewart.  
Ervin C. Eastman.  
Walter W. Wade.

Robin R. Hinnent.  
Charles Peek.  
Boyce L. Brannon.

## PROMOTIONS IN THE MARINE CORPS.

## TO BE LIEUTENANT COLONEL.

Thomas C. Turner.

## TO BE MAJORS.

Edward M. Reno.  
Alexander A. Vandegrift.  
Fred S. N. Erskine.

Roy S. Gelger.  
Richard H. Tebbs, jr.

## POSTMASTERS.

## CALIFORNIA.

Earl Van Gordon, Cambria.  
George C. Gianola, Pescadero.  
James F. Wheat, Redlands.  
James N. Long, Richmond.

## CONNECTICUT.

Alfred W. Jeynes, Ansonia.  
Robert Whittaker, Stamford.

## GEORGIA.

Acquilla M. Warnock, Brooklet.  
John P. Herring, Chlmax.  
Lelia W. Maxwell, Danville.  
Dollie Allen, Ellaville.  
Mary D. Shearouse, Guyton.  
Henry J. Claxton, Kite.  
John S. Brown, Locust Grove.  
Benjamin N. Walters, Martin.  
Elisha A. Meeks, Nicholls.  
Elios L. Moore, Willacoochee.

## ILLINOIS.

John P. Kopp, Baldwin.  
Philip W. Maxeiner, jr., Dorchester.  
Fred Schroeder, Matherville.  
John E. Miller, Tamms.  
Olin L. Browder, Urbana.

## KANSAS.

Josie Curtis, Englewood.

## MICHIGAN.

Fred R. Allen, Leslie.  
William M. Snell, Sault Ste. Marie.

## NEBRASKA.

George C. Dearing, Brule.  
Leslie J. Hummel, Burwell.  
Esther Schwerdtfeger, Cambridge.  
Peter S. Petersen, Dannebrog.  
John F. Brittain, Elsie.  
Garry Benson, Ewing.  
Grace H. Schmidt, Glenvil.  
Loren W. Enyeart, Hayes Center.  
Francis W. Purdy, Hildreth.  
Mary J. Flynn, Jackson.  
Charles M. Houston, Miller.  
Peter H. Andersen, Naper.  
Amos W. Shafer, Polk.  
Calvin E. Lewis, Stamford.  
William A. Pearson, Stella.  
Frank A. Millhouse, Sumner.  
Harry P. Cato, Valley.  
Elroy A. Broughton, Venango.  
Albertus N. Dodson, Wilber.  
Edgar A. Wight, jr., Wolbach.

## NEW JERSEY.

George C. Kessler, Millburn.

## NEW MEXICO.

Ira Allmon, Estancia.  
Joseph H. Gentry, Fort Stanton.  
Florence S. Shafer, Mills.

## OHIO.

John M. Poplin, Bergholz.  
John E. Scamahorn, Brilliant.  
Robert S. Nichols, Jackson Center.  
Lida R. Williamson, Seaman.  
Hugh C. Bell, Utica.

## OREGON.

Victor B. Greenslade, Huntington.

## PENNSYLVANIA.

Harry W. Thatcher, Bethlehem.  
James H. Barnett, Jenners.  
Johanna Priester, Wheatland.

## WYOMING.

Albert J. Schils, Cokeville.

## HOUSE OF REPRESENTATIVES.

MONDAY, November 21, 1921.

The House met at 11 o'clock a. m.

The Chaplain, Rev. James Shera Montgomery, D. D., offered the following prayer:

Dear Lord, with the birth of the morning Thou art with us, and when the stars die out Thou art still at our sides. With tender heart and quickened sense may we live this day. If chastened with deep sorrow move toward us with generous pity. In earthly work and in earthly ill take our hand, and at evening time give us sweet peace, and thus shall the distance be shortened between earth and heaven. Through Jesus Christ, our Lord. Amen.

The Journal of the proceedings of Saturday, November 19, 1921, was read and approved.

## SWEARING IN OF A MEMBER.

Mr. WOODS of Virginia. Mr. Speaker, Mr. J. M. HOOKER, Representative elect from the fifth congressional district of Virginia, is present, and I ask that the oath of office be administered to him.

Mr. HOOKER appeared at the bar of the House and took the oath of office.

## EXTENSION OF REMARKS.

Mr. LONGWORTH. Mr. Speaker, I ask unanimous consent that the gentleman from New Jersey [Mr. BACHARACH], who is unavoidably detained by illness at his home, be granted unanimous consent to extend his remarks in the RECORD upon the subject of the conference report upon the tax bill. I would also say that if he were present he would vote for the conference report.

The SPEAKER pro tempore (Mr. WALSH). The gentleman from Ohio asks unanimous consent that the gentleman from New Jersey [Mr. BACHARACH] be granted leave to extend his remarks in the RECORD upon the subject of the conference report upon the tax bill. Is there objection?

There was no objection.

## UNANIMOUS-CONSENT CALENDAR.

The SPEAKER pro tempore. To-day business is in order on the Unanimous Consent Calendar. The Clerk will call the first bill.

## RECLAMATION LAW.

The first business on the Calendar for Unanimous Consent was the bill H. R. 4382, to provide for the application of the reclamation law to irrigation districts.

The SPEAKER pro tempore. Is there objection?

Mr. STAFFORD. Mr. Speaker, this bill is altogether too important to be considered at any time upon the Calendar for Unanimous Consent. Therefore I object.

The SPEAKER pro tempore. The gentleman from Wisconsin objects, and the bill is stricken from the calendar.

## BRIDGE ACROSS GRAND CALUMET RIVER, IND.

The next business on the Calendar for Unanimous Consent was the bill (H. R. 8347) to authorize the New York Central Railroad Co. to construct a bridge across the Grand Calumet River within the corporate limits of the town of Gary, Ind.

The SPEAKER pro tempore. Is there objection to the present consideration of the bill?

Mr. STAFFORD. Mr. Speaker, I ask that the bill be reported.

The SPEAKER pro tempore. The Clerk will report the bill.

The Clerk read the bill, as follows:

*Be it enacted, etc.,* That the New York Central Railroad Co., a consolidated corporation of the States of Ohio, Indiana, Illinois, Pennsylvania, New York, and Michigan, is hereby authorized to construct, maintain, and operate a bridge across the Grand Calumet River within the corporate limits of the town of Gary, Lake County, Ind., in accordance with the provisions of an act entitled "An act to regulate the construction of bridges over navigable waters," approved March 22, 1906.

SEC. 2. That the right to alter, amend, or repeal this act is hereby expressly reserved.

With the following committee amendments:

Page 1, line 7, after the word "river," insert the words "at a point suitable to the interests of navigation."

Page 2, line 2, after the word "March," strike out the figures "22" and insert in lieu thereof the figures "23."

The SPEAKER pro tempore. Is there objection to the present consideration of the bill?

There was no objection.

The SPEAKER pro tempore. The bill having been reported, the question is on agreeing to the committee amendments.

The amendments were agreed to.

The SPEAKER pro tempore. The question now is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, was read a third time, and passed.

On motion of Mr. SANDERS of Indiana, a motion to reconsider the vote by which the bill was passed was laid on the table.

## BRIDGE ACROSS WHITE RIVER, PRAIRIE COUNTY, ARK.

The next business on the Calendar for Unanimous Consent was the bill (H. R. 8476) to authorize the construction of a bridge across the White River, in Prairie County, Ark.

The SPEAKER pro tempore. Is there objection to the present consideration of the bill?

There was no objection.

Mr. OLDFIELD. Mr. Speaker, I ask unanimous consent to substitute for this bill an identical Senate bill, S. 2724, which passed the Senate on Saturday night.

The SPEAKER pro tempore. The gentleman from Arkansas asks unanimous consent to take from the Speaker's table an identical Senate bill, which has been messaged to the House, and substitute it for the House bill. Is there objection?

There was no objection.

The SPEAKER pro tempore. The Clerk will report the Senate bill.

The Clerk read as follows:

*Be it enacted, etc.,* That the consent of Congress is hereby granted to Harry E. Bovay, his successors and assigns, to construct, maintain, and operate a bridge and approaches thereto across the White River, at a point where the Bankhead Highway now crosses the said river, said point being now designated as just south of the Chicago, Rock Island & Pacific Railroad Co.'s bridge, near the city of De Valls Bluff, county of Prairie, and State of Arkansas. Said bridge shall be constructed at or near such point as is most suitable to the interests of navigation and in accordance with the provisions of the act of Congress approved March 23, 1906, entitled "An act to regulate the construction of bridges over navigable waters."

SEC. 2. That the right to alter, amend, or repeal this act is hereby expressly reserved.

The SPEAKER pro tempore. The question is on the third reading of the Senate bill.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

On motion of Mr. OLDFIELD, a motion to reconsider the vote by which the bill was passed was laid on the table.

The SPEAKER pro tempore. Without objection the House bill, H. R. 8476, of similar title, will lie on the table.

There was no objection.

## BRIDGE ACROSS WHITE RIVER AT DES ARC, ARK.

Mr. OLDFIELD. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (S. 2722) to extend the time for constructing a bridge across the White River at or near the town of Des Arc, Ark., which I send to the desk and ask to have read.

The Clerk read as follows:

*Be it enacted, etc.,* That the times for commencing and completing the bridge authorized by the act of Congress approved February 19, 1920, to be built across the White River at or near the town of Des Arc, Ark., by Gordon N. Peay, Jr., his heirs and assigns, are hereby extended three years and six years, respectively, from the date of approval hereof.

SEC. 2. That the right to alter, amend, or repeal this act is hereby expressly reserved.

The SPEAKER pro tempore. Is there objection to the present consideration of the Senate bill?

Mr. SANDERS of Indiana. Mr. Speaker, reserving the right to object, has an identical House bill been reported by the House committee?

Mr. OLDFIELD. No; the committee has not had time to report it out. Only two or three days ago I learned that they had not begun the construction of this bridge across the White River at Des Arc, Ark. I then introduced a bill, but the committee has not had time to report it out. I took the matter up with Senators CARAWAY and ROBINSON, of Arkansas, and they interested themselves and had the Senate bill passed, which I now ask to have considered at this time. Congress is about to adjourn, and it is important that the time for the construction of this bridge be extended, so that they can get to work upon the bridge before the bad season starts in, if it be possible.

Mr. SANDERS of Indiana. Mr. Speaker, further reserving the right to object, I regret very much to object to a bill that seems to be as important as the gentleman says this is, but it is a rather unusual thing to call up a Senate bill when there has not been a similar bill reported from the House committee.

Mr. OLDFIELD. As I stated a moment ago, the committee has not had time to consider the bill. This bill, of course, formerly passed both the House and the Senate in February, 1920, but during the depression it was impossible to get the money to go on with the construction of the bridge.

Mr. MONDELL. Mr. Speaker, will the gentleman yield?

Mr. OLDFIELD. Yes.



Mr. MONDELL. This is a bill to extend for one year the time for the completion of this bridge that has been already authorized?

Mr. OLDFIELD. Yes.

Mr. MONDELL. When did the gentleman from Arkansas introduce his bill?

Mr. OLDFIELD. Not more than a week ago.

Mr. MONDELL. What are the facts in respect to the matter?

Mr. OLDFIELD. In February, 1920, the Congress passed a bill permitting certain people to construct a bridge across the White River at Des Arc, Ark. At that time, as we all know, the depression started in this country, and got worse and worse, until they let the year lapse in which they could start this bridge building under the law. Now, they say they have their finances arranged so that they can begin immediately the construction of this bridge if they can get the time extended. And it has been impossible for them to do it before now. They want to get started as soon as possible, because, as I say, they have arranged for their finances.

Mr. SANDERS of Indiana. Mr. Speaker, further reserving the right to object, I would like to state that I do not intend to object to this particular bill, because it seems clear our committee would report it favorably, but I want it understood that Senate bridge bills should not be brought over here and passed without the consideration of the Committee on Interstate and Foreign Commerce.

The SPEAKER pro tempore. Is there objection? [After a pause.] The Chair hears none. The question is on the third reading of the Senate bill.

The bill was ordered to be read a third time, was read the third time, and passed.

On motion of Mr. OLDFIELD, a motion to reconsider the vote by which the bill was passed was laid on the table.

#### LEASE OF UNALLOTTED LANDS—FORT PECK RESERVATION.

The next business on the Calendar for Unanimous Consent was the bill (H. R. 8010) to authorize the leasing for mining purposes of unallotted lands on the Fort Peck Reservation, Mont.

The SPEAKER pro tempore. Is there objection to the consideration of the bill?

Mr. STAFFORD. I object, Mr. Speaker.

Mr. MONDELL. Will the gentleman withhold his objection?

Mr. STAFFORD. I withhold it.

Mr. MONDELL. I was of the opinion when this bill was presented on the last unanimous-consent day that it was doubtful if it should be passed by unanimous consent. I will say to the gentleman from Wisconsin [Mr. STAFFORD] that I have gone into the matter somewhat and I am rather inclined to the opinion that there is nothing objectionable in the bill. There are certain lands on the Fort Peck Indian Reservation that were not allotted. They think they have symptoms of oil up there. There are some folks that are willing to spend some money to develop it. Of course, if oil is developed there it will be helpful and useful to the Indians, and the matter is entirely under the control and jurisdiction of the Secretary of the Interior. Ordinarily on almost any other Indian reservation the unallotted lands could be leased in this way. It seems the legislation in regard to that reservation did not make that provision. Elsewhere this could be done. And it seems to me if there is anyone willing to take a chance on developing oil there we can trust the Secretary to make a lease arrangement with them that will be equitable and proper, and it will, of course, be beneficial to the Indians if there is a development there. A development of oil is an excellent thing in any event.

Mr. STAFFORD. Replying to the suggestion made by the gentleman from Wyoming I wish to call his attention and the attention of the Members of the House to the fact that if we would pass this bill we would make an exception as to the leasing policy of the Government toward the development of oil on the public domain.

Mr. MONDELL. This is not the public domain; this is an Indian reservation.

Mr. STAFFORD. Yes; unallotted lands on an Indian reservation. As I recall, as to lands that were reserved for school purposes and agency purposes, the title of them—I may be mistaken—is in the United States Government and not in the Indians.

Mr. MONDELL. If the gentleman will allow me, the gentleman recalls that many years ago under the leadership of the gentleman from Illinois [Mr. CANNON] we entirely modified our policy in regard to Indian lands. We do not buy Indian lands. We have not done so for many years. We enter into an agreement with the Indians under which we agree to dispose of the lands, but the Government does not take title. The title

still remains in the hands of the Indians, and anything received from the lands goes to the Indians. This is Indian land, and not Government land. It is in the same category as the unallotted lands on the Wind River Reservation in my State. That reservation, part of it, was opened 15 years ago.

Mr. STAFFORD. Mr. Speaker, I ask unanimous consent that the bill be passed without prejudice.

The SPEAKER pro tempore. Is there objection?

Mr. JOHNSON of Washington. I object unless the bill goes to the foot of the calendar.

The SPEAKER pro tempore. Is there objection to the bill being passed without prejudice and going to the foot of the calendar? [After a pause.] The Chair hears none.

ROY L. MARSTON.

The next business on the Calendar for Unanimous Consent was House joint resolution 210, for the appointment of one member of the Board of Managers of the National Home for Disabled Volunteer Soldiers.

The SPEAKER pro tempore. Is there objection to the present consideration of the bill?

Mr. STAFFORD. Reserving the right to object, Mr. Speaker, some years ago, as I recall about three years, when the Committee on Military Affairs brought into the House recommendations for four members of the Board of Managers of the National Home, one of them was from the State of Maine. It was my privilege then to offer an amendment in the House to substitute the name of a citizen of Wisconsin, and it was carried. The bill went over to the Senate. Through the activity, the strong and urgent appeal of the Senators from Maine, they substituted a citizen from Maine and shunted aside the gentleman whom I had suggested. It came back to the House. I had been defeated for reelection. A man after having been defeated for reelection has not the same consideration in the House, as I wish to advise some of the Members here, although I hope that will not happen to any of them; but I have had that experience twice, and I can speak from experience of the influence a man has after he has been defeated. When it came back to the House I waged a fight, but it was unsuccessful. I call attention to the fact that there is a branch home in Wisconsin. Some years ago this Board of Managers was so arranged as to have a manager from each State where there was a branch home. The home in Wisconsin, which is located in Milwaukee and in the district represented by my colleague [Mr. KLECZKA], has had governors sent from outside of the State who have been guilty of gross malfeasance in office and the management of the home has been grossly neglected. We are enlarging the home in Wisconsin so as to care ultimately for the World War veterans, erecting a large hospital for tubercular World War veterans.

It is the only home that has not a representative on the board from the State where it is located. But up in Maine, the Pine Tree State, they have a few soldiers, and yet by reason of the activity of its Representatives in the House, and of its Senators in particular, they have been able to secure a representative.

I am assured by the gentleman from Massachusetts [Mr. FROTHINGHAM], who reports this bill, that shortly the Committee on Military Affairs will report a bill, introduced by my colleague, increasing the membership of this board so as to provide some representation on the board for a Wisconsin representative. Am I correct in that position?

Mr. FROTHINGHAM. Mr. Speaker, so far as I know the committee are in favor of having a man on this board from each of the different States where the branch hospitals are. There is a national home in Ohio and there are branch homes in various States.

Mr. STAFFORD. Permit me to correct the gentleman. They are all branch homes, although the headquarters are in Ohio. The first home was that located at Milwaukee.

Mr. FROTHINGHAM. The title is "National Home for Disabled Volunteer Soldiers."

Mr. STAFFORD. Yes. But all are branch national homes. With that statement of the gentleman from Massachusetts, Mr. Speaker, I have no objection to Maine being given representation.

The SPEAKER pro tempore. Is there objection?

There was no objection.

The SPEAKER pro tempore. The Clerk will report the resolution.

The Clerk read as follows:

*Resolved, etc.* That Roy L. Marston, of Maine, be, and he is hereby, appointed a member of the Board of Managers of the National Home for Disabled Volunteer Soldiers of the United States, to fill the unexpired term of Menander Dennett, deceased.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the House joint resolution.

The House joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed.

On motion of Mr. FROTHINGHAM, a motion to reconsider the vote whereby the resolution was passed was laid on the table.

#### BRIDGE ACROSS RED RIVER OF THE NORTH.

The next business on the Calendar for Unanimous Consent was the bill (H. R. 8744) granting the consent of Congress to the State of North Dakota, the county of Cass and the city of Fargo, N. Dak., and the State of Minnesota, the county of Clay and the city of Moorhead, Minn., or any of them, and their successors and assigns, to construct, maintain, and operate a bridge and approaches thereto across the Red River of the North at a point suitable to the interests of navigation between the cities of Fargo, N. Dak., and Moorhead, Minn.

The title of the bill was read.

The SPEAKER pro tempore. Is there objection?

Mr. STAFFORD. Mr. Speaker, reserving the right to object, do the hearings show that this is that part of the Red River of the North where there is water at some time in the year and no water the rest of the time? To my knowledge in years back in that great Red River of the North no water was to be found at certain times in the year. Now we are providing for a bridge across this great navigable stream—navigable for a canoe or a leaf, maybe, at certain periods of the year. Is it navigable throughout the year, or only during the flood season? Without receiving any information, I ask unanimous consent to have it passed over without prejudice.

The SPEAKER pro tempore. The gentleman from Wisconsin asks unanimous consent that the bill be passed over without prejudice. Is there objection?

There was no objection.

The SPEAKER pro tempore. The Clerk will report the next bill.

#### SPECIAL DELIVERY OF MAIL MATTER.

The next business on the Calendar for Unanimous Consent was the bill (H. R. 8441) relating to special delivery of mail matter. The title of the bill was read.

The SPEAKER pro tempore. Is there objection?

Mr. STAFFORD. Mr. Speaker, under reservation of an objection, I think the bill should be reported.

The SPEAKER pro tempore. The Clerk will report the bill. The Clerk read as follows:

*Be it enacted, etc.,* That the Postmaster General is hereby authorized, in his discretion, to restrict the application of the special-delivery stamp or equivalent stamps and the special service rendered in connection therewith to mail matter of the first class.

The SPEAKER pro tempore. Is there objection?

Mr. McARTHUR. Mr. Speaker, I object.

The SPEAKER pro tempore. The gentleman from Oregon objects. The bill is stricken from the calendar. The Clerk will report the next bill.

#### BRIDGE ACROSS GREAT PEEDEE RIVER, S. C.

The next business on the Calendar for Unanimous Consent was the bill (S. 2555) to construct, maintain, and operate a bridge and approaches thereto across Great Pee Dee River, S. C. The title of the bill was read.

The SPEAKER pro tempore. Is there objection to the present consideration of the bill?

There was no objection.

The SPEAKER pro tempore. The Clerk will report the bill. The Clerk read as follows:

*Be it enacted, etc.,* That the counties of Marion and Florence of the State of South Carolina, be, and they are hereby, authorized to construct, maintain, and operate a bridge and approaches thereto across Great Pee Dee River at a point suitable to the interests of navigation, and at or near a point known as Mars Bluff Ferry, between the counties of Marion and Florence, in the State of South Carolina, in accordance with the provisions of the act entitled "An act to regulate the construction of bridges over navigable waters," approved March 23, 1906.

SEC. 2. That the right to alter, amend, or repeal this act is hereby expressly reserved.

The SPEAKER pro tempore. The question is on the third reading of the Senate bill.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

On motion of Mr. STEVENSON, a motion to reconsider the vote whereby the bill was passed was laid on the table.

The SPEAKER pro tempore. The Clerk will report the next bill.

#### BRIDGE ACROSS THE SAVANNAH RIVER, S. C. AND GA.

The next business on the Calendar for Unanimous Consent was the bill (S. 2594) authorizing the counties of Allendale, S. C., and Screven, Ga., to construct a bridge across the Savannah River, between said counties, at or near Burtons Ferry.

The title of the bill was read.

The SPEAKER pro tempore. Is there objection?

There was no objection.

The SPEAKER pro tempore. The Clerk will report the bill. The Clerk read as follows:

*Be it enacted, etc.,* That the counties of Allendale, S. C., and Screven, Ga., be, and are hereby, authorized to construct, maintain, and operate a bridge and approaches thereto across the Savannah River, at a point suitable to the interests of navigation, between said counties, at or near Burtons Ferry, in accordance with the provisions of the act entitled "An act to regulate the construction of bridges over navigable waters," approved March 23, 1906.

The SPEAKER pro tempore. The question is on the third reading of the Senate bill.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

On motion of Mr. OVERSTREET, a motion to reconsider the vote whereby the bill was passed was laid on the table.

The SPEAKER pro tempore. The Chair notes that the next two bills on the Unanimous Consent Calendar have not been upon the calendar for three days.

#### REGISTRATION OF CERTAIN CHINESE.

Mr. JOHNSON of Washington. Mr. Speaker, I ask unanimous consent that, regardless of the rule requiring bills to be on the calendar for three days, the Senate joint resolution No. 33 as amended be considered at this time.

The SPEAKER pro tempore. The gentleman from Washington asks unanimous consent that Senate joint resolution 33 be considered at this time. Is there objection?

Mr. STAFFORD. Reserving the right to object, Mr. Speaker, I think the bill ought to be first reported before it is passed.

#### SPECIAL DELIVERY OF MAIL MATTER.

Mr. KETCHAM rose.

The SPEAKER pro tempore. For what purpose does the gentleman from Michigan rise?

Mr. KETCHAM. I ask that House bill 8441, relating to special delivery of mail matter, just stricken from the calendar, may remain on the calendar and go to the foot thereof.

The SPEAKER pro tempore. The gentleman from Michigan asks unanimous consent that the bill H. R. 8441 remain on the calendar and go to the foot thereof. Is there objection?

Mr. McARTHUR. I object.

The SPEAKER pro tempore. The gentleman from Oregon objects.

#### REGISTRATION OF CERTAIN CHINESE.

The next business on the Calendar for Unanimous Consent was the joint resolution (S. J. Res. 33) permitting Chinese to register under certain provisions and conditions.

The joint resolution was read, as follows:

Whereas 379 Chinese men, some of the merchant and others of the labor class, attached themselves to the punitive military expedition under the command of Gen. Pershing, which entered Mexico in 1916, and when said expedition returned from Mexico were temporarily admitted to the United States as refugees; and

Whereas the said Chinese performed extensive services and rendered valuable assistance to the punitive expedition in Mexico and jeopardized their lives and made their further residence in Mexico at the time impossible by attaching themselves to the expedition and rendering such services; and

Whereas the said Chinese after temporary admission to the United States as refugees continued to render and are now rendering services to the military branch of the United States Government, such services being valuable, unusual, and in some instances of a hazardous nature; and

Whereas the said Chinese can not return to their former homes in Mexico with safety and can not at this time be deported to any other place justly and humanely: Now, therefore, be it

*Resolved, etc.,* That the Commissioner General of Immigration be, and he hereby is, authorized and directed to permit the said Chinese to register under the terms of and in accordance with the provisions of section 6 of the act approved May 5, 1892 (27 Stats. L., p. 25), as amended by section 1 of the act approved November 3, 1893 (28 Stats. L., p. 7).

With the following committee amendment:

Strike out the preamble and all after the resolving clause and insert:

"That the Commissioner General of Immigration be, and he hereby is, authorized and directed to register, and to issue an appropriate certificate showing registration to, the 365 Chinese men, now temporarily domiciled in the United States, who attached themselves to the punitive military expedition under the command of Gen. Pershing which entered Mexico in 1916, and who were brought into the United States as refugees by said expedition when it returned from Mexico.

SEC. 2. That the registration hereby provided shall correspond as nearly as circumstances permit to the registration of domiciled Chinese prescribed by section 6 of the act approved May 5, 1892 (27 Stats. L., p. 25), as amended by section 1 of the act approved November 3, 1893 (28 Stats. L., p. 7), and the certificates of registration issued to such Chinese shall constitute evidence of their right to be and remain within the United States: *Provided, however,* That before being registered hereunder the said Chinese shall be given the examination prescribed by the immigration act of February 5, 1917 (39 Stats. L., p. 874), with the exception of the reading test prescribed by section 3 thereof, and such of them as may be found inadmissible under said act shall not be registered hereunder, but shall be deported by the Secretary of Labor in the manner prescribed by section 19 of said immigration act: *Provided further,* That if any of the said Chinese shall, at any time after



being registered pursuant to this resolution, become members of any of the classes for the expulsion of which provision is made in section 19 of the said immigration act, they shall be taken into custody and deported upon the warrant of the Secretary of Labor in accordance with the terms of said section.

"SEC. 3. That the certificate of registration herein provided shall be issued to the said Chinese by the commissioner general without charge; and it shall be unlawful for any person, directly or indirectly, to collect any fee, gift, or remuneration for services rendered, or alleged to have been rendered, said Chinese in the procurement of such certificate or, directly or indirectly, to collect from the said Chinese any fee, gift, or remuneration for services performed in placing before Congress evidence or information on which the passage of this resolution is based; and any person who shall violate either of these provisions shall be deemed guilty of a misdemeanor and shall be punished by a fine of not more than \$10,000 or by imprisonment for not more than six months, or by both such fine and imprisonment."

The SPEAKER pro tempore. Is there objection to the present consideration of the joint resolution?

Mr. STAFFORD. Mr. Speaker, reserving the right to object, I think some explanation should be made before such an important joint resolution passes the objection stage.

Mr. JOHNSON of Washington. Mr. Speaker, this legislation has been urged by Gen. Pershing and has been passed in another form by the Senate. It is right and proper for the United States to cure a situation that the United States created. We should have done it long ago. The House Committee on Immigration and Naturalization by a unanimous vote has reported the Senate joint resolution in an amended form, requiring the remaining 365 Chinese who were brought back from Mexico when the Pershing forces returned to conform to certain provisions of the immigration act—that is, to be deported if they are diseased, and so on, and providing for their deportation if they become members of the criminal classes.

These Chinese, numbering originally some 500 men, were brought into the United States about the 1st of February, 1917, by Gen. Pershing's army when he came out of Mexico. They had been picked up down there in Mexico and had performed work for our Army, and when the time came for our forces to come out it was not safe for Gen. Pershing to leave these Chinese there. He had to bring them along, and they have been in the custody of the Army ever since.

Mr. GARRETT of Tennessee. Will the gentleman yield?

Mr. JOHNSON of Washington. Yes.

Mr. GARRETT of Tennessee. Do I understand that these Chinese were in Mexico before?

Mr. JOHNSON of Washington. Yes.

Mr. GARRETT of Tennessee. They had never been in the United States?

Mr. JOHNSON of Washington. They never had been in the United States. The sad part of the thing is that owing to confusion and misunderstanding we have delayed relief for four and a half years of any kind; so that we have held these men practically in a state of bondage. The activity of Gen. Pershing in their behalf did not begin until November, 1919, owing to the fact that he was, as we all know, otherwise engaged.

The Senate passed this joint resolution some time early this year, but conditions have been such that it has not been practicable to bring it before the House until now. Your Committee on Immigration have gone over the matter with great care and have had hearings which have been printed. The report tells the story. We know where these men are. They are all nominally in the custody of the War Department. The number of them is 365. If we can pass the joint resolution now the Senate will accept it at once in its amended form and we will have performed an act of right and justice.

I do not think anything more need be said.

The SPEAKER pro tempore. Is there objection to the present consideration of the joint resolution?

There was no objection.

The SPEAKER pro tempore. The joint resolution having been reported, the question is on the committee amendment.

The committee amendment was agreed to.

The preamble was stricken out.

The joint resolution as amended was ordered to a third reading, and was accordingly read the third time and passed.

By unanimous consent the title was amended to read:

Joint resolution permitting certain Chinese to register under certain provisions and conditions.

On motion of Mr. JOHNSON of Washington, a motion to reconsider the vote by which the joint resolution was passed was laid on the table.

#### THE REVENUE—CONFERENCE REPORT.

Mr. FORDNEY. Mr. Speaker, I call up the conference report on the revenue bill.

The SPEAKER pro tempore. The Clerk will report the title of the bill on which the conference report is presented.

The Clerk read as follows:

Mr. FORDNEY, from the committee of conference, submitted the following conference report to accompany H. R. 8245.

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 8245) to reduce and equalize taxation, to amend and simplify the revenue act of 1918, and for other purposes, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

Mr. GARNER. Mr. Speaker, a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. GARNER. Mr. Speaker, a motion to recommit to the conferees with instructions to the managers on the part of the House can be made, if I understand it, at the conclusion of the consideration of the conference report. Or must it be made at this time? I want to save all my rights.

The SPEAKER pro tempore. The motion can not be made at this time. The report has not yet been read. The gentleman from Michigan [Mr. FORDNEY] is entitled to the floor. The motion can be made if recognition is secured before final action on the report.

Mr. GARNER. Outside of that, if the gentleman will permit me, I do not desire to make a point of order, but I want to say to the House that I think it is the duty of the conferees—I have expressed this opinion a number of times within the last 10 years—when they come back to the House to call the attention of the House to provisions of the report that may be subject to a point of order. They ought to do that if they do not care to make the point of order themselves.

Mr. FORDNEY. There are no such provisions in the report that I know of.

Mr. GARNER. That is a matter for the House to determine. It is my duty as a conferee—

Mr. FORDNEY. The gentleman is asking me to express myself. I say there are none that I know of.

Mr. GARNER. I call the attention of the House to a provision that, in my judgment, and I think it was the judgment of the entire conference committee—

The SPEAKER pro tempore. Does the gentleman from Michigan yield pending the reading of the report?

Mr. FORDNEY. I want to ask unanimous consent that we have four hours general debate.

Mr. GARNER. Mr. Speaker, I will reserve all points of order on this conference report.

The SPEAKER pro tempore. The gentleman from Texas reserves all points of order on the conference report. The Clerk will read the conference report.

Mr. FORDNEY. Mr. Speaker, I ask unanimous consent that we have four hours of debate, one-half to be controlled by myself and one-half by the gentleman from Texas [Mr. GARNER].

Mr. GARRETT of Tennessee. Let us decide that after the statement is read. The gentleman is going to ask to have the statement read in lieu of the report?

Mr. FORDNEY. I think we can dispense with the reading of the report. It is printed in the RECORD and we can save time. We want to spend the time in debate on the bill. It is understood by the gentleman from Texas and myself that we shall have four hours general debate.

Mr. GARRETT of Tennessee. Is it the purpose of the gentleman to ask to dispense with the reading both of the report and the statement?

Mr. FORDNEY. To ask to dispense with the reading of the report. Mr. Speaker, I ask unanimous consent that we have four hours of debate on the conference report, one-half of that time to be controlled by myself and the other half by the gentleman from Texas, and at the end of the four hours the previous question shall be considered as ordered.

The SPEAKER pro tempore. Four hours of debate after the reading of the report?

Mr. FORDNEY. Yes.

The SPEAKER pro tempore. That does not include the time for reading the report.

Mr. FORDNEY. No.

The SPEAKER pro tempore. The gentleman from Michigan asks unanimous consent that there be four hours of debate after the conclusion of the reading of the conference report, one-half of that time to be controlled by himself and one-half by the gentleman from Texas [Mr. GARNER]. Is there objection?

Mr. GARNER. That will not interfere with my making a point of order.

The SPEAKER pro tempore. And at the expiration of the four hours of debate the previous question shall be considered as ordered.

The Chair will state that the point of order reserved by the gentleman from Texas can be made at the conclusion of the debate. Is there objection?

There was no objection.

Mr. GREEN of Iowa. Mr. Speaker, I ask unanimous consent that the statement be read in lieu of the report.

The SPEAKER pro tempore. The gentleman from Iowa asks unanimous consent that the statement be read in lieu of the report. Is there objection?

Mr. McARTHUR. I object.

The Clerk read the conference report.

[For conference report and statement see the proceedings of the House for Saturday, November 19, 1921, pp. 8014-8034.]

Mr. LONGWORTH. Mr. Speaker, I understand the gentleman from Texas has reserved a point of order or points of order on the bill, and I think he ought to make them first.

Mr. GARNER. Mr. Speaker, I withdraw the reservation of the point of order.

The SPEAKER pro tempore. The gentleman from Texas withdraws the reservation of the point of order. The gentleman from Michigan is recognized for two hours.

Mr. FORDNEY. Mr. Speaker, after one week's consideration by the conferees we have reached an agreement upon all of the amendments to the bill by the Senate, 833 in number. Many amendments are noted in the conference report without any explanation further than the statement that such amendments are clerical. These amendments are more form than substance. Most of them strike out quotation marks made necessary by a change in the general plan of the bill.

Mr. GREEN of Iowa. Mr. Speaker, will the gentleman yield?

Mr. FORDNEY. Yes.

Mr. GREEN of Iowa. As the gentleman is aware, and as all gentlemen in the House who have read the bill know, the Senate wrote the bill on an entirely different plan from what the House did.

Mr. FORDNEY. I was about to state that.

Mr. GREEN of Iowa. And that is what necessitated these amendments.

Mr. FORDNEY. The thing that necessitated many clerical amendments was a change in the general plan of the bill. The House bill consisted of a series of amendments to existing law, while the Senate repealed existing law and wrote a complete new bill.

I will endeavor briefly to call attention to several of the major differences of substance that the conferees were called upon to decide. First, I will state the conference action on the Senate amendment affecting estate taxes. The Committee on Ways and Means in preparing the bill did not think it wise to change existing law in taxing estates, the maximum tax provided being 25 per cent. I believe, and many believe, that it would be better if estate and inheritance taxes could be left to the various States and not be interfered with by the Federal Government. I believe, as many others do, that the income taxes should be left to the Federal Government and not be interfered with by the States. The duplication of income and estate taxes by the various States and the Government causes no end of confusion and often embarrassment and hardship on the taxpayer. The double taxation on estates in many instances is excessive under existing laws. Therefore we opposed the Senate amendment, and the Senate conferees receded from the Senate provision.

Mr. GARNER. Mr. Speaker, will the gentleman yield?

Mr. FORDNEY. Yes.

Mr. GARNER. If I understand the gentleman's position upon the inheritance tax it is that the Federal Government should not levy such a tax but should leave it to the Senate?

Mr. FORDNEY. I personally believe that should be done, and, as I stated before, the matter of income tax should be left to the Federal Government.

Under instructions from the House the conferees agreed to a 50 per cent surtax. There is also carried in the bill an 8 per cent normal tax, making a total of 58 per cent imposed on individual incomes in excess of \$200,000.

In addition to income taxes is the Federal estate tax running as high as 25 per cent on large incomes. On top of this the various States impose inheritance taxes, some as high as 35 per cent. I believe all of the States in the Union, with the exception of two, have an inheritance tax or an estate tax. Therefore, after the Federal Government collects income and estate taxes, the State comes in and levies similar taxes and in addition the taxpayer also has county and city or township taxes.

Mr. GARNER. The gentleman probably does not want that statement to go into the Record. He has mixed the income tax with the estate tax.

Mr. FORDNEY. I am referring to both.

Mr. GARNER. The gentleman said that after the Government had taken 58 per cent the State would come along and take 35 per cent of what remained.

Mr. FORDNEY. I spoke of the inheritance tax and of the income tax.

Mr. GARNER. The gentleman has not adopted a 58 per cent inheritance tax as yet. I hope they will adopt one of 50 per cent.

Mr. FORDNEY. Fifty-eight per cent is the income tax taken by the Federal Government, as provided in this bill. For fear that the gentleman from Texas—shrewd, sharp, keen, and cunning lawyer that he is—can not get the sense of my statement, I ask him to go back and read the Record of what I said, that some States either by an inheritance tax or an estate tax take as much as 35 per cent of what is left, and that the county taxes and city taxes impose additional tax burdens.

I do not believe in going to the extreme in taxing people. I believe that a reasonable tax upon all incomes permits money to go into the natural channels of industry, to build more factories and employ more labor and put more money into circulation. The thing that makes a country prosper is to give its people employment at remunerative wages, and it can not be done without adequate working capital.

Next I wish to refer briefly to the Senate amendment the purpose of which was to impose a tax on gifts. This the conferees thought inadvisable legislation and the Senate receded. A tax on gifts would lead to evasion by sales at less than real value, and the questioning of the motive of many bona fide sales. Under this provision the man who desires to evade the tax could do it and the man with honorable motives would be penalized. I know of one instance where a wealthy man has given \$100,000,000 for a public institution at three different times, in three different amounts. I think that is going to be very beneficial, indeed, to the coming generations and to the present generation. I do not believe charitably inclined men of wealth should be made the target or that gift money should be taxed. If we should impose a tax on gifts, I believe gifts would not be made, and that those moneys would be disposed of in some other way. It is a tax on generosity, and in my opinion ill advised.

Mr. RAMSEYER. Will the gentleman yield?

Mr. FORDNEY. Yes.

Mr. RAMSEYER. The Senate provision on gifts does not undertake to impose a tax on gifts to eleemosynary institutions and educational institutions?

Mr. FORDNEY. Yes.

Mr. RAMSEYER. I call the gentleman's attention to page 183, section 418, which specifically exempts that kind of gifts, the same as the estate tax law does.

Mr. FORDNEY. But suppose your father wanted to put you up in business and gave you more than \$20,000; he is going to be taxed on account of his generosity to you. I do not think the Federal Government should tax any portion of that money.

Mr. RAMSEYER. Does the gentleman wish me to answer that? If the gentleman will yield to me a minute, I will answer him. We know that the estate tax is evaded, at least we are informed that it is, because men of large fortunes deliberately split up their fortunes before they die.

Mr. FORDNEY. I am sure they will split them up rather than pay them all to the Federal Government.

Mr. RAMSEYER. Furthermore, on the authority of the gentleman from Wyoming [Mr. MONDELL], when he was arguing against the Senate surtax rates, he stated that it would result in men deliberately splitting up their fortunes among their children and putting their property in trust in various ways.

Mr. FORDNEY. There is no question but they will.

Mr. RAMSEYER. If men are going to undertake deliberately to avoid the estate taxes and surtaxes, in violation of law, do you not think we should have something that will get them? And this gift tax is the only thing that will get them.

Mr. FORDNEY. A tax on gifts will not accomplish the thing for which it is proposed. It will give rise to a new form of tax evasion through the sale of property at nominal prices. It will only serve to penalize the conscientious man and will not catch the willful tax evader. It will add to the complexity, the uncertainty, and the inequalities of taxation.

Mr. RAMSEYER. That is the gentleman's opinion. The Senate had a very different view of the matter. That body considered it thoroughly. The only way you can get ahead of the surtax dodger or the estate-tax dodger is by the gift tax. The Senate knew that and the gentleman ought to know it.

Mr. FORDNEY. It is the principle to which I object. Moreover, we can not now change the rates.



Mr. RAMSEYER. You could have done so by agreeing to the Senate amendment in conference, the most equitable amendment in the bill.

Mr. FORDNEY. But we did not.

Mr. GARNER. Will the gentleman yield? The gentleman from Michigan is not in favor of the gifts tax?

Mr. FORDNEY. No; I am not.

Mr. GARNER. You say the gifts recently bestowed by Mr. Rockefeller in New York of \$100,000,000 in three different portions is subject to this?

Mr. FORDNEY. I did not.

Mr. GARNER. You said he ought not to pay a tax on that. He does not have to pay a tax.

Mr. FORDNEY. Do not misunderstand me. I did not mean to say that the provision of the Senate was retroactive. It applies to future gifts. Suppose the same thing should happen again and Mr. Rockefeller should be giving \$100,000,000. I do not want to tax it so long as it goes to the general welfare.

Mr. GARNER. And this bill does not propose to do that?

Mr. FORDNEY. No; and will not, if I can prevent it.

Now, gentlemen, the estimated internal-revenue receipts under this bill amount to \$3,216,000,000, and for customs and miscellaneous receipts \$672,000,000, or a total of \$3,878,000,000. On August 11 the Treasury Department made an estimate of the expenditures of \$4,034,000,000. A letter to the Appropriations Committee stated there would be an additional revenue of \$90,000,000. Later Congress appropriated \$80,000,000 for good roads, and this would lead to a further reduction in expenditures of \$10,000,000; and, by the way, I have a letter on the table here from the Secretary of the Treasury stating the appropriations for roads, which I will insert as a part of my remarks for the information of the House:

NOVEMBER 10, 1921.

Hon. J. W. FORDNEY,

Chairman Committee on Ways and Means,  
House of Representatives, Washington, D. C.

MY DEAR CONGRESSMAN: In connection with the consideration of the revenue bill (H. R. 8245) it is important to note that on November 9, 1921, the so-called good roads bill passed by the present session of Congress became a law and that under the provisions of this bill additional appropriations are made for good roads in the amount of \$75,000,000, available this fiscal year, and \$15,000,000 for forest roads and trails, of which \$5,000,000 is made available in this fiscal year and \$10,000,000 in the fiscal year 1922. The estimates of expenditures for the fiscal years 1922 and 1923 which have heretofore been submitted to the committees of Congress by the Treasury and the Bureau of the Budget in connection with the pending revenue legislation have not taken into account any expenditures under these additional appropriations. I understand that according to the most recent estimates of the Department of Agriculture, as transmitted to the Bureau of the Budget, about \$20,000,000 additional will be spent on this account in the fiscal year 1922 and about \$40,000,000 additional in the fiscal year 1923. These sums should be added to the estimates previously submitted of expenditures under the Department of Agriculture. On this basis the total estimated expenditures for road purposes in the fiscal year 1922 would amount to \$105,000,000 and in the fiscal year 1923 to \$125,000,000.

I am sending a similar letter to Senator PENROSE.

Very truly, yours,

A. W. MELLON, Secretary.

The estimated expenditures are \$4,024,000,000. Deduct the above-stated receipts, \$3,978,000,000, and it would leave an estimated deficit of \$46,000,000. There is no question but many economies will be practiced and put into effect by the end of the next year, and it is quite possible, if tariff legislation is expedited by the Senate, customs collections will yield more revenue than the estimate shows. Certainly so, if industrial conditions the world over improve, and they always do under Republican administrations. [Applause on the Republican side.] Further, if desired results come from this gathering of people from all the principal countries of the world on the question of disarmament we will then have some \$500,000,000 surplus from the revenues that this bill and other miscellaneous matters will raise. I think that is a fair statement of the amount that will be raised.

Mr. BUTLER. Will the gentleman yield to me?

Mr. FORDNEY. I will.

Mr. BUTLER. I understood the gentleman to say, if there is complete success in this conference holding here in Washington—and we all want it to be complete—we will have a saving in our expenditures of \$500,000,000?

Mr. FORDNEY. Yes; more than that.

Mr. BUTLER. Now, it is very interesting to have the gentleman say it.

Mr. FORDNEY. I have seen estimates of that.

Mr. BUTLER. Can the gentleman help us a little? How can we save that?

Mr. FORDNEY. By scrapping our ships.

Mr. BUTLER. That is all right, but we do not make anything by throwing anything away. We never did. How can we

save an expenditure of \$500,000,000? I hope we can. Can the gentleman encourage me any?

Mr. FORDNEY. For instance, suppose, by a rough estimate, we are going to scrap or convert into some other use one-half of the Navy, we will not need as many men in the service as we now need, and the cost of operating those ships will be a very great saving indeed.

Mr. BUTLER. It costs \$2,000,000 a year to run one of them. Now, let me ask the gentleman this question: The naval expenditure this year is \$417,000,000. If you cut that in two it makes only \$208,000,000. Where do you get the other \$300,000,000?

Mr. FORDNEY. Perhaps the estimate I made was extravagant. I took it from a report which I saw the other day. It may contemplate considerable salvage.

Mr. BUTLER. Understand there was no effort on my part to criticize the gentleman.

Mr. FORDNEY. Before the war our Army cost annually \$94,000,000 and our Navy \$140,000,000. Last year they cost \$1,500,000,000.

Mr. SMITH of Michigan. Mr. Speaker, will the gentleman yield there?

Mr. FORDNEY. Yes.

Mr. SMITH of Michigan. Will there not also be an expenditure, even if we do not make these new expenditures for ships?

Mr. BUTLER. That only comes from one year.

Mr. FORDNEY. If the whole paraphernalia is cut in two, and the whole world stands by its agreement, I say, God bless the men in the conference! [Applause.]

The House bill repeals all transportation taxes. The Finance Committee report recommended a repeal of one-half of the transportation taxes this year and one-half next year, but the Senate finally passed the bill as passed by the House, so that matter was not in conference.

Then, again, there was an amendment to the beverage tax added by the Senate, in which the Senate conferees receded. The House bill amended the revenue act of 1918 by providing that on all distilled spirits on which tax is paid at the non-beverage rate of \$2.20 per gallon and which are diverted to beverage purposes there shall be levied an additional tax of \$4.20, to be paid by the person responsible for the diversion. The House bill also amended the existing law by providing that the process of extraction of water from high-proof spirits for the production of absolute alcohol shall not be deemed to be rectification within the meaning of the Revised Statutes, and that absolute alcohol shall not be subject to the rectification tax imposed by existing law. The Senate amendment strikes out these provisions of the House bill and inserts three new sections, the first of which imposes a tax of 60 cents per wine gallon on intoxicating malt liquors, the second of which imposes a tax of \$1.20 per wine gallon upon all vinous liquors, and the third of which imposes a tax of \$6.40 per proof gallon upon all distilled spirits except alcohol, the result thereof being to impose this tax upon whisky withdrawn for medicinal purposes. The amendment also inserted various modifications of administrative features of the law relating to the storage and bottling of distilled spirits. The House recedes with an amendment omitting the new matter proposed by the Senate and restoring the language of the House bill with clerical changes.

Mr. GREEN of Iowa. The gentleman from Michigan has stated that the House conferees insisted on the Senate receding on that point. I hope the gentleman does not mean by that that I concurred in the proposition of throwing away that large sum of money that just as well might have been derived from liquor.

Mr. FORDNEY. Well, I referred to the majority of the conferees. Let me say to my friend from Iowa that I do believe he protested against that, but the two lovable characters from south of Mason and Dixon's line, joining with two Republicans, enacted that provision in the bill. [Laughter.]

Mr. GARNER. Mr. Speaker, I do not see my colleague from Mississippi [Mr. COLLIER] here, and I fear the gentleman from Michigan does the gentleman from Mississippi an injustice.

Mr. FORDNEY. It was 3 to 2, a majority.

Mr. GARNER. Yes. But I want to call the attention of the gentleman to the fact that he got the Senate to cut out the amendment because he put his signature to the report. He can not get away from the responsibility.

Mr. FORDNEY. Yes; I was responsible.

Mr. GREEN of Iowa. I will explain the responsibility. The gentleman from Texas [Mr. GARNER] can not escape the responsibility. He can not escape the fact that this was put in the bill by his vote.

Mr. FORDNEY. I have stated that two Democrats went with two Republicans on the beverage question, but the gentle-

man from Texas corrects me and says this beloved friend of mine from Mississippi [Mr. COLLIER] insisted upon prohibition. Is that right? I would not do him or any other man an injustice. In fact, I should make no reference as to what took place on the part of individuals. But here we are with that provision back in the bill as it passed the House, and I hope it will be agreed to.

I have touched several of the principal points agreed upon by the House and by the Senate. I do not know that I shall go any further in my statement just at this time, unless some gentleman wishes to ask some question. But let me refer to one point I overlooked.

The House repealed the excess-profits tax, and, in addition to that, we increased the normal income tax on corporations from 10 per cent, as in the existing law, to 12½ per cent. The Senate struck out that provision and provided for 15 per cent. The Senate conferees receded, and we went back to the House provision of 12½ per cent. The excess-profits tax was not in conference, because both Houses had agreed to its repeal effective January 1, 1922.

Mr. DUNBAR. Mr. Speaker, will the gentleman yield?

Mr. FORDNEY. I yield.

Mr. DUNBAR. While, perhaps, it is not just apropos, what good reason was there, however, for increasing the corporation tax from 10 per cent to 12½ per cent, which, by the elimination of the excess-profits tax, will increase the tax to 90 per cent of our corporations and to those corporations which are struggling for financial existence?

Mr. FORDNEY. Speaking for myself personally, I felt at all times that we should very materially reduce the tax upon corporations, because the tax on corporations in reality is upon the stockholders. The corporation is the trustee for the stockholders. That money belongs to the stockholders, and when we speak of a "corporation" we speak of an aggregation of stockholders. It must be admitted, for instance, in a single instance that I know of, that 34 per cent of all the stockholders in the great United States Steel Corporation are women, and the majority of the stockholders in the great American Sugar Refining Co. are women, largely living in the State of Massachusetts and other New England States; and when the corporation is punished by an excessive tax all you are doing is punishing your neighbor who is a stockholder in that corporation.

Mr. DUNBAR. I would like to ask the gentleman if he considers it a punishment to increase the tax on corporations that make from 3 to 12 per cent dividends?

Mr. FORDNEY. Let me finish my statement. You asked a question that covers quite a wide territory.

A tax of 12½ per cent on the income of a corporation, particularly on public-utility corporations, is very severe. The railroads come in this class.

Mr. DUNBAR. How many railroads—

Mr. FORDNEY. Let me finish my statement. I say it is especially hard on the railroads of this country, which in the aggregate do not make 5 per cent on their income. Now, if you take 12½ per cent of the income of the railroads of the country, you take sixty-two and one-half one-hundredths of 1 per cent, leaving only 4.37½ per cent to the public utilities of the country. There is no way of dividing it and fixing a lower tax upon corporations with small incomes and a higher tax upon corporations with large incomes without bringing back the vexed question of invested capital.

Mr. DUNBAR. I can not understand the reason why—

Mr. FORDNEY. Will the gentleman pardon me a little further?

Mr. DUNBAR. Yes.

Mr. FORDNEY. The existing law provides that incomes made prior to March 1, 1913, at which time the income tax law took effect, are not subject to the tax when distributed to the stockholders, but only profits or accumulated value of property acquired after March 1, 1913. But under existing law before profits made prior to March 1, 1913, can be distributed the more recently earned profits must be distributed subject to the tax. Then prior profits can be distributed that are not subject to taxation. Now, although the courts have sustained that provision of the law, as late as the 26th day of October, 1921, the Bureau of Internal Revenue made a ruling that certain of those profits made prior to March 1, 1913, are subject to the tax. That ruling, so it appears to me, was made in the face of the law and the decision of the courts. The only thing that that ruling does is to take a man into court and make him defend his rights—it causes litigation.

In this bill we have made it so plain that the man who runs may read, and hereafter the Government will be deterred by simple, plain language to the effect that no profits made prior

to March 1, 1913, or increased value of the property up to that date, shall be subject to taxation, directly or indirectly.

Mr. DUNBAR. This bill, however, provides for taxation in the future, and I can see no reason why corporations making a small percentage of profit should be required to pay an increased tax.

Mr. FORDNEY. If you make a distinction, you must return to the perplexing question of invested capital—a question we earnestly hope to remove as a basis of taxation.

Now, gentlemen, I do not care to discuss this matter any further at present, and will ask gentlemen on the other side to use some of their time. I reserve the remainder of my time.

The SPEAKER pro tempore. The gentleman from Michigan reserves an hour and a half. The gentleman from Texas [Mr. GARNER] is recognized for two hours.

Mr. GARNER. Mr. Speaker, at the very outset of my remarks I think I ought to reiterate, if I may, my personal position touching taxation, and what I believe to be the position of a great majority of the Democrats touching the same matter.

In the first place, if I understand it, there are in this country three well-defined positions concerning taxation.

One of these positions is that Congress shall levy taxes necessary to run the Government upon the masses of the people, and the advocates of this plan use as an argument that after all the whole people must pay the tax; that regardless of what method is used it finally sifts back to the masses, and consequently many who hold this view of taxation are found advocating the sales tax. It is their view that the sales tax is the simplest way of getting the money, which they say the people collectively must pay anyway in the long run.

There is another class of gentlemen who believe that all taxes necessary to run the Government should be levied on wealth, and that there should be no consumption and excise taxes, which the public in general would have to pay. These two classes I have just mentioned are the two extremes. Now, there is another class who believe that Congress should collect from the masses, and by that I mean everybody, rich and poor, learned and unlearned, great and small, according to their necessities, approximately 50 per cent of the taxes necessary to run the Government, and upon wealth the other required 50 per cent. Gentlemen who were here during the leadership of Speaker Clark will remember that he and I had a very animated discussion on the floor of the House—it may have been in caucus. I do not recollect exactly—with reference to what this division of per cent should be.

We finally agreed that the masses of the people should pay between one-third and one-half of the revenues necessary to run the Government and wealth should contribute the balance. I do not believe it would be desirable or practicable to undertake to raise all the revenue necessary to support the Government from those we ordinarily term as the "wealthy class." I have as much respect for the preservation of property rights as any man who sits in this honorable body. I would never enact any law which would take away from the citizen the incentive to accumulate wealth. I realize that capital for the most part represents the wages of yesterday, and that the wages of yesterday should be as safe from confiscation as the wages of to-day, and that we can not abolish poverty by destroying wealth; but while I would allow the citizen all reasonable opportunity and incentive to accumulate wealth, I would also enact laws which would carry a reasonable part of that fortune back to the people through an inheritance tax collected by the Treasury of the United States. [Applause on the Democratic side.] If I had my way, as I said in the original discussion on this revenue bill, I would have five taxes in this country, and we can get sufficient revenues from those five sources to run the Government. I would have, first, a customs tax; second, the post-office receipts; third, a tax on tobacco; fourth, an income tax applied to individuals and corporations; and fifth, an inheritance tax.

Mr. ROSSDALE. Mr. Speaker, will the gentleman yield?

Mr. GARNER. I prefer to go on and make my statement, but I yield.

Mr. ROSSDALE. How much tax does the gentleman think he could get above the running expenses of the Postal Department from that source?

Mr. GARNER. I would favor getting what it costs to run the Post Office Service from that source, as we have always done.

Mr. ROSSDALE. That is practically what it is now. There is probably not more than \$50,000,000 spent in running the Postal Service in excess of the postal receipts.

Mr. GARNER. But, my dear sir, I would stop any deficit at all. I would do it by making each piece of mail pay its way through the mails. Is the gentleman willing to do that?



Mr. ROSSDALE. Yes.

Mr. GARNER. I am very glad to hear somebody on that side of the House is willing to do that, because there was an effort made by the gentleman from Ohio [Mr. LONGWORTH] to repeal the second-class zone postage law.

Mr. LONGWORTH. Oh, I think the gentleman is mistaken about that—not to repeal it.

Mr. GARNER. Your bill had for its purpose a very material modification.

Mr. LONGWORTH. Yes; a slight modification.

Mr. GARNER. Yes; a slight modification, indeed. One that would have cost the Treasury of the United States many millions of dollars.

Now, gentlemen, proceeding further with my line of thought, I would make the income and the inheritance taxes pay one-half of the expense of running the Government. That would be wealth's contribution. And I would collect out of the customs, the tobacco, and the postal receipts the other one-half. That would be the contribution of the masses. In the payment of these last three practically everybody would contribute. By postal receipts I do not mean any new tax, but simply collect as at present for carrying the mail, except I would increase the charges on certain mail matter enough to avoid any deficit in the Postal Service.

Mr. MILLS. Mr. Speaker, will the gentleman yield?

Mr. GARNER. Yes.

Mr. MILLS. What will those two taxes yield to-day?

Mr. GARNER. I presume the gentleman means the inheritance and the income taxes?

Mr. MILLS. Yes; as levied under the terms of this bill.

Mr. GARNER. I expect under present conditions they will yield about \$1,500,000,000. I doubt whether they will yield that much as levied under the provisions of this bill, which permits over \$180,000,000 deduction, in addition to the ultimate \$300,000,000 loss to the Treasury Department which I shall point out in a few minutes.

Mr. MILLS. Would the gentleman be willing to give us the estimate of the Treasury as to what would be yielded by these two taxes?

Mr. GARNER. I have not that information, and I do not think the Treasury officials have yet made their estimates under this bill; but the gentleman from New York, I have no doubt, would agree that Congress could collect out of the inheritance and income taxes from individuals and corporations very easily \$1,500,000,000. In fact, during the past few years we have been collecting much more than that.

Mr. MILLS. If the gentleman will yield further, my contention is that in this bill those two taxes will yield at least 50 per cent of the total revenues which it proposes to raise.

Mr. GARNER. I do not think so, and I think the estimate of the Treasury Department, when it is available, will show that I am correct. But let me get along, if I may, because there are a great many things to discuss. It is the duty of your conference committee, Mr. Speaker, to make perfectly plain, as far as they can, the results of their conference. We passed this revenue bill first in the House and then it went to the Senate. The Senate amended it. In fact, they "muchly" amended it. In my judgment, these amendments, speaking of them as a whole, made a very much better bill out of it than when it passed the House. I think there is not a single Member who has investigated the bill who would come to any other conclusion than that it was a better bill when it left the Senate than it was when it left the House. Mr. Speaker, there is a reason for that and it is this: In the Senate the Members had an opportunity to investigate and to vote directly upon propositions of amendment to the bill. They were not tied down by a strait-jacket special rule. In the House of Representatives we had no opportunity to amend the bill, except as to such amendments as were offered by the Ways and Means Committee. Wherever the Senate had an opportunity to vote on a meritorious amendment to the bill, so far as I recall at this moment, that amendment was adopted. In view of this situation, what is the query that naturally comes to every mind? Which is the more responsive body to the people's will, the House or the Senate? It used to be said that the House was the most responsive body, gave the greatest amount of real consideration to legislation, but I submit that unless we abandon the custom of adopting these restrictive special rules, we will not much longer be able to retain that distinction. There was not an opportunity in the House of Representatives to give this bill the consideration that Members like the gentleman from Wisconsin [Mr. FREAR] and myself would like to see given.

Mr. FREAR. Mr. Speaker, will the gentleman yield?

Mr. GARNER. Yes.

Mr. FREAR. The gentleman who now occupies the Chair [Mr. BURTON] stated the other day on the floor, and I think correctly, that this is not a deliberative body at the present time. We all concede it. The gentleman from Texas has just so stated in his remarks. Will he suggest, if not taking up too much time, what plan could be adopted, simple plan, to enlarge the rights of the House to vote on these questions? I ask that for information.

Mr. GARNER. It would take quite a little while to discuss that question, but I will say that if the House would require a two-thirds vote to adopt one of these special rules it would help a great deal. It takes a two-thirds vote of the House to suspend the rules and pass a bill. Why not require a two-thirds vote of the House to pass a special rule?

Mr. LAYTON. Does not the gentleman think that we would also have more time for real deliberation in this body if we adopted a rule that on Monday, Tuesday, Wednesday, Thursday, and Friday there could be no words uttered except words pertinent to the bill under discussion, and that if anybody wanted to make a speech he would have to make it on Saturday?

Mr. GARNER. The gentleman might get unanimous consent to extend his remarks in the Record and answer the same purpose. His proposition is original and novel, but I am not prepared to say it would be a wise one to adopt. But I must proceed to a further discussion of the conference report.

It is a very strange situation to me that when we came to consider amendments adopted to the bill by the Senate the Republican Senate conferees would say, "We do not want this amendment put on by our own legislative body." That is the situation in reference to the parliamentary status. You appoint conferees on the part of the House who are not in sympathy with the action of the House, or you appoint conferees on the part of the Senate that are not in sympathy with the Senate action, and the result is when the conferees get into conference and the doors are closed and the matters in disagreement are brought up you see one conferee look at the other and kind of smile, and say, "Well, you want us to recede on this?" "Well, no; we do not want you to recede on this." And thus the conference proceeds. Not a very satisfactory way, I venture to assert.

The gentleman from Michigan [Mr. FORDNEY] has referred to amendment No. 20, and it ought to be known as the "Fordney amendment," because if there has been a man in and out of Congress for the last eight years that has prayerfully begged and pleaded and done everything in human power to get it, you have been the one man in the United States to do so, and it ought to be known as the "Fordney amendment" for all time. I can illustrate it no better than to say that you put in the bill the provision on page—I am thinking of the old bill now—page 8, amendment No. 20, and put in there a provision which made corporations pay their just taxes, but it was stricken out in the Senate. I will not say upon whose suggestion that was done, but anyway it was done, and amendment No. 21 was put in instead.

I know when I asked the question, gentlemen, about this amendment—and you ought to observe this amendment, because it is what you would call a "mop-up" amendment by the corporations of this country—I recall how Mr. GREEN—but probably I had best leave it to him to discuss, because I know he intends to expose it when he takes the floor in debate.

Mr. GREEN of Iowa. Will the gentleman yield?

Mr. GARNER. I will.

Mr. GREEN of Iowa. If the gentleman objects to the amendment so strenuously, why did he not make a point of order on it?

Mr. GARNER. Because it is not subject to a point of order. If it were subject to a point of order I would have made it. That is the difference between us. I do not want to put myself in a ridiculous attitude by making a point of order to something that is not subject to a point of order.

Mr. GREEN of Iowa. The provisions are not the same.

Mr. GARNER. The provisions are virtually the same. I will reply to the gentleman, if he is so much opposed to the amendment, as he certainly is, why did he not make a point of order?

Mr. GREEN of Iowa. I will answer that I want a bill at this session. I am utterly opposed to this provision No. 20. I think it is ridiculous, but I do not want to sacrifice the bill on account of it.

Mr. GARNER. Let me say with reference to the gentleman from Iowa that his ideas and mine are very much in accord in regard to policies of taxation, but there is this difference between the gentleman and myself: The gentleman from Iowa had rather let the country go to the bow-wows, and the Re-

publican Party succeed, whereas I think the welfare of the Nation comes ahead of the fortunes of any political party. That is the difference between the gentleman from Iowa and myself. [Applause on the Democratic side.]

Mr. FORDNEY. I believe the gentleman should stand corrected. A few minutes ago he stated that amendment 20 applied to corporations alone. That is incorrect. That amendment applies to individuals as well as corporations; it applies to everybody.

Mr. GARNER. Oh, yes; No. 18 takes care of individuals. No. 18 paved the way for No. 20.

#### DEFICIENCY APPROPRIATION BILL.

Mr. MADDEN. Mr. Speaker, will the gentleman yield to me for a moment?

Mr. GARNER. Certainly.

Mr. MADDEN. Mr. Speaker, I desire to report a bill from the Committee on Appropriations for printing under the rule.

The SPEAKER pro tempore. The gentleman from Illinois submits a privileged report from the Committee on Appropriations, which the Clerk will report.

The Clerk read as follows:

A bill (H. R. 9237) making appropriations to supply deficiencies in appropriations for the fiscal year ending June 30, 1922, and prior fiscal years, supplemental appropriations for the fiscal year ending June 30, 1922, and subsequent fiscal years, and for other purposes.

Mr. BYRNS of Tennessee. Mr. Speaker, I reserve all points of order.

The SPEAKER pro tempore. The gentleman from Tennessee reserves all points of order. The bill and report will be referred to the Union Calendar and ordered to be printed.

#### THE REVENUE—CONFERENCE REPORT.

Mr. GARNER. Mr. Speaker, amendment No. 18 paved the way for No. 20. Members should get a copy of the bill and examine it if they wish to understand it. Even then I doubt if you will know much about it. It takes an expert to tell you what is meant by every word and every letter and every punctuation mark. It is impossible for a Member to understand these administrative features of the bill without careful study of them.

Now, I pass over an amendment that is a good one, for which I think the conferees should be commended, No. 20.

Mr. FORDNEY. I will explain No. 20 when the gentleman concludes his remarks.

Mr. GARNER. I will now consider amendment No. 8, on page 5 of the bill. I cite the page so that gentlemen desiring to follow the bill may do so. That is the only way you can consider such a bill as this. Now, as to No. 8: As you will recall, we had a discussion on it. Of course, we never had an opportunity to consider it in the House as these other amendments were considered. No. 8 undertook to exempt from taxation the foreign trader. When the expert was asked how much taxes we lose by it the astounding answer was made—I think it was a mistake—that it would be \$300,000,000 a year. He based it upon all our foreign trade. But while I think he made a mistake I do know we lose a great deal of money—"a very large sum"—as the expert says. The House did exempt the foreign trader. The Senate saw the fallacy of it and amended it, and struck out what is known as the foreign trader. When we got into conference the House conferees are to be congratulated on the fact that they receded and accepted the amendment. I want to congratulate them for doing that. I want to deal with the good as well as with the bad. That is the fair way to go on as we fight our battles.

We had some other amendments. I will take them up in order. Now, as to No. 41: This is one other unconscionable amendment. Let me explain what amendment No. 41 means.

Look at it on page 12 of the new bill. Mark it. How came this amendment to be agreed to? Your conferees were in conference for a week. If they had considered these things comprehensively, they probably would have been in conference for six weeks, but it got down to the point where they said, "Agree to this," "Agree to that," "Go on," and on they went.

By the way, we had many messages from the Treasury Department. We had a Treasury expert there who came in in the morning and made a very interesting and, I thought, conclusive argument; then the Secretary of the Treasury would give him different instructions, and in the afternoon he would make the most conclusive argument on the other side of the same proposition that I ever heard in my life. This expert helped to make up this bill in the House, and when he was asked why amendment 41 was put in here, he said, that "It was thought wise at that time, but is not thought wise now." Now look at amendment 41. We had a written message on that from the

Secretary of the Treasury. He said it was most important that the Senate recede from amendment 41. That is one of the seven on which the Senate receded. Out of 832 amendments the Senate receded from 7. This is one of them, and the Secretary of the Treasury said it was most important that the conferees do that. Now, what is the office of amendment 41? By it you determine gain or loss; this is the definition of how you will determine gain or loss; determine how much you will make, you know.

It reads:

When any such property held for investment or for productive use in trade or business (not including stock in trade or other property held primarily for sale) is exchanged for property of a like kind or use—

You do not get any gain or profit there. The Senate saw the fallacy of that. They saw you could exchange stocks and everything of that kind without paying any tax at all, so they struck out "investment or for," and left it reading—

When any such property held for productive use in trade or business (not including stock in trade or other property held primarily for sale) is exchanged for property of a like kind or use—

which is all right. Then you should have no profit or gain. Now, the Senate struck that out because they did not want it to apply to stocks and bonds. What happened? The Senate receded. Why, it happened just as it always will as long as the Treasury Department has the viewpoint of taxation that it now has. That will happen as long as you have a House or a Senate that obeys the mandates of the Treasury Department. It is the viewpoint of those who desire to relieve the heavy taxpayer from his taxes and continue the taxes upon the masses of the people, as they have done in this bill. You will find it all the way through, and these are only a few things that I can point out to you, because I have not the time to point them all out. As I say, it would take you five or six or a dozen hours to explain with anything like fullness the effect of these various amendments, which you do not understand, and of which neither I nor any other member of the conference committee have but a limited understanding.

Amendment 114 is one which is known in the Senate as the Lenroot amendment. What did Mr. LENROOT do? He wanted to protect the Government against this effort on the part of the House, whose theory of taxation was that you should relieve the big taxpayers from taxes and let the masses of the people pay the taxes. He wanted to protect them as far as he could by this particular amendment. Senator LENROOT put in the words "or stock or shares in a corporation." This part of the bill was to make an exception of a certain kind of property from certain taxes, and Mr. LENROOT put in "or stock or shares in a corporation" so as to catch that bunch. Now, what did they do? They struck that out. If you will remember, that is one other place, one of the seven cases, where the Senate receded. You have already had one stock-and-bond amendment where the Senate receded upon the urgent request of the Secretary of the Treasury, and here on the Lenroot amendment you have the Senate receding again, because that amendment applies to stocks and bonds. That is natural, and in perfect harmony with Republican history and tradition.

Mr. MILLS. Will the gentleman yield?

Mr. GARNER. In just a moment. That is natural. There are three Republican conferees on the part of the Senate. Picture them in your eye, if you will, stand-pat Republicans, three on the House side, two stand-pat Republicans and the other not aggressive enough in contending for his views on this bill. It is easy to understand just how such recessions come about. Now I will yield to the gentleman from New York.

Mr. MILLS. I should like to ask my friend if he will tell us why the net gains on the sale of capital assets consisting of stocks and bonds should be taxed at the full rate, while the sale of other capital assets should be taxed at a limited rate? Why should there be a difference in the taxation on the profit? What is the distinction between stocks and bonds as property and other property?

Mr. GARNER. I agree with the gentleman that there is no great difference so far as this particular amendment is concerned, but I merely mention this to show you that wherever the House left out an opportunity for them to get away the Senate put it in, and then the Senate receded. That is all. I am merely illustrating the practice.

But now take amendment 115. Here is the juicy one. Here is where my 95 Republican friends who voted with us to accept the 50 per cent surtax got it in the neck. Here is where you thought you were getting 50 per cent and the conferees took it away from you. Now, let us see what happened by adopting amendment No. 115. You voted for 50 per cent the other day



as a surtax on incomes amounting to over \$200,000. What is the condition? What happened? Under the present law some of these large income-tax payers have to pay 73 per cent, 65 per cent as surtax and 8 per cent as normal tax, and under this provision, making a distinction as to income derived from capital gain, the taxpayer will not be taxed more than 12½ per cent.

Such are the fruits of putting this bill in the hands of conferees not in sympathy with the expressed will of the House.

Mr. GREEN of Iowa rose.

Mr. GARNER. Oh, when I get to telling an unpleasant truth the gentleman interrupts me. Wait until I get to something else; I decline to yield. I know how difficult it is for Republicans when their leaders put it up to them to vote for or against a conference report. I am going to point out to you, I think, that when you vote for this conference report you are voting for something that you do not want. You voted the other day that the man who had an income of over \$200,000 should pay a tax at the rate of 58 per cent, 50 per cent surtax and 8 per cent normal tax. The same taxpayer may have under this amendment an income of \$500,000, and if it is from capital stock gain the internal revenue department can not tax him more than 12½ per cent.

But there is one good feature in that amendment, which ought not to go by without my telling the House the effect of it. In agreeing to this amendment we increase the capital-gain tax paid by corporations from 6 per cent to 12½. You all know what capital gain is. The capital-gain corporations will be increased from 6 under the old law to 12½ under this amendment. The House provision did not apply to corporations.

Now I yield to the gentlemen who desire to ask a question.

Mr. CHANDLER of Oklahoma. I should like to ask the gentleman a question.

Mr. GARNER. Very well.

Mr. CHANDLER of Oklahoma. I want to ask if the original bill as it passed the House does not carry practically the same provisions.

Mr. GARNER. The House provision limited it to losses as well as gains. Mr. Speaker, how much time have I used?

The SPEAKER pro tempore (Mr. WALSH). Forty-eight minutes.

Mr. GARNER. Well, I have so many amendments that I would like to call attention to that I will not have time to refer to all; but I will call attention to a few more. Amendment 168, you gentlemen are all interested in that and have had telegrams about it. You want to look at that in connection with 395. What is this amendment?

This provision relieves the national banks. This amendment exempts the national banks of the country from the payment of local taxes, or rather allows them to include it in the expenses and deduction from their returns. I am not particularly opposed to it, but I merely call your attention to the fact once more and again and again, that every effort has been made toward relieving those best able to pay and continuing the tax on those least able to pay. I merely call attention to these facts that you may see the trend of opinion existing in the minds of the conferees of both Houses.

When I come to the soda-water tax, and those other little nuisance taxes, I shall undertake to show you that the conferees contended with tenacious insistence on keeping the very highest rates they could get in a compromise measure.

I refer now to amendment No. 793, and what I have to say in respect to that applies to a number of the amendments. They have pursued a policy in this bill that I think is a mistake, and I am going to tell you about it. I do not believe that we ought to place in one man's hands too much power; I do not care whether he is a Republican or a Democrat. I am fundamentally opposed to placing in one man's hands too much power over the purse or the person of the people of this country. In the delegation of power, I think the least power you place in the hands of the administrators beyond what is necessary, the better it is. What has happened? In a number of instances they have turned over to the commissioner the most astounding power that has ever been placed in any one man's hands. They take away from the Comptroller General the power to determine the legality of a voucher coming through his department. They take away from the comptroller—and I wish the gentleman from Illinois [Mr. MADDEN] was here, because he was on the Budget Committee and we discussed this, and I know his opinion—they take away from the Comptroller General under the Budget System power to say to the Commissioner of Internal Revenue, "You have issued a voucher in defiance of law." Do you wish to do that? I know that the Old Roman from Illinois [Mr. CANNON] does not want to do that. I know his opinion in respect to these matters. But that is what this bill does. It takes away

from the Secretary of the Treasury, from the comptroller, the power to say to the Commissioner of Internal Revenue, "This voucher is issued in defiance of law."

If you pass this bill, you have turned over to the Commissioner of Internal Revenue very broad power to deal with literally billions of dollars. Do you want to do that? I say you do not want to confer any such broad powers, and I do not believe this House would tolerate it for a moment if it had a chance to vote upon the question.

Mr. GREEN of Iowa. Mr. Speaker, will the gentleman yield?

Mr. GARNER. Yes.

Mr. GREEN of Iowa. We did not take that power away from him because he did not have it, and we did not give it to him in this bill. The Auditor of the Treasury can still say whether a voucher is improperly drawn, as well as the Commissioner of Internal Revenue.

Mr. GARNER. The gentleman's statement refutes itself. Is there any gentleman here who knows of any law or provision of law that permits a man to draw a voucher against the Treasury that is not based on law? If he does, let him name it. This does it. This leaves the whole thing in his power to do as he pleases.

Mr. GREEN of Iowa. The gentleman does not mean that.

Mr. GARNER. Oh, the gentleman from Iowa gets 10 per cent information on the subject, and then swears that he knows more than anybody else on the face of God's green footstool. It beats anything I ever saw in my life.

Mr. GREEN of Iowa. If I did not know any more than that, I would keep still.

Mr. COOPER of Wisconsin. Mr. Speaker, will the gentleman yield?

Mr. GARNER. Yes.

Mr. COOPER of Wisconsin. What reason, if any, was given for taking that power to determine the legality of a voucher away from the comptroller?

Mr. GARNER. The advocates of the idea said there were so many technical claims that had to be considered one way or the other that the Commissioner of Internal Revenue wanted to close them up. They wanted to give him the power to fix it here and fix it there—how much?—to fix it to suit himself.

Mr. COOPER of Wisconsin. There seems to be a conflict of testimony here. The gentleman from Iowa [Mr. GREEN] says that is not the reason at all.

Mr. GARNER. If the construction that I place upon that is not correct—that is to say, that the Commissioner of Internal Revenue can draw a voucher against the Treasury of the United States and have it cashed in defiance of the decision of the Comptroller General—then I am unable to understand the English language and do not know what words mean.

Mr. COOPER of Wisconsin. I had always supposed that it was the exclusive function of the Comptroller General to decide questions of law.

Mr. GARNER. I suggest to the gentleman that he read the amendment and form his own conclusions.

Mr. REED of West Virginia. What amendment is that?

Mr. GARNER. Seven hundred and ninety-three, to be found on page 290.

Mr. SISSON. Mr. Speaker, will the gentleman yield?

Mr. GARNER. Yes.

Mr. SISSON. I would say that I do not see how any gentleman can differ with the conclusion reached by the gentleman from Texas. It is in haec verba.

Mr. GARNER. It is there. I submit it to any gentleman; he can find it out for himself on investigation. If it were not so, I would not be calling it to the attention of the House.

Mr. SISSON. Mr. Speaker, will the gentleman yield?

Mr. GARNER. Yes.

Mr. SISSON. Will the gentleman take a minute to explain to us what became of the agricultural bloc in the Senate on this bill?

Mr. GARNER. I shall repeat what one of the Senate conferees said, and from my imitation of him gentlemen can probably imagine to whom I refer, without my mentioning his name. He said, "Why, you have not adopted a single one of the agricultural bloc amendments. Don't you know that you are going to have trouble when you go back to the Senate?" No. Not a single one did they adopt. They put the kibosh on them as fast as they came to them, and they had the diligent assistance of everyone on the Republican side of the conference, except the gentleman from Iowa [Mr. GREEN] who, I repeat, said, "Well, we have got to have a bill, and I am with the party." I glory in his spunk. He stands with the party, if the country does have to stumble along.

Let us take now amendment No. 354, to which I desire to call attention while passing. That amendment permits a partner-

ship or an individual to incorporate within four months after this becomes a law, if it will give him a lower tax. Such a proposition seems to me to be wholly indefensible.

Gentlemen are more or less familiar with amendment No. 355. This is the Senate amendment which struck out the provisions of the House bill levying a corporation tax of 12½ per cent and inserted in lieu thereof a tax of 15 per cent. The conferees have agreed to recede from the Senate amendment and accept the House rate of 12½ per cent. Let me say with reference to this reduction that I should also have called your attention to some other reductions—reductions in this bill over what it carried when it passed the Senate—and in the Senate it was a reduction over what it carried when it passed the House; in all amounting to \$180,000,000, as I get the figures.

That is the best information I can get by asking questions of the Treasury Department expert who makes these estimates. I do not believe this House wants to run the Government on credit. I know you do not. This bill under present expenditure will, in my judgment, lack from \$600,000,000 to \$700,000,000 of sufficient money to run the Government.

The SPEAKER pro tempore. The gentleman from Texas has consumed one hour.

Mr. GARNER. If the result of the Limitation of Armament Conference now in progress in Washington enables us to make heavy reductions in Government expenditures, we may have money enough with which to run the Government. But I will say to the gentleman from Tennessee [Mr. BYRNS], if the Committee on Appropriations is called upon to make appropriations according to the present scale of expenditures, the Government will lack \$600,000,000 or \$700,000,000 in getting money enough to meet these expenditures. I do not believe the House wants to do that. The result of cutting down this corporation tax, as provided in the Senate bill, from 15 to 12½ per cent is more than satisfactory. It ought never to have been increased from 10 to 12½, but you were compelled to do it at that time in order to get by with your excess-profits tax and thus relieve the big corporations. You never would have increased it for one moment—you probably would have reduced it—but you had to bid somewhere, somehow, in order to get sufficient votes to repeal the excess-profits tax.

One of the most influential men in the Republican Party said within the last 72 hours that he had rather see the excess profits stay in the bill a thousand times than to see you adopt the surtaxes which the House of Representatives adopted the other day. Of course he had, because under Republican administration there is not going to be any such thing as an excess-profits tax. It will be gone. But you will continue to have men in this country who have immense incomes and they will have to pay the surtaxes. So this prominent Republican, who occupies a place at the other end of the Capitol, said from his soul—as I know he spoke it—that he would rather ten times have an excess-profits tax than to have a provision in the surtax such as the House placed in it the other day.

I will now refer to amendment No. 406.

Mr. SMITH of Michigan. Will the gentleman yield for a question?

Mr. GARNER. I will.

Mr. SMITH of Michigan. Have you in your mind how many will be affected by the excess-profits tax in the United States?

Mr. GARNER. I have not the slightest idea.

Mr. SMITH of Michigan. Are there any in the gentleman's district that he can think of?

Mr. GARNER. I know there are a number of statesmen who occupy a place in the House of Representatives who never can see any proposition outside of their districts. It is fortunate they never get in control of the Government.

Mr. J. M. NELSON. The gentleman said that the surtax is repealed in this bill, and now he says this distinguished man would rather have had the excess-profits tax remain than for the surtax to be kept at 50 per cent.

Mr. GARNER. My dear sir, you know that your party promised during the elections last year to cut the surtaxes 25 per cent, and you also promised to repeal the excess-profits tax. Your party could not do it. It had promised too much. You could not comply with those promises and get money to run the Government without increasing the corporation tax very materially. Well, are you going to do it? Are we going to-day to increase the tax on all corporations in this country making only 10 or 15 per cent, and some of them much less than that, and let off the ones that are rich, making heavy and large percentages? The result of this conference is that they compromise. What is the compromise? To repeal the excess-profits tax, cut down the surtaxes from 65 to 32, and increase the corporation tax 2½ per cent. There is a compromise between these interests. It was to put on the "poor devil," such as my friend from

Michigan [Mr. FORDNEY] often cries out in lamentation and for whom his tears are shed, whether it be a municipal corporation or other corporation that did not make any war profits; you are going to put on them 2½ per cent more this year than you did last, and at the same time relieve some of those who have been making the heaviest profits by taking off the excess-profits tax. There is your compromise. You have put on every corporation in the United States 2½ per cent additional in order that you might release those who made immense profits.

Mr. KEARNS. Will the gentleman yield for a question?

Mr. GARNER. I yield to my friend.

Mr. KEARNS. When the war was on and the Democratic Congress was here, was not this excessive tax put on the big inheritances at that time?

Mr. GARNER. Why, Mr. Speaker, when a man gets up and asks why you did this and that and the other during times of war—

Mr. KEARNS. I asked you why you did not.

Mr. GARNER (continuing). During the war I stood on this floor as a Democrat and, in response to my administration's request, voted for measures which I would not ordinarily support in time of peace. Some of these measures I could enumerate, but it is not necessary now.

Mr. KEARNS. The gentleman has not answered my question. When the war was on and the Democratic Party was in power in both branches of Congress at that time, when we were needing money badly, why was not that high tax put on these large inheritance estates at that time?

Mr. GARNER. Will the gentleman allow me to come to the estate tax in the regular order?

Mr. KEARNS. I thought the gentleman was discussing it.

Mr. GARNER. No; I was not discussing that tax at this particular time. I was talking about corporation taxes. I repeat it here, and I do not want you gentlemen to forget it, the compromise the Republicans made with the corporations of this country was to repeal the excess-profits tax and to reduce the surtaxes to the extent of 25 per cent, and place the surtaxes at 32 per cent, and to levy a flat tax of 12½ per cent on all corporations.

That was the compromise. Now they have the 12½ per cent on corporations, but instead of the 32 per cent maximum surtax, as they contemplated, we have the 50 per cent by virtue of the patriotism of a majority of the membership of the House of Representatives. Amendment No. 406 is the amortization section. That applies to 1918 and 1919, but for fear that some good man would get away, for fear that some Republican would not get what was coming to him, they extended it to 1917. I call your attention to this in passing.

Mr. STAFFORD. The gentleman means 1920 and 1921?

Mr. GARNER. Yes; 1920 and 1921.

Now turn to amendment 440, if you will, on page 107 in the new bill. The principal amendment is on page 107 in this bill. I want to commend it. As I said, I want to refer both to the good and the bad. Here is an amendment that sought information. Here is a policy that the majority of your conferees did not believe in. They do not want information. Mark that statement. I will prove it by this bill that they did not want information. But this amendment will provide for some information, and I want to commend the conferees, and especially the gentleman from Iowa [Mr. GREEN], who, I think, contributed to it, because he suggested that amendment to the amendment which was adopted. I want to commend him for the suggestion he made. He deserves the thanks of the House, because he is the one who held out for it; otherwise we would not have gotten a single amendment in here to get information. They have cut out two others.

The next amendment I will call your attention to is along that line. Look at amendment 536, on page 138. It provides that income-tax returns shall be public records. Why didn't the language remain in the bill? Do you know any reason?

One of the provisions of the bill is:

But they shall be open to inspection only upon order of the President and under rules and regulations prescribed by the Secretary and approved by the President, or at the request of either House of Congress.

This provision also proposed to give you the information desired at the request of either House of Congress. The conferees strike it out. Why did they strike it out? I ask the gentleman from Iowa [Mr. GREEN] why he agreed to strike this amendment out? I will tell you why they struck it out. I will tell you the express reason why, and when I say "they," I refer to the conferees. They were not willing to trust either the House or the Senate, and they said so by their action in striking this provision out.

Mr. Sisson. Mr. Speaker, will the gentleman yield?



Mr. GARNER. Yes; I yield to the gentleman.

Mr. Sisson. Does the gentleman believe that that provision would be binding upon any future Congress?

Mr. GARNER. Well, if we should leave this provision in the bill and subsequently the House passes a resolution requesting such information and the Secretary of the Treasury declines to comply with it, he would be in plain violation of the law; but if it is not in here and goes out, as this conference report provides, then if we pass a resolution requesting such information he can ignore it. That is the difference, I will say to the gentleman from Missouri.

Mr. Sisson. I have investigated it. I hope the gentleman is right about it; that one Congress can not bind the next Congress so that it could not right a wrong done by a former Congress.

Mr. GARNER. The conferees on the part of the House did not want this information to be available. That illustrates the frame of mind those gentlemen were in when they were acting as your conferees.

Mr. FORDNEY. Did the gentleman from Texas want that in?

Mr. GARNER. I did.

Mr. FORDNEY. Why did you not put in the law of 1918?

Mr. GARNER. I did not think of it, or I would have done it.

Mr. Sisson. Mr. Speaker, will the gentleman yield?

Mr. GARNER. I do.

Mr. Sisson. There is a great deal in this proposition, so far as either House is concerned. It would take a law to do it. But without this provision the House alone could pass a resolution demanding the information, and so could the Senate; so that this is a protection of the officer who may be doing wrong against an investigation by one body when the other body does not agree. I believe that the House ought to have the right to get the information, and I believe the Senate ought to have the right to get it.

Mr. CLOUSE. Mr. Speaker, will the gentleman yield?

Mr. GARNER. Yes.

Mr. CLOUSE. I hope the gentleman will state, if he knows, whether the gentlemen of the House who engaged in the conference were influenced by the 10,000,000 votes cast last year by people who wanted less interference in business by Government and more business management in Government?

Mr. GARNER. Oh, yes; President Harding started out and said that he wanted less Government in business and more business in Government. What have you done to secure that since you got in? [Applause on the Democratic side.] You have been here since April 11, and you have not done a thing to take the Government out of business.

Mr. CLOUSE. Does not the gentleman think, now, that when we pass this bill, as we are certain to do to-day, we are providing for a method of doing business to the people of America?

Mr. GARNER. Yes; you are; the most monstrous style of doing business ever attempted in the United States. It has been said that this is the most monstrous piece of economic legislation ever placed upon the statute books of this country in time of peace. [Applause on the Democratic side.]

Mr. CLOUSE. Mr. Speaker, will the gentleman yield for one other question?

Mr. GARNER. Yes; I yield.

Mr. CLOUSE. I have been much interested in the presentation of the argument of the gentleman from Texas, and I would like to know now—and I have not been able to gather it from his remarks—whether the gentleman now stands in favor of higher taxes as they now exist under the original bill that originated under a Democratic Congress in 1918?

Mr. GARNER. Let me say to my friend, as between this bill and the war measure which the Democrats enacted, I prefer the war measure.

Mr. CLOUSE. I was not asking that question.

Mr. GARNER. Hold on. That is what the gentleman asked me. I will tell you the reason why. The war measure is in time of peace indefensible as a tax measure, and would never have been placed on the statute books except in case of an emergency. You Republicans voted for it. Yes; you did. You youngsters may not have voted for it, because you were not here, but everybody who was here voted for the war tax measures. Now, what happened? We hastily, as the patriotic representatives of 100,000,000 people in war, passed tax legislation which it was not expected to continue when the war was over.

Mr. CLOUSE. Mr. Speaker—

Mr. GARNER. I decline to yield. We passed those laws. You joined us patriotically in passing them. But the war came to an end. The time has now come when we must pass sound and economic permanent peace policy tax legislation. The country gave you the power to perform that duty, but you are sadly lacking in your efforts to carry it out.

You are pretending to do it, but it is only a hollow pretense, and I say to you frankly that in my judgment there is more equity and more justice in the war laws that we passed hastily than there is in this monstrous piece of tax legislation which you are offering to the country as the permanent peace policy of the Republican Party. It is no secret that a certain Senator, a very influential one in his party, remarked, "This is a monstrous piece of legislation." I said, "When do you intend to repeal it?" He said, "Next year." You have been working for seven or eight months with a majority membership of 300 to a Democratic minority of 130 in the House of Representatives, with the second richest man in the world as your adviser, and you get up a piece of legislation that one of the most intelligent if not the most intelligent Senator your party has declares must be repealed within a twelvemonth. Ah, that is statesmanship on the part of the party which has been claiming such wonderful efficiency in government.

Amendment 622 is the gift tax. I do not intend to discuss that. It is well understood, probably, by the gentleman from Iowa [Mr. GREEN]. He was the originator of it, and I never will forget the time when the conferees came to that part of the bill. His face bore that beaming smile that is always there, indicating his good Christian character. His lips were just a little wider than usual and he said, "You will have to agree to this." I said, "Good for GREEN. By jingo, he is going to put that one over on these hard-boiled conferees sure." Well, they passed it over, and then again they passed it over, and still yet again, and we finally got down to where there was nothing left except the liquor tax and the gift tax, and the gentleman from Iowa had to give them both up. I opposed him on one, but I supported him on the other. I supported him in his contention for the gift tax. I will let the gentleman from Iowa [Mr. GREEN] explain to you the merits of that, because I know his thoughts are full of it.

Let me say to the gentleman from Iowa [Mr. GREEN], do not try to avoid responsibility for the elimination of the gift amendment. You ought to have the courage to stand up and say to the whole world, "If I had had backbone enough, I could have kept that amendment in the bill." You could have done it if you had wanted to, and you ought to say you could have done it.

Mr. GREEN of Iowa. Will the gentleman yield?

Mr. GARNER. Yes.

Mr. GREEN of Iowa. Perhaps I have not got the kind of a backbone that the gentleman from Texas has, but if he thinks that this is the last of the gift tax let me assure my friend from Texas that he will hear from it again, and let him defeat it again if he can. He can not do it the next time.

Mr. GARNER. Well, speaking about the next time puts me in mind of something. Every time we came up against something like the gift tax or the inheritance tax in conference, and my friend from Iowa wanted them, they said, "Oh, put them on the bonus bill; we will put them on the bonus bill. We will give you that tax when we pass the bonus bill." Our Republican friends are going to have the liquor tax put on the bonus bill; they are going to have the increased inheritance tax put on the bonus bill; and they are going to have the gift tax put on the bonus bill. It may be so, but it is plain and certain that you are going to have the sales tax on it. [Laughter.]

That is the only one you will have. But now, when they want this conference report adopted, they go to the gentleman from Iowa and say, "You want the gift tax? Well, we will put it on the bonus bill if you will give us the sales tax." That is going to be the policy in the bonus bill. That is what they did with Mr. GREEN to get him to agree. All you had to do was to say, "You want my signature; you have got to have it?" "Yes; we want it." "Well, you recede and agree to this gift tax in the bill."

Now, we come from gift tax and liquor to soda pop. [Laughter.] You will find that on page 195, where there are a number of these amendments. Let me show you a funny thing done by the conferees. We wrestled with this thing for an hour and a half, trying to agree on something between 7½ and 10 per cent. The question was, What will we do with the soda-water tax?

Finally the conference agreed to put it at 9 cents. We had the hardest fight about that one little amendment that you ever saw, but when it comes to taking \$110,000,000 off the corporations they said, "Well, let her go; pass on, John. Call the next number." [Laughter.]

Now, take amendment 710, page 224, in the new bill. I want to call attention to it for a moment to let you see again the policy of the conferees. The provision reads:

Sec. 902. That there shall be levied, assessed, collected, and paid upon sculpture, paintings, statuary, art porcelains, and bronzes, sold by any person other than the artist, a tax equivalent to 5 per cent of

the price for which so sold. This section shall not apply to the sale of any such article (1) to an educational institution or public art museum.

And then comes the amendment—

or (2) by any dealer in such articles to another dealer in such articles for resale.

That means that you will lose about \$5,000,000 by these wash sales not being taxed.

Mr. Speaker, how much time have I remaining?

The SPEAKER pro tempore. The gentleman has 24 minutes remaining.

Mr. GARNER. Mr. Speaker, I can not go through the list of these amendments that I have here because I do want to devote a moment or two to the main matter. I could go through this list and call attention to one or two amendments that I think should be called attention to, because a few days ago—

Mr. STAFFORD. Mr. Speaker, will the gentleman yield?

Mr. GARNER. Yes.

Mr. STAFFORD. Will the gentleman enumerate the amendments he had intended to refer to?

Mr. GARNER. Amendments No. 722, 766—and they refer to the loaning and returning of stocks. I asked the expert to give me an estimate on the loss this involved, and he said that he could not do it now, but that it would be a large amount.

Amendments numbered 799, 804—and I want the attention of you gentlemen on the Judiciary Committee for a moment to that. Here is where the Committee on Ways and Means changes the law relating to limitation of time on prosecutions. Some time ago Congress passed a law making the time limitation three years in respect to certain violations of law during war times. Another law was passed making it six years. The Ways and Means Committee has made it three years. I am informed that the Judiciary Committee bill does not apply to internal-revenue cases, but it applies to all other cases. I do not think Congress should fix any short limitation against these fellows who violated the war contracts law. Amendment No. 707 entails a loss of a million and a half per annum, and amendment 825 clearly illustrates the Treasury methods. The conferees undertake to enact in this bill, at the suggestion of the Treasury Department, rules and regulations of the Treasury Department that have been made and that heretofore have not been put into law. It seems to me most unwise to burden this bill down with a great load of cumbersome rules and regulations.

Mr. MOORE of Virginia. Mr. Speaker, before the gentleman concludes there will he yield for a question?

Mr. GARNER. Yes.

Mr. MOORE of Virginia. Was there a Senate amendment which provided that the taxpayer should include in his return a statement of his tax-exempt securities?

Mr. GARNER. Yes.

Mr. MOORE of Virginia. Was that stricken out?

Mr. GARNER. Yes.

Mr. MOORE of Virginia. Why?

Mr. GARNER. Because the Republicans did not want to get that information until they can get the sales tax on the statute books, and they give that as an excuse for advocating the sales tax.

Mr. MOORE of Virginia. I have asked the question because in the debates here recently we have had a great deal of conjecture as to the extent to which the ultra wealthy men of the country have invested in tax-exempt securities. The design of the Senate amendment, as I understand it, was to furnish definite statistics and information on that point.

Mr. GARNER. That is correct, and the gentleman from Iowa [Mr. GREEN] wanted to have it put in there, too, but it was not put in.

Mr. LONDON. Mr. Speaker, will the gentleman yield?

Mr. GARNER. Yes.

Mr. LONDON. This information was required by the tax blanks and is being required now.

Mr. GARNER. The statement was made this way by the Treasury experts. They said that the law required it now, but that it has no teeth in it. The result is that the lawyers advising the big taxpayers advise them not to pay any attention to that law, that it does not amount to anything. We wanted to put it in there and put some teeth in it, but the boys said, "Nay, nay; not at all; nothing doing."

Mr. Speaker, as I said in the beginning, this is a very feeble effort toward explaining some of the amendments in this bill. I said it would take 6, 8, or 10 hours, and I repeat that it would take some one with an understanding better than I have to explain the bill fully. There are many provisions in the bill which only experts can interpret. I thought we would try in peace times to enact legislation that the ordinary citizen could

understand, but I see no hope for that in this bill. No one but a lawyer, an economic expert, a bookkeeper, or an accountant can understand it, and when you go home you will be unable to make out your own report. You have heard Congress criticized a number of times for passing a law under which a Member of Congress could not make out his own return. When this bill goes on the statute books I undertake to say that not 10 per cent of the membership of the House who have any business transactions whatever of a commercial nature will be able correctly to make out their own return.

But there is one thing that you can understand, and there is one thing that your constituents are going to be able to understand, and that is, they are going to understand your vote this afternoon on the question of whether you want large estates taxed more than they are taxed now. There will be no way to camouflage on that matter. You can not dodge when they ask you why it is that you are not willing to take 30 per cent from a man who inherits an estate of \$15,000,000.

Gentlemen, do as you please. I know in your hearts that scores of you do not like this bill. You know that it is a monstrous piece of legislation, but many of you are going to vote for it on party grounds. But before you reach that stage you have a right to perfect this piece of legislation and make it as near your idea of what it ought to be as it can be made; and so let me appeal to you as one American to another, outside of politics, because men who stand for making wealth pay its full share are not necessarily Republicans or Democrats—I appeal to you to perfect this measure as near as you can before the final vote. I am going to make a motion, or some other gentleman will before this bill is finally voted on, to send it back to conference with instructions to the conferees on the part of the House that they agree to the Senate amendment pertaining to estate taxes.

Mr. MILLS. Will the gentleman yield for a question?

Mr. GARNER. In just a moment. Now, do you believe in those estate taxes? If you believe in the Senate amendments in reference to estate taxes, let it go to conference to-morrow, have it put in this bill, and we will pass it within an hour after it arrives from conference. It is a question, gentlemen, of whether you want it in the law. If you do, you have a chance to get it, because by voting for such instructions as I have mentioned you will have a bill reported back with an agreement to the Senate bill within an hour or two hours to-morrow and can then pass the bill. And I hope that Congress will adjourn on the 23d so that we can all return to our homes. [Applause.]

Mr. MILLS. Will the gentleman yield?

Mr. GARNER. I had forgotten. I beg the gentleman's pardon.

Mr. MILLS. I wanted to ask the gentleman how high he thought the inheritance tax rates should go?

Mr. GARNER. Mr. Speaker, I know that there are gentlemen in this country that would not take over a million or five millions or ten million dollars. I am not one of them. I would go far enough to say that when a man in this country with \$100,000,000 dies, and I think that amount is more than one man ought to own—leaves \$100,000,000, which a good Government permitted him to accumulate by his efforts, whether fair or unfair, during his lifetime, I would say to his heirs, who never earned one dollar of it, "The Government permits you to take \$50,000,000 that you did not earn, and therefore you will give up the other \$50,000,000 to the Government for the benefit of the people. That is what I would do. I do not know that I would go higher than that. I do not think I would. I think 50 per cent is as high as the Government ought to go. Would the gentleman from New York take any by the Federal Government?"

Mr. MILLS. Not without due consideration. The gentleman said he would take 50 per cent of \$100,000,000, and I assume he fixes \$100,000,000 for the purposes of illustration.

Mr. GARNER. Of illustration.

Mr. MILLS. When he takes 50 per cent by the Federal Government he is actually, in any number of cases, taking 80 per cent from the heirs, because to-day all but three States of the Union have inheritance tax laws, and most of them run up as high as 30 per cent on estates of more than \$100,000,000.

Mr. GARNER. The gentleman confirms my argument that every State in the Union likes this kind of taxation and the people of the country want it. We are standing in the way of their wishes by the argument he makes. The facts he uses show that every State in the Union wants that tax. I will tell you how I would fix an estate tax. I would put a provision in this bill, if I had my way, about the rates that I have mentioned, providing that where a State did not collect an estate tax 50 per cent of the amount collected would be returned to



the State. Then you would not have a single State in the Union that would not have an inheritance tax.

Mr. MILLS. The gentleman, then, would have a maximum of 50 per cent of an inheritance tax on the large amount?

Mr. GARNER. On the large amount; yes, sir.

Mr. MILLS. Does the gentleman appreciate, then, in asking the Members of the House to vote for the 50 per cent tax that he is asking them to vote for 80 per cent?

Mr. GARNER. The State of New York can repeal the taxes if it wants to do so.

Mr. MILLS. Let me ask the gentleman another question: Is he not aware that not only is a man taxed in the State where he resides, but in a number of cases he is taxed by three or four States?

Mr. GARNER. Yes.

Mr. MILLS. Does the gentleman think it sound and equitable to pay taxes in three States, and then superimpose this tax?

Mr. LONDON. When one man owns property in three or four States it means that he has American citizens working in three or four States under the protection of three or four States?

Mr. GARNER. That is probably true. I know this, as well as I know that I am standing here, that if the Republican leaders had given us an opportunity to consider this bill under the ordinary 5-minute rule and Mr. GREEN of Iowa had risen in his place—as I believe he would have—and offered this Senate amendment relating to inheritance taxes to the bill it would have been adopted. The leaders did not give us a chance. This is the only chance to get it in the bill. Take it or leave it alone. I have made my argument and the responsibility must now rest with the political party in control of the House.

Mr. J. M. NELSON. I am in favor of a high inheritance tax, but this bothers me, namely, how are you going to prevent the distribution of the estate beforehand?

Mr. GARNER. Just as quick as the Democrats get in we can attend to that part of it. We will fix a good strong gift tax. [Applause on the Democratic side.]

I reserve the balance of my time, Mr. Speaker.

The SPEAKER pro tempore. The gentleman reserves seven minutes.

Mr. FORDNEY. Mr. Chairman, I yield 15 minutes to the gentleman from Wyoming [Mr. MONDELL].

Mr. MONDELL. Mr. Speaker, the gentleman from Texas has consumed nearly two hours, most of the time lamenting the fact that we have not placed upon this bill in time of peace taxes his party declined to place upon their bill in time of war. If the taxes that the gentleman from Texas is so bewailing the absence of in this measure are so meritorious, so altogether commendable, why in thunder did they not place them on the tax bill his party presented in time of war and stress, when they were reaching out in every direction for every dollar obtainable? In a portion of the gentleman's time, when he was not lamenting the fact that we had not placed upon this bill taxes which they declined to place any one of the several tax bills passed during the Wilson administration, he was endeavoring to give a definition of other folks' idea of the proper theory of taxation.

I did not hear all of the gentleman's two-hour speech, but the part that I did hear did not give me any clear or definite information of what the gentleman's own notion was as to the proper basis or theory of taxation. He talks about presenting all these matters under the five-minute rule, open the report to amendment, and all that. This conference report comes here in the usual way. It comes here under the rules of the House—rules that were in operation for eight years under the late Democratic administration, with no proposal to change them.

Mr. GARNER. Mr. Speaker, will the gentleman yield?

Mr. MONDELL. I regret I can not. My time is short. If I had as much time as the gentleman from Texas had, I would be glad to yield.

I think it is unfortunate that we can not open tax and tariff bills to full debate in the House, but everybody knows why we can not, because in our opinion—it is merely an opinion, which may not be well based; but it is an opinion that I hold firmly and one which is justified by many votes and all the procedure on that side—there would not be a single, solitary vote cast on the Democratic side on any question relating to such a bill save and solely votes cast from the standpoint of partisan politics. I know—we all know—that there are gentlemen on the Democratic side who do not believe that a 50 per cent surtax is sound economically as a tax proposition in time of peace, and yet the party lash was swung, and gentlemen who had said they were going to vote against the 50 per cent surtax voted for it. There were three votes, I believe, cast on that side against the

50 per cent surtax; those were honorable exceptions. I make one further exception. There is, in my opinion, one individual who sits and votes on that side that on a question of this kind would cast his vote on the merits of the proposition as he understands them. That is the gentleman from New York [Mr. LONDON]. I believe he would vote his convictions on these questions; he would probably be wrong, but at any rate his vote would express his real opinion. I may be doing some gentleman an injustice, but it is my opinion that the votes on that side on any amendment to this report would reflect not the belief or the opinion of gentlemen on that side, but solely and wholly the opinion of the leaders as to the votes and attitude that would secure them the greatest party advantage. Of course, they would be mistaken, even from that standpoint.

Mr. GARRETT of Tennessee. Mr. Chairman, will the gentleman yield?

Mr. MONDELL. Their votes are not sound, even from the standpoint of party advantage; but that is the way they would be cast, in my opinion. It is, of course, all a matter of opinion. I would be glad to yield, but my time is very brief.

The SPEAKER pro tempore. The gentleman declines to yield.

Mr. GARRETT of Tennessee. What does the gentleman think of the 90 per cent of the vote cast on that proposition on that side?

Mr. MONDELL. I think in the main those on this side who voted with the gentleman from Tennessee on Tuesday last did so from the standpoint of misguided opinion. [Applause.] I do not criticize men for voting wrong from errors of judgment. I may not enjoy it; I may not approve it. But it is quite a different thing when gentlemen vote wrong not from conviction, but because they hope it will be of some party advantage.

Now, the gentleman from Texas [Mr. GARNER] endeavored to outline and diagram the basis of our views on this side as to the proper philosophy of taxation. He got about as far wrong as a man ever did in the world. I am unable to tell by your votes what your theory is on that side as to the proper theory of taxation, but I do know that on this side we believe that taxes ought to be laid on the basis of the ability of the taxpayer to pay, and that all taxes laid on property and income should be in proportion to the property and the income, and in the case of income taxes increases progressively with the size of the income.

There is, of course, ground for difference of opinion as to just how we should adjust the detail of taxes on the basis and theory I have suggested. That is the viewpoint of the Republican side, and I hope it is the viewpoint of the Democratic side, although one would scarcely judge so from their votes.

Now, Mr. Speaker, what have the conferees agreed upon? Just what is the effect of their action? If this conference report is adopted, we shall reduce the burden of taxation on the American people for this calendar year \$70,000,000. I wish it were more. I wish we could have relieved the tax on these soda fountains, where my boys and girls buy soda water, right away. I wish we could take the trying and vexatious stamp taxes off to-day. But we can not do it to-day. We propose to do it January 1 next.

But we have repealed \$70,000,000 of the burden for this year. From whom have we lifted this burden? We have relieved the fathers and mothers of the land and those caring for dependent relatives. We have encouraged those with families and those caring for relatives, relieving the burden upon them in the sum of \$30,000,000 by increasing the exemption from income tax for each such dependent in the sum of \$200. We have relieved heads of families with incomes not over \$5,000 in the sum of \$500 exemption each, and to the tune of \$40,000,000. All of the load lifted this calendar year is lifted on account of children and dependents, and from heads of families having salaries less than \$5,000 a year. That certainly is a good beginning.

Beginning next January we do better, because then we take off the transportation taxes to the tune of \$270,000,000. We lift \$25,000,000 of taxes from ice cream cones and soda water and soft drinks. We lift the taxes from articles of wearing apparel to the amount of \$18,000,000.

Beginning January 1 we shall no longer tax parcel-post packages, and the people will save \$20,000,000 during the year thereby. We shall encourage the fathers to provide for their families by relieving them of an annual tax burden of \$20,000,000 per annum on insurance policies, and we shall relieve the children from eight millions of taxes on candy.

No more shall the small boy and youth pay Uncle Sam four million a year on baseballs and footballs and baseball bats. Daughter can now have a Victrola and brother a mandolin without helping to pay a \$12,000,000 tax on musical instruments. We may have electric fans in summer and furs in winter without

helping to pay Uncle Sam \$300,000 in one case and \$9,000,000 in the other. Sister Sue is no longer to be taxed on her face powder or her chewing gum, and brother Bill no longer is to be taxed on his toilet or shaving soap.

The gentlemen who have been assisting the committee in the preparation of the bill and advising them, from expert knowledge, as to the revenue to be expected under its provision have been good enough to prepare me a table of the amounts by which the taxes are to be lifted by this bill. They estimate the tax lifting and revenue reduction this calendar year as follows:

*Estimated reduction in taxes by the 1921 tax law for calendar year 1921.*

Source of revenue.	Present law.	Conference report.	Reduction.
Income tax:			
Individual—			
Normal tax—			
\$200 additional exemption for dependents.....	\$30,000,000	.....	\$30,000,000
\$500 additional exemption for heads of families with income not in excess of \$5,000.....	40,000,000	.....	40,000,000
Total.....	70,000,000	.....	70,000,000

The committee experts estimate the tax lifting and revenue reduction during the calendar year 1922 as follows:

*Estimated reduction in taxes as compared with present law for calendar year 1922.*

Source of revenue.	Estimated revenue, present law.	Estimated revenue, conference bill.	Estimated reduction in tax.
Income tax:			
Individual—			
Normal tax—			
Increases exemption:			
Dependents.....	\$30,000,000	.....	\$30,000,000
Heads of families.....	40,000,000	.....	40,000,000
Surtax.....	60,000,000	.....	60,000,000
Capital gains.....	20,000,000	.....	20,000,000
Corporation.....	400,000,000	\$540,000,000	+140,000,000
Excess profits tax.....	400,000,000	.....	400,000,000
Total income and profits.....	.....	.....	410,000,000
Miscellaneous internal revenue:			
Transportation.....	270,000,000	.....	270,000,000
Insurance.....	20,000,000	.....	20,000,000
Beverages, nonalcoholic.....	60,000,000	34,000,000	26,000,000
Admissions and dues.....	100,000,000	80,000,000	20,000,000
Musical instruments.....	12,000,000	.....	12,000,000
Sporting goods.....	4,000,000	.....	4,000,000
Chewing gum.....	1,000,000	.....	1,000,000
Photographic films (motion picture).....	6,000,000	.....	6,000,000
Candy.....	20,000,000	12,000,000	8,000,000
Electric fans.....	300,000	.....	300,000
Thermos bottles.....	200,000	.....	200,000
Fur articles.....	9,000,000	.....	9,000,000
Toilet soaps, etc.....	2,000,000	.....	2,000,000
Art works.....	1,100,000	400,000	700,000
Articles, tax dependent on price.....	22,000,000	4,000,000	18,000,000
Perfumes, cosmetics, and proprietary medicines.....	6,000,000	.....	6,000,000
Stamp taxes—			
Parcel post.....	20,000,000	.....	20,000,000
On surety bonds.....	2,000,000	.....	2,000,000
Total miscellaneous internal revenue.....	555,600,000	130,400,000	425,200,000
Total internal revenue.....	.....	.....	835,200,000
Total estimated internal revenue tax receipts.....	3,085,300,000	2,250,100,000	835,200,000

In the next calendar year, the year beginning January 1 next, we shall lift the burden from the shoulders of the American people in the sum of \$835,000,000. By reason of the passage of this bill the people of America will pay in the next calendar year less Federal taxes than they would have paid, except for this bill, by \$835,000,000—a very goodly beginning, let me suggest; and, of course, this is not the end of tax revision. When our expenditures are smaller, as we get further away from the war, we shall be able to lift the burden to a greater extent all along the line.

If we had reduced the surtax to 32 per cent, the gentleman from Texas [Mr. GARNER], judging from what he said to-day, with a 50 per cent surtax in the bill, would have found no words sufficient to express his condemnation of the bill. According to his statement it is altogether bad. Yet the surtax, the item on which there was the greatest contest, is exactly what he wanted; it is at the point for which he voted, and yet he will vote against the bill. I agree with him on one thing. I think a 50 per cent surtax in time of peace is most extraordinary. I will admit that, and that far I will agree with my

friend from Texas. But with that exception, which I think is of doubtful wisdom—with all due deference to my friends on this side who think differently—this bill is a splendid measure. It is not perfect. There never will be a tax bill that is perfect until we have one whose provisions are zero, for no one admires to pay taxes, and I know of no tax levy that is welcome anywhere. But this bill does make a good start with the ice cream cones and soft drinks, and relieves our people from many trying, vexatious, and burdensome taxes. Uncle Sam will no longer stand hat in hand begging pennies from little children and sweet girl graduates around the soda fountains. There will be less stamp licking in the Nation, thank heaven, and the burden will be lifted to the tune of \$835,000,000. [Applause.]

The SPEAKER pro tempore. The time of the gentleman from Wyoming has expired.

Mr. FORDNEY. I yield 10 minutes to the gentleman from Minnesota [Mr. VOLSTEAD].

Mr. VOLSTEAD. Mr. Speaker, I do not desire to discuss this bill generally. I feel, however, that I ought to call attention to one thing—the amendment of the Senate taxing intoxicating liquor. Perhaps I may be excused for speaking on that subject. I feel that the House conferees, in disagreeing to the amendment, threw away an opportunity that I believe they ought to have embraced for the purpose of relieving our people from other taxes. The tax proposed in that amendment was a very important one, still one that could have been borne readily, and against which there could be no valid objection. That tax would have amounted to something like \$50,000,000 to \$60,000,000. I secured the figures from the Treasury Department to learn just how much liquor was consumed last year. From these I gather that the amendment would add \$40,000,000 to the tax on spirituous liquor and \$17,000,000 on vinous liquor, or a total of \$57,000,000. Those who manufacture medical preparations would practically not be affected, as they use alcohol on which the tax would not be charged.

Mr. LONGWORTH. The information that the committee had was that it would amount to \$20,000,000.

Mr. VOLSTEAD. I can give the gentleman the figures, and he can figure it out for himself. It is clear to me that that tax could have been enforced. The liquor sought to be reached by it could easily have been distinguished from the alcohol that was to pay a less tax because the system provided under the national prohibition act is such that it could have been checked up so as to determine whether alcohol or some other liquor was used for the purpose of filling prescriptions.

Mr. ROSSDALE. Will the gentleman yield?

Mr. VOLSTEAD. No; I can not. There has been a good deal said in reference to this particular amendment. It has been contended that it would place a hardship upon those using alcohol in the manufacture of medicine.

There is nothing to that contention, because for medicinal purposes strictly speaking the tax would have remained at its present figure, \$2.20; that is, on alcohol used for that purpose.

For the purpose of filling liquor prescriptions it was intended that liquor suitable for beverage purposes and not alcohol should be furnished, and we should insist that such liquor be furnished under the law. On liquor suitable for beverage purposes, when prescribed for medicinal use, the Senate amendment made the tax \$6.40. To this I can see no good objection. What is the situation? Let us be perfectly frank. The liquor that is sold on a prescription is only very rarely sold for medicinal purposes. We might as well recognize that fact because it is true. The provision for selling liquor on prescription was intended to, in some measure, relax the general prohibition. Some people believe they must have liquor, and this permits the sale, but when we permit it we should want the liquor that is prescribed to be pure. If you had imposed this tax of \$6.40 on that kind of liquor, we could have insisted on securing decent liquor, instead of what is now being sold; very often it is nothing but diluted alcohol. At the extravagant prices charged by the druggists the addition of 55 cents in taxes on a prescription could hardly have justified him in raising his prices, and he would make profiteer prices even if he paid it.

Another thing. There was as a part of that same amendment a provision which would have given us better control of the distillery warehouses. I can see no reason or excuse for insisting that bottling in bond must only take place in a distillery bonded warehouse, as under the present law. It might as well take place in a general bonded warehouse. By accepting that amendment we could have concentrated the liquor in large warehouses and could have cleaned up a lot of little distillery warehouses scattered all over the country that are now greatly endangering enforcement of the law. I am not insisting on high taxes on liquor, but I want this House to know just what your conferees have done. They had a chance to have imposed



this tax in place of some of the more obnoxious taxes and to have aided in law enforcement. They refused to do so, and instead of defending what they did are apologizing for it. My friend from Texas [Mr. GARNER] can not be said to defend his action. The fact that he has voted for the prohibition laws makes his action if anything less defensible, and the claim that he did not want to vote for it, because he claims that it was drawn by some outsider, is not creditable as an excuse.

I do not want to take up more of your time. I simply wanted to call your attention to the situation. [Applause.]

I yield back the remainder of my time.

The SPEAKER pro tempore. The gentleman from Minnesota yields back three minutes.

Mr. FORDNEY. I yield five minutes to the gentleman from Wisconsin [Mr. FREAR].

Mr. FREAR. Mr. Speaker, to my mind the most important proposition that has come out of this whole discussion on the revenue bill relates to the way in which we legislate. I am frank to say that no man can talk upon this bill with less than a half hour or an hour at his disposal, so I will address myself only to the lack of legislative consideration which we give to important measures like this great revenue bill. We are confronted with a bill containing over 300 pages, and we have had only one chance to vote for a single amendment since the bill was reported by the committee. Over in the Senate they had the bill under consideration for two months and the Senate adopted 833 amendments, many of them nominal, but some of the greatest importance and over 100 record votes were had by that body. I wanted to vote on the Senate inheritance tax amendment, but no opportunity is offered. That is the reason why I am compelled to vote with those who make a motion to recommit, for it is the only opportunity I will have to place myself on record in favor of an inheritance tax. The most important duty in this House is to provide some system by which we can vote and act intelligently, by which we can legislate deliberately, and that we are not now doing. The procedure of to-day is purely committee legislation and legislation in conference. Not one amendment has been put in this bill except that on the surtax. All the rest of the bill is the product of the committee or of the conference. I am not going to discuss that subject further, but we owe it to ourselves to correct these indefensible methods of legislation. I want to say that I shall vote for the bill, but for a different reason than that ascribed by the gentleman from Texas [Mr. GARNER]. I believe the bill is far better than the old law that is now in existence. It takes away many of the objectionable taxes, reduces tax burdens placed on the country during war, and will give some needed relief. It is not what I would like, by any means, and ought to be amended, but it is a great deal better than the old law.

There is another matter that I wish to speak of briefly. Criticisms have been offered against 94 Republicans because we helped pass the Senate surtax amendment. There is no party control recognized by me, and never will be, that violates my own judgment on purely right business legislation. I am going to vote according to my best judgment whenever opportunity affords on all economic propositions. It has been stated in some of the metropolitan papers that came to my desk this morning that we have opposed the President. I have never criticized the President, even indirectly, but I did feel that it was unfair of those in the House who procured the letter, and so stated. I feel that the President was misled. That is the unfortunate part of it—to present a letter from the Executive at the last moment, and to me it is not a wise method of securing legislation.

Gentlemen on this side of the aisle asked why I voted for the 50 per cent surtax the other day. I voted, gentlemen, with 96 United States Senators, Republicans and Democrats alike, who are recorded as accepting that rate without opposition; there is no partisanship there; Republicans and Democrats supported the 50 per cent rate in the Senate. They discussed it day after day and finally agreed on that rate; they were unanimous. The Senate rate saves \$40,000,000 to the Treasury that will continue to be paid by multimillionaires and not by those least able to pay. I so voted. In view of criticisms, I wish to extend my remarks in the Record by inserting a telegram that I have received.

The SPEAKER pro tempore. The gentleman from Wisconsin asks unanimous consent to extend his remarks in the Record by inserting a telegram. Is there objection?

Mr. CLARKE of New York. I object.

Mr. FREAR. Then I will read it.

Mr. Speaker, here is a telegram which I will read in response to criticisms coming from metropolitan papers of New York.

The SPEAKER pro tempore. The time of the gentleman from Wisconsin has expired.

Mr. FORDNEY. I yield to the gentleman two minutes more.

Mr. FREAR. This is the telegram from the governor of my State, who must have learned of the vote through the press:

MADISON, WIS., November 18, 1921.

Hon. JAMES A. FREAR,

House of Representatives, Washington, D. C.:

The people of Wisconsin will heartily approve of the action of the Wisconsin delegation in their fight for the 50 per cent surtax. I congratulate you. I hope you will be equally successful in passing the soldiers' compensation bill without the imposition of a consumption tax.

JOHN J. BLAINE, Governor.

This is my reply:

WASHINGTON, D. C., November 19, 1921.

Gov. JOHN J. BLAINE,

Madison, Wis.:

Your good message conveyed to our Representatives. The Wisconsin delegation turned the tide against the infamous dye embargo, which was defeated by a close vote in the permanent tariff bill this session. Soon afterwards the delegation in a close vote helped defeat the repeal of the excess-profits tax and high surtaxes for 1921, involving over a half billion dollars of revenues, and this week the delegation helped send to defeat a frantic effort to cut in half the maximum surtaxes on great wealth. Last session, by a close vote in Republican conference, the Wisconsin delegation defeated the sales tax in the soldiers' compensation bill that passed the House, but died in the Senate. I agree with you it would be a sad commentary for Congress to give a half billion dollars to railway security holders with one hand and cut down a half billion dollars in annual taxes on wealth with the other, and then permit ex-service men, in recognition of their sacrifice, to pay themselves a small Government compensation through consumption taxes laid on their own families. That is not the Wisconsin idea.

JAMES A. FREAR.

Mr. FORDNEY. Mr. Speaker and gentlemen, I will occupy but a short time. I want to answer the gentleman from Texas [Mr. GARNER]. The gentleman criticized me severely for amendments 18, 19, and 20. What he said was that I had worked in season and out of season for just what is in this bill in these three amendments. Let me tell you what they mean. No law ever existed, no law will be put on the statute books now or later, permitting Uncle Sam to go back to 1913 and tax profits made prior to that time, no matter when they are distributed. [Applause.] The amendment the gentleman would vote for would practically do this. If a person owns stock in a corporation and was the original purchaser before March, 1913, and held that stock until liquidation came, there would be no tax on the profits made prior to 1913. But if the man should die and the stock go to his wife and children, then it has changed hands and will be subject to the tax. Or, if he transferred it to anybody, it would be subject to a tax. That is the general proposition. Congress, by constitutional amendment, acquired the right to tax incomes on March 1, 1913. The courts have consistently held that Congress has not the power to tax profits accrued prior to that date. In this bill I do not favor the attempt to do indirectly what can not be done directly. It simply invites litigation. It drags the taxpayer into court, and the only result will be expense to the taxpayer and to the Government.

The gentleman complains about our taxing the people. The Democratic administration fooled away more than \$4,000,000,000 in endeavoring to force Government ownership on the people of this country in regard to the railroads. We are obliged to raise money to pay off your debts. Your administration spent \$55,000,000 building a shipyard at Hog Island. It was well named. You turned that property over to a corporation with \$2,000 capital and gave them cost-plus contracts and paid them \$11,000,000 profit for two years. We have to pay the bills. Hog Island is undisposed of and the Government is ready to sell it and desires any man to make an offer for it, but nobody is fool enough to do it. [Laughter.] Another thing. President Wilson had placed at his disposal \$100,000,000 to use as a secret fund. He transferred by the war provision \$50,000,000, spent it, asked for more, and was refused. We have slight knowledge of how that money was expended. We are paying those debts, and we are compelled to exact taxes from the people now to get money to pay for the money the Democratic administration fooled away at Muscle Shoals and over into West Virginia and around about Toledo, Ohio, in building factories and spending money like drunken sailors, and never producing a single pound of explosives—spending over \$200,000,000 in those plants. Those debts are here now over our heads, and we must pay those debts and will. Every item in the bill carries a reduction, and you are kicking like a half-dead steer because we are raising some money now. What do you want? Do you want us to increase the taxes? We have decreased the taxes a billion and a quarter this year, and if the good people of the country, guided by the good Lord, let the Republican Party remain in power another year, as I hope and believe they will, we will still further reduce the taxes. But,

my friends, we voted with you to appropriate money during the war, and we placed money at the disposal of your administration with the understanding among ourselves that if the administration did not judiciously use the money, the Republican Party would not be responsible for it. We voted for all that was asked for by the administration to efficiently assist it in carrying on and winning the war. We stood solidly with you in giving President Wilson everything that he asked for, and now you criticize us for raising the money to pay these debts.

Mr. MOORE of Virginia. Mr. Speaker, will the gentleman yield to me for a question?

Mr. FORDNEY. I yield 20 minutes to the gentleman from Ohio [Mr. LONGWORTH].

Mr. MOORE of Virginia. Mr. Speaker, will the gentleman yield to me for a question?

Mr. FORDNEY. I have no more time.

Mr. MONDELL. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD.

The SPEAKER pro tempore. Is there objection?

There was no objection.

Mr. LONGWORTH. Mr. Speaker, I do not think I shall occupy all of the time allotted to me, but I feel I ought to say just a word or two as a member of the committee on conference in explanation of my attitude on this conference report. I say with perfect frankness that I signed the report and intend to support it without any very great degree of enthusiasm. The main trouble about the bill is that, instead of being a bill based on science, it is a bill based largely on politics, and both sides of this House must share in that responsibility. I do not regard the bill as carrying out, in spirit at least, the declarations of either the Republican or the Democratic platform. I shall read just a sentence from each.

The Republican platform declared:

But sound policy equally demands the early accomplishment of that real reduction of the tax burden which may be achieved by substituting simple for complex tax laws, and procedure, prompt, and certain determination of the tax liability for delay and uncertainty, tax laws which do not for tax laws which do excessively mulct the consumer or needlessly repress enterprise and thrift.

I do not think we on this side are carrying out in full spirit that pledge. I think the other side of the House has offended even more grievously against their platform, which was more specific than ours, because it said:

We advocate tax reform and a searching revision of the war revenue acts to fit peace conditions so that the wealth of the Nation may not be withdrawn from productive enterprise and diverted to wasteful or non-productive expenditure.

I say that my friends on the Democratic side of the House have offended even more grievously than we against their pledge to the American people. In my humble judgment laws which in time of peace take away more than half a man's profits are not laws which encourage or even permit capital to be invested in great productive enterprise. It is idle to discuss now whether rich men ought to refrain from withdrawing their capital from productive enterprise to place it where it can not be taxed; but they do that very thing, and there is no possible way to prevent it.

The only possible way to do so would be to enact legislation which will tax these exempt securities, but the Constitution forbids. When the gentleman from Texas [Mr. GARNER] and I and others were making up the 1918 revenue bill, in which we sought to raise \$8,000,000,000, more than twice the amount this bill contemplates raising, we tentatively placed there a tax on State, county, and municipal securities hereafter issued. When that was referred to the Department of Justice, however, the opinion was expressed that it was wholly and absolutely unconstitutional. The only way that we can encourage money to be invested in industry, which will employ labor, which will furnish a stable market to the farmer for the products of his farm, is by making such a bargain, if you please, with capital as will induce it to seek investment in those channels. I think that the taxes are now too high for that purpose. It has been the universal experience of all countries in the world in time of peace that you can not take away at the outside more than one-third of a man's income and have him refrain from seeking to put it where you can not tax it at all. That may be unpatriotic upon his part in a sense, but it is human nature, and, as I said the other day, we have to deal with human nature in making tax laws, because there is no definite, scientific basis for assessing taxes. The best taxes are those which do not tax those least able to pay, but which raise the necessary revenue with the least objection from the taxpayers.

This bill was very badly made in another body. I think our procedure was very much more scientific and proper. As the gentleman from Texas said, there were a number of amendments placed in the bill in the Senate to which a majority of the

Members were opposed, and frequently when I myself asked why a certain amendment was inserted, the reply was heard, "Oh, well, it went in at 2 o'clock in the morning and we wanted to prevent Senator So-and-so from making a speech."

I do not blame them for wanting to prevent in some cases some Senators in the Senate or some gentlemen in another legislative body from making long speeches, but that is a very poor excuse for piling tremendous burdens upon the already overburdened shoulders of the American taxpayer.

I do not defend this proposition as a permanent solution of the tax problem in this country. I do not defend it as a permanent system of raising taxes to pay in the next few years for our greatly increased cost of government. I defend it merely because in my judgment it is a very advanced improvement on existing tax laws. Even if it had made no changes in the direction of somewhat lightening the burdens upon both the producer and the consumer, I firmly believe that the administrative provisions that have been placed in the law, largely at the suggestion of gentlemen in the Treasury Department, experts who have been administering it, will so greatly simplify our present laws as to be of very great advantage to both the Government and the taxpayers.

There are a number of cases in which the burdens of the taxpayer are very substantially lessened. They are lessened in some respects, though I do not think sufficiently so, to the payer of the higher income taxes. They are lessened very substantially to the payer of the very small taxes. The exemption is increased from \$2,000 to \$2,500 and the allowance for minor children doubled, and in other respects it is going to be for the benefit of the small income taxpayer.

I have not time to go through the bill, as did the gentleman from Texas [Mr. GARNER], amendment by amendment; I might criticize some of his arguments against amendments which he criticized. The trouble with the gentleman from Texas is that nine-tenths of the amendments which he criticized he himself voted for in conference.

I want to say just a word before I close on the final argument of the gentleman from Texas, directed to gentlemen on this side of the House, with the purpose, as he himself has boastfully avowed a number of times, of "driving in a wedge" which would separate us into factions. He wants you to vote to double the present inheritance tax. Now, gentlemen, if my friend was perfectly sincere he would have answered the question of the gentleman from Michigan a little more in detail. The gentleman from Texas had a very prominent part in the making of the 1918 revenue bill, designed to raise in time of war more than \$8,000,000,000. If he has been, as he says, always an advocate of 50 per cent taxes on estates, why did he not put them in then, when the country was at war? Why does he wait until three years after, when the country is at peace, to double the taxes which he declined to vote for in time of war? Do you think he is making that argument to benefit you, gentlemen? He is doing it for the precisely opposite purpose "of driving in the wedge."

But even if this is a bona fide statement of my friend, he did not answer the question proposed to him by the gentleman from New York [Mr. MILLS], who pointed out that if we should vote here for a tax of 50 per cent by Federal law on the larger estates, as a matter of fact, under the State laws estates are being taxed in addition anywhere from 10 to 35 per cent. There are a number of States which tax inheritances 30 to 35 per cent. So the consequence would be that instead of having a 50 per cent tax you would have an 85 per cent tax.

You would leave but 15 per cent of the estate after it got in the hands of the devisees, and no man, least of all the gentleman from Texas [Mr. GARNER]—I do not doubt even the gentleman from New York [Mr. LONDON]—would advocate the taking of 85 per cent away from those inheriting estates.

Mr. RAMSEYER. Is the gentleman altogether accurate when he says, adding the two figures together, 50 and 35—I do not know of any State that has 35—

Mr. LONGWORTH. The State of Arkansas and others.

Mr. RAMSEYER. But there it is graduated, so that even if it were 35, it would leave more than 15 per cent.

Mr. LONGWORTH. I do not want to split hairs on the exact mathematical percentage. The proposition is to take, probably, as much as 75 per cent of an estate. Now, if that was justified in time of war, it is not justified in time of peace. I am not going into a lengthy argument as to the effect it might have on business conditions generally. If a number of great estates had to suddenly dump securities on the market, the result might be disastrous. But I am merely warning my colleagues again, as I have warned them repeatedly, against listening to the advice of my very good friend from Texas. He does not mean you well. He is the most efficient wedge driver that has sat



on that side of the House—I will pay him that compliment—since I have been here. Just ask yourselves the question, though, whether you are going to be controlled by the advice of a gentleman who when in time of war \$8,000,000,000 had to be raised refused to tax inheritances more than 25 per cent, proposes now to tax them at double that amount.

Mr. Speaker, I yield back the balance of my time. [Applause.]

Mr. GARNER. Mr. Chairman, I yield the balance of my time to the gentleman from Tennessee [Mr. GARRETT].

The SPEAKER pro tempore. The gentleman from Tennessee is recognized for 12 minutes.

Mr. GARRETT of Tennessee. Mr. Speaker, I was called from the Chamber during the time that the gentleman from Michigan was making his first address to the House upon this conference report, and consequently did not have the opportunity of hearing him, and I would like to ask now, if I may, whether or not the gentleman during that time read a letter from the President of the United States?

Mr. LONGWORTH. Not this time.

Mr. GARRETT of Tennessee. I presume not. Mr. Speaker, if one did not know, one would surmise, from the attitude of the gentleman from Wyoming and the gentleman from Michigan, that they must have recently suffered some sort of a disappointment. Ordinarily sunny, pleasant, and genial, to-day we find them grouchy, not cordial, unyielding. I wonder what could possibly have come over the spirit of their dreams that has created this unpleasant attitude toward this innocent and long-suffering House? Some of the gentlemen said the other day that the President of the United States had been badly advised. I think that is true. I think the gentleman from Wyoming and the gentleman from Michigan were badly advised, else they never would have led their party to the point where it would have received, upon the very head of its leader himself, that terrific and crushing blow which fell with such force a few days ago. And I am speaking of that in order to warn you for the future.

You are going to have another opportunity here this afternoon to do a thing that is right. You had best take advantage of the first opportunity that is presented. Had gentlemen upon that side of the House taken advantage of the opportunity which was offered them in the first instance, when a motion was made upon this side of the Chamber to instruct the conferees, the party leader, not only here, but the head of the administration, would not have been to-day in the unfortunate situation in which they find themselves. I could have advised the President of the United States better than the gentleman from Wyoming or the gentleman from Michigan advised him, but he did not consult me. I could have advised them, because I had some vision of what was to come. "O Jerusalem, Jerusalem, which killest the prophets and stonest them that are sent unto thee; how often would I have gathered thy children together, as a hen doth gather her brood under her wings, and ye would not!" [Laughter.]

Now, an opportunity is going to be offered to you, as I said, to do another right thing, to vote upon this inheritance tax and meet the emergent conditions of the country.

The gentleman from Texas [Mr. GARNER] has already explained how, in part, the faith with this House and the Senate has been broken by the insertion of amendment numbered 115 of this bill which materially modifies, and in a way that no person supporting it in this House expected, the surtax and the way it is imposed. They have now another opportunity to meet the emergent conditions confronting the country growing out of the war, and we shall shortly have an opportunity to deal with that by casting a vote for the Senate amendment for a large inheritance tax; and as a protection to yourselves, and in order to prevent a recurrence of that unfortunate condition which now confronts you and your party, I would venture to suggest that you vote right this time. [Applause on the Democratic side.]

The SPEAKER pro tempore. The time of the gentleman from Tennessee has expired.

Mr. FORDNEY. Mr. Speaker, I yield 20 minutes to the gentleman from Iowa [Mr. GREEN].

The SPEAKER pro tempore. The gentleman from Iowa is recognized for 20 minutes.

Mr. GREEN of Iowa. Mr. Speaker and gentlemen of the House, I ask you to listen to me while I state what is in this bill and not what is not in the bill; while I ask support of the principles of Americanism and not the principles of socialism; while I talk to you with reference to what money we need and not simply about levying taxes for the sake of taxing the rich, and injuring business in the meantime.

Mr. Speaker, the gentleman from Texas [Mr. GARNER] saw fit to criticize my courage in a legislative way because I am unwilling to follow him with reference to the bill before the House. To the Members on this side I have no need to enter any defense, and I shall not. I will only say this, that if I had made a speech in favor of a tariff bill and then had lost my courage so that I withdrew it and took it out of the Record; if I had voted in favor of that tariff bill and then on a subsequent occasion voted against that tariff bill, as the gentleman from Texas did, I would not be talking about the legislative courage of anybody. [Applause on the Republican side.]

But that, Mr. Speaker, after all, is a mere matter of pleasantries between myself and the gentleman from Texas. Neither of us cares for those things, and you gentlemen are only, in the tedium and hard work of this House, willing to listen to it for just a moment, for we both know that it has nothing to do with the measure that is before us. There is, however, a more serious matter connected with the talk which the gentleman from Texas gave you. Some time ago, in some previous remarks, I could not avoid saying that this was the day of the demagogue. It is the day when some men preach what they do not believe; when they go out and tell people things that they have no faith in; when they light the fires of discontent and hatred, which may some time, some day, burn down the elegant mansion of such men as the gentleman from Texas himself. And let me say to the gentleman from New York [Mr. LONDON], the sole Representative and leader of the Socialist Party, "Mr. LONDON, you must look to your laurels or they will be taken from you by the gentleman from Texas [Mr. GARNER]." He has been preaching socialism with every word he has uttered here to-day, when he told you that we ought to put on taxes here and keep taxes there solely for the purpose of taxing the rich. If a tax hit the rich that was enough for him.

Did he deny that those taxes are unfair or unjust that we take off? No. He made no such claim; not for a moment. He simply said that they were laid upon the rich; that the rich would have to pay them; that the rich had stocks and did not have farms.

And so he got up here and told you that here was a trick in this bill whereby a man that held stocks, if he held them for two years for investment purposes and sold them, would pay only 12½ per cent on his capital gain, and he said that was an outrage, because the rich generally held stocks and the rich would have to pay that. Why, the gentleman from Texas even intimated that the conferees changed the bill so as to make the tax on profit derived from capital sales 12½ per cent in order to nullify the effect of the income-tax provision that we voted for the other day. The fact is that this was substantially the provision that was contained in the House bill as it first passed this body, and no one objected to it then. What we struck out from the Senate bill was a provision that would make a business man pay a higher tax on profit derived from sales of stock that had been held more than two years for investment than was paid by a farmer on the sale of a farm or by anyone else on sales of other property held for use or investment.

Now, that kind of an argument may appeal to the Non-Partisan League of North Dakota. It may appeal to some of the I. W. Ws. But it ought not to appeal to sensible or thinking men for a moment. There is no reason in the world, if we limit the tax sales of capital to 12½ per cent, why it should not apply to all kinds of capital equally. The gentleman from Texas said it was in order that that man who had made a half a million dollars profit should not have to pay these high surtaxes. Not at all. That amendment was put in there because we found that the Government was not getting anything worth mentioning from transactions of that kind. Men would not sell their property and pay such heavy taxes. I brought into this House about a year and a half ago a bill containing the same kind of a provision in principle, and every man in this House, without exception, supported it, and it went over to the Senate unanimously. But it is nothing to the gentleman from Texas when he wants to make a political speech that he has heretofore supported the very kind of a provision that he is now attacking.

The gentleman from Texas says now that he is going to bring in a motion to recommit this bill on the inheritance tax. Mr. Speaker, in a great work written by a famous writer, called "Pilgrim's Progress," there is a character well described by his name, Mr. Facing Bothways. The name is hardly adequate for the gentleman from Texas on these revenue propositions, because it would be necessary to have something that would describe him as facing in half a dozen different ways, for he has shifted his position so often that nobody can keep track of him. He appeals to those on the Republican side to vote for

this inheritance tax, which he does not believe in himself, which he has always opposed, which he must admit is not drawn in proper form. It should not be forgotten that the proposition as to whether the inheritance tax should be carried to higher rates was brought up at a time when we were passing the revenue bill of 1918 and the Democratic Party was in power. It should not be forgotten that at that time they called upon every washerwoman and ever section hand and every policeman and brakeman to dig up their pennies and contribute to the Government in order that we could carry it on, and that they then said that the inheritance tax ought not to be increased. And now, in times of peace, the gentleman from Texas comes in here and seeks to assume the leadership of our side and drag its members into support of a proposition which he himself has often condemned and denounced. Why, gentlemen on the Republican side, what has the gentleman from Texas said with reference to this? What does he believe? He believes that a tax levied in the manner that it is levied on inheritances in this amendment is simply a monstrosity, because it takes no account of State taxes. It makes no allowance for the amount that may be taken by the State. It makes no provision against even the greater part of the estate being taken.

Does the gentleman from Texas know the amount taken by the different States in addition to the Federal taxes? Of course he does, but he does not care when he is making a political speech. Does he not believe that some provision ought to be made for such cases instead of levying the rates without making any allowance for the State taxes in the manner of the provision he seeks to have adopted? Of course he does, but he does not care when he is making a political speech. Does he not know that the State taxes and Federal taxes together under the plan he advocates in some instances would take so large a portion of the estate that at forced sale the whole estate might be absorbed? Of course, he knows this, but he does not care if he can arouse prejudice and discontent. Does he not know that in order to raise sufficient revenues the States will more and more be compelled to look to the inheritance tax, and that if the National Government takes the highest amount possible it takes more than its share? Of course, he does, and if his own party were in power he would not think of supporting the proposition for increased inheritance taxes in the form which we must take it if we take it at all. Do you think, my friends, that we have to follow him on this proposition, that he himself does not believe in, that he has so often condemned, and now seeks to have us adopt as a half-baked estate or inheritance tax because it is to be paid by the rich?

But there is another reason why we should not adopt this inheritance amendment at this time. The gentleman from Texas [Mr. GARNER] was entirely wrong in his figures with reference to the amount raised by this bill being sufficient to meet the expenditures of the Government. The latest figures that I have been able to obtain from the department show that while there may be a deficit of \$40,000,000, that does not take into account the situation with reference to the good roads fund for which all of us on the committee think allowance has been made before. Somebody down at the Treasury thinks it has not been included. I do not think we need further money to carry on the Government as the situation now stands. Are we to levy taxes now just for the sake of putting taxes on somebody, or are we to redeem the pledge that the Republican Party made that it would reduce taxes?

Mr. RAMSEYER. Will the gentleman yield?

Mr. GREEN of Iowa. Yes.

Mr. RAMSEYER. On the question of the amount that this bill will raise, I am very much interested in this proposition, whether the levy under this bill, together with our existing tariff law and other sources of revenue, will furnish sufficient revenue to meet the expenses of the Government and also take care of the sinking fund of the national debt? Have the conferees made estimates, or have experts made estimates along that line, as to whether the receipts under this bill, together with the receipts under the existing law, will be sufficient to meet the expenditures of the Government?

Mr. GREEN of Iowa. In response to the question of my colleague, which I am very glad to answer, I will state that this morning I got from the Treasury experts a statement of the amounts which this bill will produce for the fiscal year 1922, for the next calendar year, and also for the year following that. When I say that it will produce money enough to run the Government, I am speaking of this fiscal year and the next calendar year. Beyond that I expect, and I believe all of us have reason to expect, that there will be large reductions made at that time. I certainly know of some very large expenses that will have to be paid this year which will not have to be repeated. Now, the statement which was made by the experts

was that the bill was about \$40,000,000 short of the necessary amount which would be required to carry on the Government. In saying that, however, they took into consideration the expenditure of \$100,000,000 for the road fund, which I have reason to believe had heretofore entered into their calculation. But in any event, I do not believe that the full amount will be expended even during the next calendar year, and I believe that the bill will produce sufficient funds to run the Government.

Mr. RAMSEYER. And also to take care of the sinking fund?

Mr. GREEN of Iowa. And also to take care of the sinking fund. I want to say, however, in that connection, while I think of it, that I propose—I may require two-thirds of this House to go with me, but I propose to put back that liquor tax at the earliest possible moment if I can get sufficient support. That will produce somewhere from \$30,000,000 to \$40,000,000.

Mr. GRAHAM of Illinois. Will the gentleman yield?

Mr. GREEN of Iowa. I yield to the gentleman from Illinois.

Mr. GRAHAM of Illinois. Am I right in assuming that if this Senate amendment were adopted it would be an increase of the estate taxes over and above the present law?

Mr. GREEN of Iowa. Oh, yes; a very large increase over the present law passed by our Democratic friends.

Mr. GRAHAM of Illinois. If that is so it is a direct violation of the pledges of both parties, is it not?

Mr. GREEN of Iowa. It seems to me that it is, except as an actual necessity may arise. I want to mention one other matter in connection with the estate taxes right there. Let us grant that we have an opportunity to raise some further funds from estate taxation. Let us grant that we could obtain a very substantial sum. I hear on every hand that we are going to have a bonus bill next session. The gentleman from Michigan so stated, and if we do not have one then we will have one later. Where are we going to get the money if we bring in this bill everything that we can put on? If there is anything more that can be got out of the estate tax, and I think there is if properly drawn, I want to use it for the bonus bill. I want to do the same thing with the provisions in relation to gifts, which I hope to see incorporated into the law, although in a different form than it was in this bill.

Mr. SMITH of Michigan. Will the gentleman yield?

Mr. GREEN of Iowa. Yes.

Mr. SMITH of Michigan. Could not some be gotten from the foreign loans?

Mr. GREEN of Iowa. The gentleman will get nothing from the foreign loans to apply in this direction the next year, whatever we may get some time in the future.

Mr. SMITH of Michigan. They might get something out of interest.

Mr. GREEN of Iowa. They may, and I hope they will; but I have no real encouragement to offer in that line.

Now, let me go a little more particularly into the provisions of the bill. What have we got here that should authorize our Democratic friends to condemn it so vigorously as drawn in the interest of the rich? All great measures are the result of compromise. There are some compromises in this bill—too much, I thought, and some others thought so. But if we had not compromised, we would not have had a bill, and a bill we must have at this time. While there are defects in the bill, I maintain that a better tax bill was never presented to any country.

Mr. Speaker, in all this broad world, notwithstanding the talk of the gentleman from Texas about how we are not taxing the rich but taxing the poor—in all this broad world there is not a spot where the masses will be taxed so little as in this country. [Applause.] Why, Mr. Speaker, under this bill the great mass pay no Federal tax unless they go to the picture show and pay the admission. I am speaking of the average man with a family. The liberality of the provisions which we have made in this bill will astonish the rest of the world. A man in England has to pay an income tax on \$600 a year. In other countries he has to pay tax after tax in the way of consumption taxes. We have absolutely freed the people of the United States of any kind of a consumption tax by this bill. There is nothing in the way of a consumption tax in this measure. Any man who goes to market to buy clothes for his family, shoes for his children, buys them without paying a Federal tax upon them. And yet they say we are taxing the poor and not taxing the rich. The gentleman from New York [Mr. LONDON] wants to look to his laurels when the gentleman from Texas [Mr. GARNER] takes the floor, for he can outdo even socialist leaders in talking socialism. [Laughter.]

The gentleman from Texas said he would get half of this fund that he needed from the corporations and the income tax. We do. I have not the time to go into the figures, but that is the fact, and that is what we do under this bill.



In making up this bill we have increased the exemption of heads of families whose income does not exceed \$5,000 to \$2,500, and we have increased the allowance for children from \$200 to \$400. We have taken off the tax on freight; we have taken off the tax on passenger fares and express; we have taken off the tax on parcel post; we have taken off the tax on furs; we have taken off the tax on all of that long list of articles sold at the ordinary retail store and bought by rich and poor alike; we have taken off the tax on ice-cream cones of the children; we have taken off all the nuisance taxes; we have taken off all these taxes—taxes that aggregated over \$500,000,000—and yet they tell us that we have done nothing for the common people.

Gentlemen, I want to tell you that in all the operations of this committee, as far as I am concerned, I have stood unflinchingly, working for what I thought was for the interest of the whole country, and I know that neither I nor any other member of the committee wanted to oppress the masses by taxation, but, on the contrary, we insisted all the time that the great mass of the people should be free from Federal taxation.

Now, what have we done for business? I am aware that some business men are complaining, looking at the matter in a somewhat different light than I do. I want to discuss this matter for a few moments in an argumentative way, as I believe that what we need is more argument and less denunciation, and especially more logic and less demagoguery on the other side of the House. [Applause on the Republican side.]

Let us see what we have done for business. In the first place, we have taken off \$450,000,000 in excess-profit tax. Oh, some gentlemen say, of course, you took off the tax, but there would have been no excess profits. I can only say that gentlemen forget that this excess-profit tax several years back amounted to \$2,500,000,000, and when we say that we took off \$450,000,000, we mean that the Treasury experts say that that amount is going to come off and will not be paid. I know this is said to be a tax that is paid by the profiteer. There never was a more unfounded statement. Excess-profit tax is not paid in that way except in name. It is based on the net income in proportion to the invested capital. One concern may be making 50 per cent profit on sales and not pay a cent of excess-profit tax, while another concern may make only 5 per cent to 8 per cent, or sometimes only 3 per cent, on sales of the same kind and in the same business and have to pay an excess-profit tax.

It is difficult to fix it so that it will work equitably. We originally levied it on corporations, persons, and partnerships. We took it off the persons and the partnerships because it worked inequitably, and then we found as a result of that that we had added probably a greater evil in a great many cases and that a greater injustice was done. So I say that we have taken off business \$450,000,000 in the way of reducing the excess-profits tax. We have, of course, added in the place of that 23 per cent to the corporation income tax. I confess that I have never been very much in favor of this flat corporation tax, which has seemed to me to have as many bad features in it as the excess-profits tax, with no especial merit. It is a matter of theory whether this is a better tax than some other kind that might have been levied, as, for example, the tax on undistributed profits, which I favored. But it was in the bill as it passed the House, and we can not get anything else. This tax puts back \$130,000,000, leaving the total gain to business as engaged in corporations \$310,000,000. The gentleman from Texas says, "Ah, but you take it off the corporations." Of course. Who does the great business of this country? Corporations. We take it off business, and in taking it off corporations where or how is the benefit finally conferred? As every gentleman knows, it goes eventually to the stockholders in the corporations, the individuals. We take it off business, we take it off the corporations, we take it off the individuals who have the stock in the corporations, but it makes just that much more subject to surtaxes on their individual incomes. The final test becomes, as it should, the amount of the individual income.

We have also reduced the tax on income from capital sales made either by a corporation or individual to 12½ per cent. We permit net losses to be carried even to two years after the time they were sustained, and all through the bill we have lifted the restrictions on business, lightened its burdens, and made the return and settlement of taxes easier.

I wish we could go further in taking off taxes, and right there, and because this question was raised the other day with reference to the surtaxes on income tax, I want to say that there is no tax in this bill that I would not like to see lowered, if it could be done, and still have enough to carry on the Government.

Unfortunately, there has been a good deal of intemperate discussion on both sides of the House with reference to certain features of the bill. On the Democratic side they have been

reckless to demagoguery in charging that the bill took the taxes off the rich and put them on the poor, when, as a matter of fact, as they know, the bill increased nobody's taxes but decreased the taxes of practically everyone who was a taxpayer. There was nothing in this statement, and those who made it knew it full well. On the Republican side some gentlemen who were not so familiar with the situation as they might be have asserted that the purpose of retaining the surtaxes at the figure fixed by the Senate was merely to tax the rich and that those who voted for the proposition knew it. Mr. Speaker, I do not intend to stand under any such aspersion. I would be equally justified in saying that the gentlemen who made such statements were animated by desires to protect the multimillionaires from the payment of their just share of the taxes. Let us look for a moment into the situation and we shall see how utterly unfounded and baseless was the charge they were making.

The bill as it left the House did absolutely nothing for the man with an income of from \$5,000 up to \$68,000, but it did reduce the maximum of surtaxes from 65 per cent to 32 per cent. The Senate bill made very substantial reductions in the surtaxes on incomes of from \$5,000 to \$10,000, a 2 per cent reduction in surtaxes from \$10,000 to \$20,000, and a small reduction was made from there on. These reductions would cost the Government \$70,000,000, but the parties that obtained the benefit of them would otherwise receive no reductions under the law. Nevertheless, the \$70,000,000 had to be made up, in part at least, as the Government could not afford to lose that amount of revenue. The Senate therefore raised the limit on surtaxes to 50 per cent, which is 15 per cent less than the present law, and thereby will obtain \$50,000,000. A compromise was proposed at 40 per cent, but this would have left the Government without sufficient revenue if we continued the reductions on the smaller incomes. Let me ask you whether the Republican Party could afford to go out and say we reduced the taxes on the multimillionaires 25 per cent but did not reduce the tax on incomes a nickle for those who had incomes of from \$5,000 to \$68,000. I say we could not afford to do this for the reason that the proposition was simply indefensible. If we retained the reductions on the smaller incomes, we could not put the surtaxes lower than 50 per cent. We had to have the money; there was no other place to get it; and this fact alone is sufficient to settle the point at issue.

Let us examine for a moment the arguments that were introduced in its support. It is said that if the high surtaxes are continued those with the great incomes will put their money into tax-exempt securities instead of into active business. The rate is 65 per cent now and we have only to examine the New York stock transactions to see that enormous sums are being put into taxable securities and that there is no lack whatever for funds of legitimate business, the reserve bank discount rate in New York having gone as low as 4½ per cent. Let me add a prediction that this discount rate will go to 4 per cent before very long.

Just the other day a \$50,000,000 issue of telephone securities was oversubscribed on the market more than nine times. Enormous amounts of foreign securities, all of them taxable, are being marketed every day on the stock exchange. The margin between taxable securities and tax-exempt securities of the same nature and character has been small on the exchange. Railroad securities in the form of equipment trusts are so readily marketed that the talk is now that it is not necessary for the railroad funding bill to be put through at all, that the Government can dispose of the railroad securities without it. Some one asks, "How can the multimillionaire afford to hold these securities?" The answer is that when he buys them he does not buy them direct and holds through some corporation whose taxes are comparatively small. Doubtless some large estates which can not operate in this manner are buying tax-exempt securities, but the best information that I can get from dealers in stocks and bonds is that tax-exempt securities are largely sold to people of moderate incomes instead of the multimillionaires. There is not the slightest trouble about obtaining money for any business in the East that tends to show a profit, and so far as the men having these enormous incomes putting their money into farm loans this is all nonsense. They never did it. For years I was associated with a concern that did a large and active business in this line. The principal funds for farm loans, outside of what is now furnished by the Government, always came from the savings banks and the insurance companies, with a considerable proportion of local investors. The insurance companies are now finding other investments so much more profitable that they have greatly curtailed their loans. The local investor is for the time being nonexistent and the savings banks can not furnish the money that is required, consequently there has been a great shortage of

funds that were loanable on farm securities, but the surtaxes have had nothing to do with it.

As I said before there are some large estates that are buying tax-exempt securities, but in order to stop them the surtaxes would have to be reduced to 20 per cent or lower. Indeed, I have heard no one claim that there would be any difference in investments whether the limit on surtaxes was 32 per cent, 40 per cent, or 50 per cent.

A year and a half ago when we prepared the bill giving the bonus to the soldiers we actually increased in that bill the surtaxes from 65 per cent to 68 per cent. An overwhelming majority of the House on both sides voted for it and not a word was said about any attempt to "soak" the rich. Those that voted against the bill voted against it because they did not believe in the bonus, and the Treasury experts told us that a considerable amount of money could be obtained by raising the surtaxes, but at that time the propaganda to the effect that lowering the surtaxes would increase the revenues had not yet been started.

The portion of the income tax in controversy applies only to about 1,100 people. It is a fundamental and almost universally accepted proposition that taxes should be assessed in accordance with the ability to pay, and that a graduated income tax is the fairest kind of a tax that can be levied. This does not mean, of course, that we should levy taxes at rates which we know will not be productive, but such is not the case here. The Treasury experts, who have never failed us yet, tell us how much these taxes will produce, and it is idle for gentlemen who never have investigated the matter to say that we will not get as much out of these taxes as if they were levied some other way. Let us have done with this kind of talk imputing unworthy motives. It has no place here. The tax bill should be presented on what it is, and its examination shows, notwithstanding certain defects in detail, it is a great measure, relieving the masses, relieving business, and reducing the amount of money drawn from the pockets of the people to the lowest possible amount at the present time.

Mr. FORDNEY. Mr. Speaker, I ask for a vote.

The SPEAKER pro tempore. The previous question having been ordered, the question is on agreeing to the conference report.

Mr. GARNER. Mr. Speaker, I offer the following motion to recommit, which I send to the desk and ask to have read.

The Clerk read as follows:

*Resolved*, That the conference report on H. R. 8245 be, and the same is hereby, recommitment to the Committee on Conference, and that the managers on the part of the House be, and they are hereby, instructed in conference to agree to Senate amendment No. 582, without amendment.

Mr. SANDERS of Indiana. Mr. Speaker, I make the point of order that the motion to recommit is not in order. There is no question about a general motion to recommit being in order, but a motion to recommit, coupled with instructions to the managers on the part of the House, constitutes two separate actions, and since the previous question had been ordered there is nothing left except the motion to recommit. It is not like a motion to recommit to a committee with instructions to that committee to do a certain thing, because it is obviously not proper for us to recommit to the conferees with directions to the committee on conference to do certain things. This constitutes two entirely separate and distinct matters. One is to recommit it to the committee on conference and the other, not instructions to the conference, because we have no such power, but to instruct the managers on the part of the House. After the previous question has been ordered I submit that such a motion does not lie.

Mr. GARNER. Mr. Speaker, it is my understanding of the rules—I am not an expert parliamentarian in the sense that I studied the rules to the extent of knowing the application of the general rule to a particular matter—but it is my understanding of the rules as amended during the first session of the Democratic administration in the House, when the reform in the rules was adopted, that the House has the right to move to recommit any proposition it has before it with instructions to either the conferees or the committee or whatever body has the measure in charge. We went so far as to take away from the Committee on Rules the power to take that particular privilege away from the House. I know that the spirit of the rule of recommitment is embodied in the motion, and I think it is in order.

Mr. SANDERS of Indiana. Mr. Speaker, there is no question about a motion to recommit being in order. The point I make is that the motion to recommit, after the previous question, is the only thing that is in order, and that does not permit the tacking on to the motion to recommit of a separate and

distinct proposition of instructions to the conferees on the part of the House. This constituting two separate matters, we would have the right to have them separated in voting upon them.

Mr. GARRETT of Tennessee. Mr. Speaker, it does not seem to me that there is any difference in principle between a motion to recommit a conference report and a motion to recommit a bill. A motion to recommit a bill always comes after the previous question has been ordered, and you can recommit with or without instructions. So long as the conference is in existence, you can recommit to that conference, as I understand the rules of the House, and if you can recommit simply, you can recommit with instructions. I do not see any possible difference between that and a motion to recommit a bill.

The SPEAKER pro tempore. The gentleman from Texas offers a motion to recommit the conference report to the committee on conference, with instructions to the managers on the part of the House to concur in a certain Senate amendment, viz, Senate amendment No. 582.

The gentleman from Indiana [Mr. SANDERS] makes the point of order that, the previous question having been ordered on the question of agreeing to the conference report, a motion to recommit with instructions is not in order. The Chair will state that under the rules of the House the adoption of the previous question or its being adopted by unanimous consent does not shut out one motion to recommit. The rules have been careful to preserve a motion to recommit, going to the extent of providing that the Committee on Rules may not report a rule which will shut out one motion to recommit. The question of recommitting a conference report to the committee on conference or to the managers on the part of the House is in some respects similar to recommitting a bill to one of the standing committees of the House, and while it is usual to recommit bills to the standing committees of the House with instructions, it is not always necessary that instructions be included in the motion to recommit.

In this instance the conference is, so to speak, still in existence; that is, at least until action has been had on the part of the House. The House being the body to which the conference report is first submitted by action in this particular case, the conferees are still subject to action by the House if the House under a proper motion sees fit to instruct them or takes such other action as may be proper for their guidance.

The motion to recommit a conference report with instructions has been of comparatively recent origin. It has been several times permitted, and on February 16, 1921, the previous question had been ordered on adopting a conference report on a bill to increase the salaries in the Patent Office. The gentleman from Connecticut [Mr. MERRITT] at that time offered a motion to recommit the report to the committee on conference, with instructions not to agree to section 9 of the Senate bill, which happened to be section 11 in the conference report. A point of order was made at that time by the gentleman from Texas [Mr. BLANTON], and the Speaker overruled the point of order, saying:

The conferees still have control of the bill. They are not discharged until the conference report is agreed to or something else happens. They still have control of the measure.

In this instance the Chair thinks an analogous situation is presented, and he holds that the measure is still in a situation that if the House shall see fit to recommit it with instructions the conferees would be bound by such instructions.

The Chair overrules the point of order.

The question is upon the motion of the gentleman from Texas [Mr. GARNER] to recommit the conference report to the committee of conference with certain instructions.

The question was taken, and the Speaker pro tempore announced that the yeas seemed to have it.

Mr. GARNER. Mr. Speaker, I ask for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 141, nays 202, answered "present" 1, not voting 89, as follows:

#### YEAS—141.

Almon	Burke	Dominick	Hammer
Anderson	Burness	Doughton	Hardy, Tex.
Andrews, Nebr.	Byrnes, S. C.	Dowell	Harrison
Aswell	Byrns, Tenn.	Drewry	Hayden
Bankhead	Cantrill	Driver	Hoch
Barkley	Carew	Dupré	Hooker
Beck	Clague	Evans	Huddleston
Bird	Cockran	Favrot	Hudspeth
Black	Collier	Fields	Hull
Bland, Va.	Collins	Fisher	Humphreys
Bowling	Connally, Tex.	Frear	Jacoway
Box	Cooper, Wis.	Fulmer	James
Briggs	Crisp	Garner	Jeffers, Ala.
Browne, Wis.	Cullen	Garrett, Tenn.	Johnson, S. Dak.
Buchanan	Davis, Minn.	Gilbert	Jones, Tex.
Bulwinkle	Davis, Tenn.	Griffin	Keller



Kelly, Pa.  
Kinchele  
Kinkaid  
Klecza  
Kopp  
Kunz  
Lampert  
Lanham  
Lankford  
Larsen, Ga.  
Lazaro  
Lea, Calif.  
Lee, Ga.  
Linthicum  
Little  
Logan  
London  
Lowrey  
McClintic  
McDuffie

McLaughlin, Nebr.  
Martin  
Mead  
Michaelson  
Miller  
Montague  
Moore, Va.  
Nelson, A. P.  
Nelson, J. M.  
O'Connor  
Oldfield  
Overstreet  
Padgett  
Park, Ga.  
Parks, Ark.  
Parrish  
Quin  
Rainey, Ill.  
Raker  
Ramseyer

Rankin  
Rayburn  
Reavis  
Rouse  
Sanders, Tex.  
Sandlin  
Schall  
Sinclair  
Smithwick  
Steagall  
Stedman  
Stevenson  
Strong, Kans.  
Summers, Tex.  
Swank  
Swing  
Tague  
Taylor, Ark.  
Ten Eyck  
Thomas

Tillman  
Upshaw  
Vinson  
Voigt  
Volstead  
Ward, N. C.  
Weaver  
Wheeler  
White, Kans.  
Wilson  
Wingo  
Wise  
Woodruff  
Woods, Va.  
Wright  
Young  
Zihlman

## NAYS—202.

Ackerman  
Andrew, Mass.  
Ansoorge  
Anthony  
Appleby  
Arentz  
Atkeson  
Barbour  
Beedy  
Begg  
Benham  
Bixler  
Boles  
Bond  
Bowers  
Brennan  
Brooks, Ill.  
Brooks, Pa.  
Brown, Tenn.  
Burdick  
Burroughs  
Burton  
Butler  
Cable  
Campbell, Kans.  
Campbell, Pa.  
Cannon  
Chalmers  
Chandler, Okla.  
Chindblom  
Christopherson  
Clarke, N. Y.  
Clouse  
Codd  
Cole, Iowa  
Cole, Ohio  
Colton  
Connell  
Connolly, Pa.  
Cooper, Ohio.  
Coughlin  
Crago  
Cramton  
Crowther  
Curry  
Dale  
Dallinger  
Darrow  
Deal  
Denison  
Dickinson

Dunbar  
Dunn  
Echols  
Elliott  
Fairchild  
Fairfield  
Faust  
Fess  
Fish  
Focht  
Fordney  
Foster  
French  
Frothingham  
Fuller  
Funk  
Gensman  
Gerner  
Glynn  
Goodykoontz  
Graham, Ill.  
Green, Iowa  
Greene, Mass.  
Greene, Vt.  
Hadley  
Hardy, Colo.  
Haugen  
Hawes  
Hawley  
Hersey  
Hickey  
Hicks  
Hill  
Himes  
Hogan  
Houghton  
Husted  
Ireland  
Johnson, Wash.  
Jones, Pa.  
Kearns  
Kendall  
Kennedy  
Ketcham  
Kirkpatrick  
Kissel  
Kline, N. Y.  
Kline, Pa.  
Knutson  
Kraus  
Langley

Larson, Minn.  
Lawrence  
Layton  
Leatherwood  
Lehlbach  
Lineberger  
Longworth  
Luce  
Luhling  
McArthur  
McCormick  
McKenzie  
McLaughlin, Mich.  
McPherson  
MacGregor  
Madden  
Magee  
Maloney  
Mapes  
Merritt  
Michener  
Mills  
Millsbaugh  
Mondell  
Montoya  
Moore, Ohio  
Moore, Ind.  
Morgan  
Mudd  
Murphy  
Newton, Minn.  
Newton, Mo.  
Norton  
Ogden  
Olpp  
Osborne  
Parker, N. J.  
Parker, N. Y.  
Patterson, Mo.  
Patterson, N. J.  
Perkins  
Perlman  
Pou  
Pringley  
Purnell  
Radcliffe  
Ransley  
Reece  
Reed, W. Va.  
Rhodes

Ricketts  
Riddick  
Robertson  
Robison  
Rosenberg  
Rose  
Rosenbloom  
Rossdale  
Ryan  
Sanders, Ind.  
Sanders, N. Y.  
Scott, Tenn.  
Shaw  
Shreve  
Siegel  
Sinnott  
Slomp  
Smith, Idaho  
Smith, Mich.  
Snell  
Speaks  
Sprout  
Stafford  
Steenerson  
Stephens  
Strong, Pa.  
Summers, Wash.  
Sweet  
Taylor, N. J.  
Taylor, Tenn.  
Temple  
Thompson  
Tilson  
Timberlake  
Tinkham  
Treadway  
Valle  
Vestal  
Volk  
Walsh  
Watson  
Webster  
White, Me.  
Williams  
Williamson  
Winslow  
Woodyard  
Wurzbach  
Wyant

## ANSWERED "PRESENT"—1.

Sisson

## NOT VOTING—89.

Bacharach  
Beli  
Blakeney  
Bland, Ind.  
Blanton  
Brand  
Brinson  
Britten  
Carter  
Chandler, N. Y.  
Clark, Fla.  
Classon  
Copley  
Dempsey  
Drane  
Dyer  
Edmonds  
Ellis  
Elston  
Fenn  
Fitzgerald  
Flood  
Free

Freeman  
Gahn  
Gallivan  
Garrett, Tex.  
Goldsborough  
Gorman  
Gould  
Graham, Pa.  
Griest  
Hays  
Herrick  
Hukriede  
Hutchinson  
Jeffers, Nebr.  
Johnson, Ky.  
Johnson, Miss.  
Kahn  
Kelley, Mich.  
Kless  
Kindred  
King  
Kitchin  
Knight

Kreider  
Lee, N. Y.  
Lyon  
McFadden  
McSwain  
Mann  
Mansfield  
Moore, Ill.  
Morin  
Mott  
Nolan  
O'Brien  
Oliver  
Palge  
Peters  
Petersen  
Porter  
Rainey, Ala.  
Reber  
Reed, N. Y.  
Riordan  
Roach  
Rogers

Rucker  
Sabath  
Scott, Mich.  
Sears  
Shelton  
Snyder  
Stiness  
Stoll  
Sullivan  
Taylor, Colo.  
Tinchner  
Townner  
Tyson  
Underhill  
Vare  
Walters  
Ward, N. Y.  
Wason  
Wood, Ind.  
Yates

So the motion to recommit was rejected.

The Clerk announced the following pairs:

On the vote:

Mr. JOHNSON of Mississippi (for) with Mr. WALTERS (against).

Mr. FLOOD (for) with Mr. BLAND of Indiana (against).

Mr. GALLIVAN (for) with Mr. PAIGE (against).

Mr. RIORDAN (for) with Mr. VARE (against).

Mr. STOLL (for) with Mr. MORIN (against).

Mr. GOLDSBOROUGH (for) with Mr. SHELTON (against).

Mr. RUCKER (for) with Mr. ROACH (against).  
Mr. CARTER (for) with Mr. HUKRIEDE (against).  
Mr. BELL (for) with Mr. HUTCHINSON (against).  
Mr. BRINSON (for) with Mr. REED of New York (against).  
Mr. SISSON (for) with Mr. UNDERHILL (against).  
Mr. BRAND (for) with Mr. LEE of New York (against).  
Mr. KINDRED (for) with Mr. MOTT (against).  
Mr. KITCHIN (for) with Mr. FREE (against).  
Mr. JOHNSON of Kentucky (for) with Mr. BLAKENEY (against).

Mr. OLIVER (for) with Mr. KNIGHT (against).  
Mr. DRANE (for) with Mr. MCFADDEN (against).  
Mr. GARRETT of Texas (for) with Mr. TINCNER (against).  
Mr. O'BRIEN (for) with Mr. GRIEST (against).  
Mr. MANSFIELD (for) with Mr. PORTER (against).  
Mr. TYSON (for) with Mr. BACHARACH (against).  
Mr. TAYLOR of Colorado (for) with Mr. GRAHAM of Pennsylvania (against).

Mr. RAINEY of Alabama (for) with Mr. KREIDER (against).  
Mr. SEARS (for) with Mr. REBER (against).  
Mr. SULLIVAN (for) with Mr. KLESS (against).  
Mr. McSWAIN (for) with Mr. EDMONDS (against).  
Mr. SABATH (for) with Mr. ELLIS (against).  
Mr. LYON (for) with Mr. GORMAN (against).

Until further notice:

Mr. KAHN with Mr. CLARK of Florida.

Mr. ROGERS with Mr. BLANTON.

Mr. SISSON. Mr. Speaker, I voted "aye." I want to withdraw that vote and vote "present." I am paired with the gentleman from Massachusetts [Mr. UNDERHILL].

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question now is on agreeing to the conference report.

Mr. FORDNEY. Mr. Speaker, on that I demand the yeas and nays.

Mr. GARRETT of Tennessee. Mr. Speaker, I demand the yeas and nays.

The SPEAKER pro tempore. The gentleman from Michigan and the gentleman from Tennessee demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Those in favor of agreeing to the conference report will, when their names are called, answer "yea"; those opposed will answer "nay." The Clerk will call the roll.

The question was taken; and there were—yeas 232, nays 109, answered "present" 1, not voting 91, as follows:

## YEAS—232.

Ackerman  
Anderson  
Andrews, Nebr.  
Ansoorge  
Anthony  
Appleby  
Arentz  
Atkeson  
Barbour  
Beedy  
Begg  
Benham  
Bixler  
Boles  
Bond  
Bowers  
Brennan  
Brooks, Ill.  
Brooks, Pa.  
Brown, Tenn.  
Burdick  
Burke  
Burroughs  
Burtness  
Burton  
Butler  
Cable  
Campbell, Kans.  
Campbell, Pa.  
Cannon  
Chalmers  
Chandler, Okla.  
Chindblom  
Christopherson  
Clague  
Clarke, N. Y.  
Clouse  
Codd  
Cole, Iowa  
Cole, Ohio  
Colton  
Connell  
Connolly, Pa.  
Cooper, Ohio  
Cooper, Wis.  
Coughlin  
Crago  
Cramton  
Crowther  
Curry

Dale  
Dallinger  
Darrow  
Davis, Minn.  
Denison  
Dickinson  
Dowell  
Dunbar  
Dunn  
Dupré  
Echols  
Elliott  
Evans  
Fairchild  
Fairfield  
Faust  
Favrot  
Fess  
Fish  
Focht  
Fordney  
Foster  
French  
Frothingham  
Fuller  
Funk  
Gensman  
Gerner  
Glynn  
Goodykoontz  
Graham, Ill.  
Graham, Pa.  
Green, Iowa  
Greene, Mass.  
Greene, Vt.  
Hadley  
Hardy, Colo.  
Haugen  
Hawley  
Hersey  
Hickey  
Hicks  
Hill  
Himes  
Hoch  
Hogan  
Houghton  
Hull  
Husted  
Ireland  
Johnson, S. Dak.

Johnson, Wash.  
Jones, Pa.  
Kearns  
Kelly, Pa.  
Kendall  
Kennedy  
Ketcham  
Kinkaid  
Kirkpatrick  
Kissel  
Klecza  
Kline, N. Y.  
Kline, Pa.  
Knutson  
Kopp  
Kraus  
Langley  
Larson, Minn.  
Lawrence  
Layton  
Lazaro  
Lea, Calif.  
Leatherwood  
Lehlbach  
Lineberger  
Little  
Longworth  
Luce  
Luhling  
McArthur  
McCormick  
McKenzie  
McLaughlin, Mich.  
McLaughlin, Nebr.  
McLaughlin, Pa.  
MacGregor  
Madden  
Magee  
Maloney  
Mapes  
Merritt  
Michener  
Miller  
Mills  
Millsbaugh  
Mondell  
Montoya  
Moore, Ohio  
Moore, Ind.

Morgan  
Mudd  
Murphy  
Nelson, A. P.  
Newton, Minn.  
Newton, Mo.  
Norton  
Ogden  
Olpp  
Osborne  
Parker, N. J.  
Parker, N. Y.  
Patterson, Mo.  
Patterson, N. J.  
Perkins  
Perlman  
Pringley  
Purnell  
Radcliffe  
Ramseyer  
Ransley  
Reece  
Reed, W. Va.  
Ricketts  
Riddick  
Robertson  
Robison  
Rosenberg  
Rose  
Rosenbloom  
Rossdale  
Sanders, Ind.  
Sanders, N. Y.  
Schall  
Scott, Tenn.  
Shaw  
Shreve  
Siegel  
Sinnott  
Slomp  
Smith, Idaho  
Smith, Mich.  
Snell  
Speaks  
Sprout  
Stafford  
Steenerson  
Stephens  
Strong, Kans.  
Strong, Pa.  
Summers, Wash.

Sweet	Timberlake	Watson	Wood, Ind.
Swing	Treadway	Webster	Woodyard
Taylor, N. J.	Vaile	Wheeler	Wurzbach
Taylor, Tenn.	Vestal	White, Kans.	Wyant
Temple	Volk	White, Me.	Yates
Thompson	Volstead	Williamson	Young
Tilson	Walsh	Winslow	Zihlman

## NAYS—109.

Almon	Fields	Linthicum	Sinclair
Aswell	Fisher	Logan	Sisson
Bankhead	Fulmer	London	Smithwick
Barkley	Garner	Lowrey	Steagall
Beck	Garrett, Tenn.	McClintic	Stedman
Black	Gilbert	McDuffie	Stevenson
Bland, Va.	Goldsborough	Mead	Sullivan
Bowling	Hammer	Michaelson	Summers, Tex.
Box	Hardy, Tex.	Montague	Swank
Briggs	Harrison	Moore, Va.	Tague
Brown, Wis.	Hawes	Nelson, J. M.	Taylor, Ark.
Buchanan	Hayden	O'Connor	Ten Eyck
Bulwinkle	Hooker	Oldfield	Thomas
Byrnes, S. C.	Huddleston	Overstreet	Tillman
Byrns, Tenn.	Hudspeth	Padgett	Upshaw
Cantrill	Humphreys	Park, Ga.	Vinson
Carew	Jacoway	Parks, Ark.	Voigt
Collier	James	Parrish	Ward, N. C.
Collins	Jeffers, Ala.	Pou	Weaver
Connally, Tex.	Jones, Tex.	Quin	Wilson
Crisp	Keller	Rainey, Ill.	Wingo
Cullen	Kincheloe	Raker	Wise
Davis, Tenn.	Kunz	Rankin	Woodruff
Deal	Lampert	Rayburn	Woods, Va.
Dominick	Lanham	Rouse	Wright
Doughton	Lankford	Ryan	
Drewry	Larsen, Ga.	Sanders, Tex.	
Driver	Lee, Ga.	Sandlin	

## ANSWERED "PRESENT"—1.

Cockran

## NOT VOTING—91.

Andrew, Mass.	Free	Knight	Riordan
Bacharach	Freeman	Kreider	Roach
Bell	Gahn	Lee, N. Y.	Rogers
Blakeney	Gallivan	Lyon	Rucker
Bland, Ind.	Garrett, Tex.	McFadden	Sabath
Blanton	Gorman	McSwain	Scott, Mich.
Brand	Gould	Mann	Sears
Brinson	Graham, Pa.	Mansfield	Shelton
Britten	Griest	Moore, Ill.	Snyder
Carter	Griffin	Morin	Stiness
Chandler, N. Y.	Hays	Mott	Stoll
Clark, Fla.	Herrick	Nolan	Taylor, Colo.
Classon	Hukriede	O'Brien	Tincher
Copley	Hutchinson	Oliver	Tinkham
Dempsey	Jeffers, Nebr.	Paige	Towner
Drane	Johnson, Ky.	Peters	Tyson
Dyer	Johnson, Miss.	Petersen	Underhill
Edmonds	Kahn	Porter	Vare
Ellis	Kelley, Mich.	Rainey, Ala.	Walters
Elston	Kiess	Reavis	Ward, N. Y.
Fenn	Kindred	Reber	Wason
Fitzgerald	King	Reed, N. Y.	Williams
Flood	Kitchin	Rhodes	

So the conference report was agreed to.

The Clerk announced the following additional pairs:

On the vote:

Mr. BACHARACH (for) with Mr. TYSON (against).  
 Mr. MOTT (for) with Mr. KINDRED (against).  
 Mr. KIESS (for) with Mr. ROGERS (against).  
 Mr. WILLIAMS (for) with Mr. SABATH (against).  
 Mr. BLAND of Indiana (for) with Mr. FLOOD (against).  
 Mr. VARE (for) with Mr. RIORDAN (against).  
 Mr. WALTERS (for) with Mr. JOHNSON of Mississippi (against).  
 Mr. REED of New York (for) with Mr. BRINSON (against).  
 Mr. TINCHER (for) with Mr. GARRETT of Texas (against).  
 Mr. ROACH (for) with Mr. RUCKER (against).  
 Mr. PAIGE (for) with Mr. GALLIVAN (against).  
 Mr. MORIN (for) with Mr. STOLL (against).  
 Mr. LEE of New York (for) with Mr. BRAND (against).  
 Mr. HUTCHINSON (for) with Mr. BELL (against).  
 Mr. HUKRIEDE (for) with Mr. CARTER (against).  
 Mr. KNIGHT (for) with Mr. OLIVER (against).  
 Mr. PORTER (for) with Mr. MANSFIELD (against).  
 Mr. MOORE of Illinois (for) with Mr. RAINEY of Alabama (against).  
 Mr. GRAHAM of Pennsylvania (for) with Mr. TAYLOR of Colorado (against).  
 Mr. FREE (for) with Mr. KITCHIN (against).  
 Mr. MCFADDEN (for) with Mr. DRANE (against).  
 Mr. GRIEST (for) with Mr. O'BRIEN (against).  
 Mr. REBER (for) with Mr. SEARS (against).  
 Mr. ANDREW of Massachusetts (for) with Mr. COCKRAN (against).  
 Mr. BLAKENEY (for) with Mr. JOHNSON of Kentucky (against).  
 Mr. SNYDER (for) with Mr. LYON (against).  
 Mr. EDMONDS (for) with Mr. MCSWAIN (against).  
 Mr. SHELTON (for) with Mr. GRIFFIN (against).  
 Until further notice:  
 Mr. RHODES with Mr. CLARK of Florida.  
 Mr. WASON with Mr. BLANTON.

Mr. RHODES. Mr. Speaker, I desire to vote.  
 The SPEAKER pro tempore. Was the gentleman in the Hall and listening when his name was called?

Mr. RHODES. I was not.  
 The SPEAKER pro tempore. The gentleman does not bring himself within the rule.

The result of the vote was announced as above recorded.  
 On motion by Mr. MONDELL, a motion to reconsider the vote by which the conference report was agreed to was laid on the table.

## MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. Craven, its chief clerk, announced that the Senate had agreed to the amendments of the House of Representatives to the bill (S. 1039) for the public protection of maternity and infancy and providing a method of cooperation between the Government of the United States and the several States.

## HOUR OF MEETING TO-MORROW.

Mr. MONDELL. Mr. Speaker, I ask unanimous consent that when the House adjourns to-night it adjourn to meet to-morrow at 11 o'clock a. m.

The SPEAKER pro tempore. The gentleman asks unanimous consent that when the House adjourns to-day it adjourn to meet at 11 o'clock to-morrow morning. Is there objection?

Mr. WINGO. Mr. Speaker, reserving the right to object, can the gentleman give us any idea when we will have a chance to pass the bill that the House Banking and Currency Committee unanimously directed the chairman to ask a rule for some time ago, and which the chairman of the Committee on Rules the other day said he had never heard of?

Mr. MONDELL. I do not know just what bill the gentleman has in mind.

Mr. WINGO. It is the bill which extends for 12 months the law which expired on October 31, covering loans of original subscribers to Liberty bonds. The Senate a long time ago passed a joint resolution extending the time for a year. That joint resolution was messaged over to the House and referred to the Committee on Banking and Currency, and that committee reported it out in ample time and directed the chairman by a unanimous vote to ask the Committee on Rules for a rule providing for its consideration. The chairman of the Rules Committee the other day said that he had never heard of it. I know the gentleman from Wyoming has heard of it.

Mr. MONDELL. If it is a meritorious measure, as the gentleman from Arkansas seems to think it is, I hope we will have an opportunity to consider it.

Mr. CAMPBELL of Kansas. The gentleman says a rule was asked for. I will say that if a rule was asked for, it was asked from somebody not on the Rules Committee.

Mr. WINGO. I repeat my original statement that the House Committee on Banking and Currency unanimously directed the chairman of that committee to ask for a rule, and the presumption always is that the chairman of the committee does as he is directed by the committee to do.

Mr. CAMPBELL of Kansas. That has never been done in this case.

Mr. WINGO. I am not to blame for that.  
 Mr. CAMPBELL of Kansas. The Committee on Rules is not to blame for it either.

Mr. STAFFORD. I think it is not fair to the chairman of the Committee on Banking and Currency to make this statement in his absence. I notice that he is not present.

Mr. WINGO. There is no question about the matter, and the chairman of the committee was present the other day when I called attention to the matter.

The SPEAKER pro tempore. The gentleman from Wyoming asks unanimous consent that when the House adjourns to-day it adjourn to meet at 11 o'clock to-morrow morning. Is there objection?

Mr. GARRETT of Tennessee. Reserving the right to object, has that deficiency bill been filed?

Mr. MONDELL. It has.  
 Mr. GARRETT of Tennessee. And points of order reserved?  
 Mr. MONDELL. Yes.

Mr. WINGO. If my friend from Kansas [Mr. CAMPBELL] will pursue the inquiry sufficiently to ascertain the facts about it, and the gentleman from Wisconsin [Mr. STAFFORD] can satisfy his meticulous soul that there is such a bill, and that the action of the committee has been taken as I have stated, I shall not object, hoping that we can get an opportunity to consider the bill.

Mr. STAFFORD. There is no question that there is such a bill, and there is also no question that the chairman of the Committee on Banking and Currency has done his full duty.



Mr. WINGO. The chairman of the Committee on Rules says that he has never been asked for the rule that the Committee on Banking and Currency directed the chairman to get. But the question of responsibility rests with the Republicans, who have a nearly three to one majority in this House. Just when is this great majority going to function and quit blaming the Democratic minority for the incompetency and indifference of the majority?

Mr. STAFFORD. The Banking and Currency Committee may have overlooked the Committee on Rules.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wyoming?

There was no objection.

Mr. ACKERMAN. Mr. Speaker, my colleague [Mr. HUTCHINSON] is detained at home by illness. He wishes me to state that if present he would have voted for the bill.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. Craven, its Chief Clerk, announced that the Senate had passed bill of the following title, in which the concurrence of the House of Representatives was requested:

S. 2724. An act to authorize the construction of a bridge across the White River in Prairie County, Ark.

The message also announced that the Senate had passed without amendment the bill (H. R. 7394) to extend the time for the construction of a bridge across the Tombigbee River at or near Ironwood Bluff, in the county of Itawamba, Miss.

#### ADJOURNMENT.

Mr. MONDELL. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 22 minutes p. m.) the House, under its previous order, adjourned until to-morrow, Tuesday, November 22, 1921, at 11 o'clock a. m.

#### EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of Rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

272. A letter from the chairman of the Federal Trade Commission, transmitting statement of the additional compensation paid to the employees of the Federal Trade Commission for the first four months of the fiscal year ending June 30, 1922; to the Committee on Appropriations.

273. A letter from the secretary and chief clerk of the Federal Board for Vocational Education, transmitting a statement showing in detail the travel from Washington to points outside of the District of Columbia performed by officers and employees (other than special agents, inspectors, and employees who in the discharge of their regular duties are required to constantly travel) of the Federal Board for Vocational Education during the fiscal year 1921; to the Committee on Appropriations.

#### REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills and resolutions were severally reported from committees, delivered to the Clerk, and referred to the several calendars therein named, as follows:

Mr. MADDEN, from the Committee on Appropriations, to which was referred the bill (H. R. 9237) making appropriations to supply deficiencies in appropriations for the fiscal year ending June 30, 1922, and prior fiscal years, supplemental appropriations for the fiscal year ending June 30, 1922, and subsequent fiscal years, and for other purposes, reported the same without amendment, accompanied by a report (No. 487), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. RAKER, from the Committee on the Public Lands, to which was referred the bill (H. R. 6651) to provide for the consolidation of forest lands in the Tahoe National Forest, Calif., and for other purposes, reported the same with an amendment, accompanied by a report (No. 488), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

#### PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. JOHNSON of Washington: A bill (H. R. 9234) to regulate interstate traffic in sutures and surgical ligature material, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. HADLEY: A bill (H. R. 9235) providing for a grant of land to the State of Washington for public-park purposes; to the Committee on Military Affairs.

By Mr. NEWTON of Missouri: A bill (H. R. 9236) to provide for the return of enemy property seized during the war; to the Committee on Interstate and Foreign Commerce.

By Mr. MADDEN: A bill (H. R. 9237) making appropriations to supply deficiencies in appropriations for the fiscal year ending June 30, 1922, and prior fiscal years, supplemental appropriations for the fiscal year ending June 30, 1922, and subsequent fiscal years, and for other purposes; committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

By Mr. JOHNSON of Washington: A bill (H. R. 9238) to provide for the guidance and protection, the better economic distribution, and the better adjustment of the foreign-born residents of the United States, to repeal laws heretofore enacted relating to the naturalization of aliens, and to establish a uniform system for the naturalization of aliens throughout the United States, and to create a bureau of citizenship in the Department of Labor, and for other purposes; to the Committee on Immigration and Naturalization.

Also, a bill (H. R. 9239) fixing the compensation of United States commissioners; to the Committee on the Judiciary.

By Mr. LANGLEY: A bill (H. R. 9240) for the erection of a vault building for the use of the Treasury Department, Washington, D. C.; to the Committee on Public Buildings and Grounds.

By Mr. SMITH of Idaho: A bill (H. R. 9241) to encourage the development of the agricultural resources of the United States through Federal and State cooperation, giving preference in the matter of employment and the establishment of rural homes to those who have served with the military and naval forces of the United States; to the Committee on Irrigation of Arid Lands.

#### PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BACHARACH: A bill (H. R. 9242) granting a pension to Amanda Good; to the Committee on Invalid Pensions.

By Mr. CHALMERS: A bill (H. R. 9243) granting a pension to Mollie Paden; to the Committee on Invalid Pensions.

By Mr. CLOUSE: A bill (H. R. 9244) granting a pension to William R. Holt; to the Committee on Pensions.

Also, a bill (H. R. 9245) granting a pension to John F. Beaty; to the Committee on Invalid Pensions.

By Mr. FISH: A bill (H. R. 9246) for the relief of Julius Jonas; to the Committee on Claims.

By Mr. GRAHAM of Illinois: A bill (H. R. 9247) granting a pension to Helen L. Scudder; to the Committee on Invalid Pensions.

Also, a bill (H. R. 9248) granting a pension to Nancy E. Minor; to the Committee on Invalid Pensions.

By Mr. LAMPERT: A bill (H. R. 9249) granting a pension to August Koeser; to the Committee on Invalid Pensions.

By Mr. MacGREGOR: A bill (H. R. 9250) granting a pension to Frank A. Klein; to the Committee on Pensions.

By Mr. NEWTON of Missouri: A bill (H. R. 9251) to reinstate Florence E. Blanks in the Postal Service; to the Committee on the Post Office and Post Roads.

By Mr. SHAW: A bill (H. R. 9252) granting a pension to Minerva A. Ford; to the Committee on Invalid Pensions.

Also, a bill (H. R. 9253) granting a pension to Lucinda Hooper; to the Committee on Invalid Pensions.

By Mr. THOMPSON: A bill (H. R. 9254) granting a pension to Mary E. Brubaker; to the Committee on Pensions.

#### PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

3143. By Mr. CLAGUE: Petition of numerous citizens of Winnebago, Minn., for securing a substantial reduction of the exorbitant freight rates charged by the railway companies; to the Committee on Interstate and Foreign Commerce.

3144. Also, petition of numerous citizens of Vernon County, Minn., protesting against the canceling of debt or deferred payments of debt and interest due from foreign nations to the United States; to the Committee on Interstate and Foreign Commerce.

3145. By Mr. DYER: Petition of citizens of the twelfth Missouri district, favoring recognition of the Irish republic; to the Committee on Foreign Affairs.

3146. By Mr. JOHNSON of Washington: Petition of various citizens of Tacoma, Wash., opposing disarmament agreement pending recognition of the Irish republic; to the Committee on Foreign Affairs.

3147. By Mr. KELLY of Pennsylvania: Resolutions of the Pittsburgh Chamber of Commerce, favoring removal of taxes on transportation; to the Committee on Ways and Means.

3148. By Mr. KISSEL: Petition of John Blank, Esq., and 45 residents of New Orleans, La.; to the Committee on the Judiciary.

3149. Also, petition of Dr. J. A. Storck and 15 residents of New Orleans, La.; to the Committee on the Judiciary.

3150. Also, petition of Goldsmith & Co. (Inc.), New York City; to the Committee on Ways and Means.

3151. By Mr. KLINE of New York: Forty petitions of the Hugh O'Neill Council, American Association for the Recognition of the Irish Republic, praying that the harbors of Ireland be neutralized by international agreement and that Ireland's independence be guaranteed by the disarmament conference; to the Committee on Foreign Affairs.

3152. By Mr. KNUTSON: Petition of John H. Russell and 34 other residents of the State of Minnesota, opposing the passage of H. R. 4388, the Sunday observance bill; to the Committee on the District of Columbia.

3153. By Mr. LINTHICUM: Petition of the Engineers' Club of Baltimore, indorsing H. R. 7541; to the Committee on Interstate and Foreign Commerce.

3154. Also, petition of Bishop John Hurst, Baltimore, indorsing H. R. 13; to the Committee on the Judiciary.

3155. Also, petition of L. Slesinger & Son and J. W. Tottle, of Baltimore, opposing American valuation plan; to the Committee on Ways and Means.

3156. By Mr. MORIN: Petition of Dr. G. G. Turfley and other citizens of Pittsburgh, Pa., in support of the Dyer antilynching bill; to the Committee on the Judiciary.

3157. By Mr. NEWTON of Missouri: Petitions of 1,372 citizens of St. Louis, Mo.; also a number of resolutions adopted by a number of organizations in St. Louis, Mo., praying for the recognition by this Government of the duly elected government of the republic of Ireland; to the Committee on Foreign Affairs.

3158. By Mr. PERKINS: Petition of citizens of New Jersey, in support of the daylight saving bill; to the Committee on Interstate and Foreign Commerce.

3159. By Mr. SMITH of Idaho: Resolutions adopted by the board of directors of the Chamber of Commerce of Boise, Idaho, urging the passage of the French-Capper truth in fabric bill; to the Committee on Ways and Means.

## SENATE.

TUESDAY, November 22, 1921.

(Legislative day of Wednesday, November 16, 1921.)

The Senate reassembled at 11 o'clock a. m. on the expiration of the recess.

Mr. CURTIS. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The Secretary will call the roll.

The reading clerk called the roll, and the following Senators answered to their names:

Ashurst	Frelinghuysen	McKellar	Shortridge
Ball	Gerry	McKinley	Simmons
Borah	Glass	McLean	Smith
Brandeggee	Gooding	McNary	Smoot
Broussard	Hale	Myers	Spencer
Bursum	Harris	Nelson	Stanley
Calder	Harrison	Nicholson	Sterling
Capper	Heflin	Norbeck	Swanson
Caraway	Hitchcock	Oddie	Townsend
Crow	Jones, N. Mex.	Overman	Trammell
Culberson	Jones, Wash.	Page	Wadsworth
Cummins	Kendrick	Penrose	Walsh, Mass.
Curtis	Kenyon	Phipps	Walsh, Mont.
Dial	Keyes	Pittman	Watson, Ga.
du Pont	King	Poinexter	Watson, Ind.
Elkins	Ladd	Fomerene	Weller
Ernst	La Follette	Robinson	Williams
Fernald	Lenroot	Sheppard	Willis
France	McCumber	Shields	

Mr. TRAMMELL. I wish to announce the absence of my colleague [Mr. FLETCHER] on official business.

The PRESIDENT pro tempore. Seventy-five Senators having answered to their names, there is a quorum present.

## MICHIGAN SENATORIAL ELECTION.

Mr. PENROSE obtained the floor.

Mr. SPENCER. Will the Senator from Pennsylvania yield?

Mr. PENROSE. I rose for the purpose of asking to have the conference report on the revenue measure submitted to the Senate, but I will yield for a moment to the Senator from Missouri.

Mr. SPENCER. Mr. President, the situation in the Ford-Newberry contest is such that it has seemed that we ought to arrive, if possible, at some general agreement in regard to it. Of course, the conference report on the revenue bill has the right of way and is now the unfinished business, but we know on both sides that there are a number of Senators who wish an adjournment this week if the revenue bill can be gotten out of the way. We also know that a number of Senators upon both sides have made all their arrangements to go to Haiti on Government business, leaving perhaps to-morrow, and they will not be back until about the 20th of December.

It seems to me most unfair that the Ford-Newberry matter should be taken up either to interfere with the adjournment that is so much desired or with the opportunity of the Senator from Ohio [Mr. POMERENE] and others to be absent on the trip to Haiti. I have, after some consultation, drawn a unanimous-consent agreement which I submit to the Senate to see if it meets with the approval of the Senate. I ask that the Secretary may read it.

The PRESIDENT pro tempore. The Secretary will report the proposed unanimous-consent agreement.

The reading clerk read as follows:

It is agreed by unanimous consent that at not later than 1 o'clock p. m. on the second calendar day upon which the Senate is in session after December 25, 1921, the Senate will proceed to the consideration of Senate resolution 172, declaring Truman H. Newberry to be a duly elected Senator from the State of Michigan, etc., and any amendment or substitute that may then be pending or that may be offered thereto, and will proceed with such consideration to the exclusion of other business until the question is disposed of. That on said second calendar day and thereafter until the final vote is taken no Senator shall speak more than once or for a longer period than 30 minutes.

The PRESIDENT pro tempore. Is there objection?

Mr. SIMMONS. I object.

Mr. HEFLIN. The Senator from North Carolina objects.

Mr. SPENCER. I wonder if there is any ground for the objection that could be accommodated. The Senator from North Carolina—

Mr. SIMMONS. I stated the other day when I objected, and I desire to repeat it—

The PRESIDENT pro tempore. The Senator from North Carolina objects.

Mr. SIMMONS. Mr. President, I am replying to an inquiry made of me by the Senator from Missouri. I stated several days ago, when this question was up in executive session, that in a matter of this importance touching the dignity of the Senate, involving the right of a man to a seat in this body, involving the question whether that seat was purchased with money, a question which affects the fundamentals of our Government, I for one did not intend to consent that debate upon that vital question, upon that great issue, shall be limited to an hour.

Mr. SPENCER. Will the Senator allow me to ask whether he considers that between the 5th of December and the date fixed in the unanimous-consent agreement there is not opportunity for unlimited discussion and unlimited debate. There is no limitation upon the debate that any Senator may wish to make upon this subject until after the second day which follows the 25th of December when the Senate shall be in session.

Mr. SIMMONS. It is proposed, as I understand it, that we shall adjourn to-morrow, or to-day, if possible.

The PRESIDENT pro tempore. That is not a part of the proposed unanimous-consent agreement.

Mr. SIMMONS. I am not speaking about the proposed agreement. I am speaking about the understanding among Senators. It is understood among Senators that we are going to adjourn if possible to-day or to-morrow until the 5th of December. What time is there for a discussion of this question between now and the 5th of December? It is proposed that two days after we take it up—

Mr. SPENCER. May I state to the Senator from North Carolina that from the 5th of December until the 25th of December there is opportunity for unlimited debate. The unanimous-consent agreement does not begin operating until after the 25th of December.

Mr. SIMMONS. Then I have not understood it.

Mr. SPENCER. I thought the Senator from North Carolina did not.

The PRESIDENT pro tempore. Does the Senator from North Carolina withdraw his objection?



Mr. HEFLIN. Mr. President, reserving the right to object—

The PRESIDENT pro tempore. The Chair addressed an inquiry to the Senator from North Carolina.

Mr. SIMMONS. I do not at this time object.

Mr. POMERENE. Mr. President—

Mr. HEFLIN. I yield to the Senator from Ohio.

Mr. POMERENE. I simply wish to make one suggestion. I do not propose to interfere with the address of the Senator from Alabama but I wanted to offer this suggestion first. The unanimous-consent agreement refers to the second day after we reconvene after December 25, as I recall it. I suggest changing that to the fourth day. I do that simply for this reason: Some of us will perhaps be away attending to the business of the Senate. I am entirely content with the other provisions. I simply offer that as a suggestion, and, perhaps, at a later hour we can harmonize our differences.

Mr. SPENCER. If the Senator desires it might be changed to read the second day after the 1st day of January, because I am assuming that there will be some Christmas holidays, and the effect, in my judgment, will be precisely the same. If we do not arrive—

Mr. SMITH. Mr. President—

Mr. SPENCER. May I say to the Senator, if we do not arrive at some unanimous-consent agreement, of course, the question would naturally come up on the 5th day of December for such discussion and action, and that is what I want to prevent if possible.

Mr. POMERENE. I realize that very fully, but I simply want—

Mr. ROBINSON. Mr. President—

The PRESIDENT pro tempore. Does the Senator from Pennsylvania yield, and if so, to whom? There are several Senators claiming attention.

Mr. PENROSE. I do not know to whom to yield in view of there being so many Senators on their feet.

Mr. HEFLIN. I thought the Chair recognized me.

The PRESIDENT pro tempore. The Chair recognized the Senator from Alabama only under the yielding of the Senator from Pennsylvania for the purpose of adjusting the proposed unanimous-consent agreement.

Mr. PENROSE. Mr. President, as I understand I had the floor and merely yielded to the Senator from Missouri to make a request for unanimous consent. Has that request been submitted to the Senate?

Mr. HEFLIN. For the present, I object.

Mr. ROBINSON. Will the Senator from Pennsylvania yield to me to make a statement? I think I can help facilitate the agreement.

Mr. PENROSE. If the statement will not lead to prolonged debate, I will yield.

Mr. ROBINSON. It will not lead to any debate, so far as I am concerned, but if the Senator from Pennsylvania is disposed to proceed with his remarks at this time, I shall refrain from making any suggestion. I was moving at the request of the Senator from Missouri—

The PRESIDENT pro tempore. Is there objection to the proposed unanimous-consent agreement?

Mr. HEFLIN. I object at this time.

Mr. BRANDEGEE. Mr. President—

The PRESIDENT pro tempore. The Senator from Pennsylvania [Mr. PENROSE] has the floor.

Mr. HEFLIN. I rise to a point of order.

The PRESIDENT pro tempore. The Senator from Pennsylvania is recognized.

Mr. PENROSE. I believe I have the floor.

Mr. HEFLIN. I rise to a point of order.

Mr. PENROSE. I have the floor.

The PRESIDENT pro tempore. The Senator from Alabama will state his point of order.

Mr. HEFLIN. On yesterday afternoon before the conference report on the tax revision bill was submitted, the Senator from Pennsylvania [Mr. PENROSE] asked me to yield, which I did, and I asked him how long he thought it would take to dispose of the proposition. He said not more than a few minutes.

Mr. PENROSE. That is not a point of order, Mr. President.

Mr. HEFLIN. Then I said:

Very well; or if Senators on the other side desire to take a recess after the report is received, I can conclude in the morning.

Mr. PENROSE. I make the point of order that that is not a point of order.

Mr. HEFLIN. Mr. President—

Mr. PENROSE. I have the floor.

Mr. HEFLIN. The colloquy continues:

Mr. PENROSE. I think we are working toward that end, if the Senator will permit me. I do not intend to push the report now. I simply want to have it before the body.

Then, Mr. President, on page 8062 of the CONGRESSIONAL RECORD the following colloquy occurred:

Mr. HEFLIN. Mr. President, I can go on in the morning and finish then?

Mr. SPENCER. Surely.

I would not have yielded to the Senator from Pennsylvania except under the understanding that I was to have the floor and conclude my speech, and I do not suppose that the Senator from Pennsylvania will now undertake to violate that agreement.

Mr. PENROSE. Mr. President, I had no agreement. The Senator from Alabama will get the floor in due time and in his own right. Meanwhile I have the floor.

The PRESIDENT pro tempore. The Chair understands from the colloquy which has been read by the Senator from Alabama [Mr. HEFLIN] that he claims that there was an agreement that he should be permitted to resume his discussion this morning. The Chair does not feel that he is bound or that the Senate is bound by a colloquy of that sort. The Chair, therefore, overrules the point of order, and the Senator from Pennsylvania is recognized.

Mr. PENROSE. Now, Mr. President—

Mr. HEFLIN. Mr. President—

Mr. BRANDEGEE. Mr. President—

Mr. HEFLIN. One more word. The Senator from Missouri [Mr. SPENCER] who had charge of this matter in debate—

Mr. PENROSE. I have the floor.

Mr. HEFLIN. I had the floor and yielded to the Senator from Pennsylvania, and the Senator from Missouri assured me that I could go on in the morning and conclude.

Mr. PENROSE. I have the floor, have I not, Mr. President? The PRESIDENT pro tempore. The Chair has ruled two or three times that the Senator from Pennsylvania has the floor.

Mr. PENROSE. I ask for order.

Mr. HEFLIN. I appeal from the decision of the Chair.

Mr. ASHURST. I rise to a point of order.

The PRESIDENT pro tempore. The question is not debatable.

Mr. ASHURST. A point of order, Mr. President.

The PRESIDENT pro tempore. The Senator from Arizona. Mr. ASHURST. It is not appealable. That is one of the unappealable questions unfortunately; but the Senator from Alabama is right—

Mr. PENROSE. The Chair has ruled.

Mr. ASHURST. The Senator from Alabama was assured by the Senate that he would have a right to resume his speech this morning.

Mr. PENROSE. The Senate gave no such assurance.

Mr. ASHURST. The Senator from Missouri did give the assurance, because I heard him.

Mr. PENROSE. I disagree with the Senator that any assurance was given by the Senate.

Mr. HEFLIN. The Record shows that assurance was given.

Mr. ASHURST. The Senator from Missouri will bear me out in the statement that he guaranteed that the Senator from Alabama should have the floor.

Mr. PENROSE. I shall have to ask that the Sergeant at Arms restore order.

The PRESIDENT pro tempore. The Secretary will state the pending question, which is the appeal of the Senator from Alabama from the ruling of the Chair.

Mr. PENROSE. There can not be an appeal.

Mr. ASHURST. The question is not appealable?

The PRESIDENT pro tempore. The Chair is of the opinion that there can be an appeal.

Mr. PENROSE. I differ from the Chair.

The PRESIDENT pro tempore. The Secretary will call the roll.

Mr. BRANDEGEE. Mr. President, will the Chair kindly state what the question is?

The PRESIDENT pro tempore. The Senator from Alabama makes the point of order that under the colloquy or discussion which occurred last night he is entitled to resume the speech this morning that he was then making. The Chair has overruled the point of order, having recognized the Senator from Pennsylvania. The Senator from Alabama appeals from the ruling of the Chair. The question is, Shall the ruling of the Chair stand as the judgment of the Senate? The Secretary will call the roll.

The reading clerk proceeded to call the roll.

Mr. BALL (when his name was called). I have a general pair with the senior Senator from Florida [Mr. FLETCHER]. I transfer that pair to the junior Senator from Oregon [Mr. STANFIELD] and vote "yea."

Mr. DU PONT (when his name was called). I transfer my general pair with the Senator from Louisiana [Mr. RANDELL] to the junior Senator from Oklahoma [Mr. HARRELD] and vote "yea."

Mr. KENDRICK (when his name was called). I inquire if the senior Senator from Illinois [Mr. McCORMICK] has voted.

The PRESIDENT pro tempore. The Chair is informed that Senator has not voted.

Mr. KENDRICK. I have a general pair with that Senator, and inasmuch as he is absent, I will be compelled to withhold my vote.

The roll call was concluded.

Mr. OVERMAN (after having voted in the negative). In the absence of my general pair, the senior Senator from Wyoming [Mr. WARREN], I withdraw my vote.

Mr. SIMMONS. I have a general pair with the junior Senator from Minnesota [Mr. KELLOGG]. I transfer that pair to the senior Senator from Missouri [Mr. REED] and vote "nay."

Mr. TRAMMELL. I desire to announce the absence of my colleague [Mr. FLETCHER] upon official business. He is paired with the senior Senator from Delaware [Mr. BALL].

Mr. GLASS (after having voted in the negative). I have a general pair with the senior Senator from Vermont [Mr. DILLINGHAM]. In the absence of that Senator, being unable to secure a transfer, I withdraw my vote.

Mr. JONES of New Mexico. I inquire if the Senator from Maine [Mr. FERNALD] has voted?

The PRESIDENT pro tempore. The Chair is informed that Senator has not voted.

Mr. JONES of New Mexico. I have a general pair with that Senator and therefore withhold my vote. If permitted to vote, I should vote "nay."

Mr. MCKINLEY. I transfer my pair with the Senator from Arkansas [Mr. CARAWAY] to the Senator from Indiana [Mr. NEW] and vote "yea."

Mr. CURTIS. I desire to announce the following pairs:

The Senator from New Jersey [Mr. EDGE] with the Senator from Oklahoma [Mr. OWEN];

The Senator from Massachusetts [Mr. LODGE] with the Senator from Alabama [Mr. UNDERWOOD]; and

The Senator from West Virginia [Mr. SUTHERLAND] with the Senator from Arkansas [Mr. ROBINSON].

The result was announced—yeas 35, nays 25, as follows:

## YEAS—35.

Ball	Elkins	McLean	Poindexter
Borah	Ernst	McNary	Shortridge
Brandee	Frelinghuysen	Nelson	Sterling
Bursum	Gooding	Nicholson	Townsend
Calder	Hale	Norbeck	Wadsworth
Capper	Keyes	Oddie	Watson, Ind.
Crow	Lenroot	Page	Weller
Curtis	McCumber	Penrose	Willis
du Pont	McKinley	Phipps	

## NAYS—25.

Ashurst	Hitchcock	Sheppard	Trammell
Culberson	Jones, Wash.	Shields	Walsh, Mass.
Dial	King	Simmons	Walsh, Mont.
Gerry	La Follette	Smith	Williams
Harris	McKellar	Spencer	
Harrison	Myers	Stanley	
Hefflin	Pomerene	Swanson	

## NOT VOTING—36.

Broussard	France	Lodge	Ransdell
Cameron	Glass	McCormick	Reed
Caraway	Harreld	Moses	Robinson
Colt	Johnson	New	Smoot
Cummins	Jones, N. Mex.	Newberry	Stanfield
Dillingham	Kellogg	Norris	Sutherland
Edge	Kendrick	Overman	Underwood
Fernald	Kenyon	Owen	Warren
Fletcher	Ladd	Pittman	Watson, Ga.

So the decision of the Chair was sustained.

Mr. PENROSE. Now, Mr. President, I move that the Senate proceed to the consideration of the measure known as the conference report on the revenue bill.

The PRESIDENT pro tempore. The question is upon agreeing to the motion of the Senator from Pennsylvania.

The motion was agreed to; and the Senate proceeded to consider the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 8245) to reduce and equalize taxation, to amend and simplify the revenue act of 1918, and for other purposes.

Mr. HEFLIN resumed the speech begun by him on yesterday. In the course of his remarks a colloquy took place between Mr. HEFLIN and Mr. PENROSE and words were spoken by both Sena-

tors which the President pro tempore declared to be a violation of the rule. On motion of Mr. LENROOT, the objectionable words were expunged from the RECORD, and, on motion of Mr. HARRISON, Mr. HEFLIN was permitted to proceed in order. His speech is as follows:

Mr. HEFLIN. Mr. President, the Senate is called upon to perform a very important and solemn duty. The case awaiting its decision can not be laughed out of this tribunal; it involves the good name, the honor, and integrity of the Senate itself; it concerns and affects the welfare of the whole American people; it is the most important question now pending before this historic body.

My good friend the Senator from Georgia [Mr. WATSON] has suggested that he thought it unwise for southern Senators to speak upon this occasion. I can not understand that philosophy; I do not know by what rule a southern Senator would be excused from taking part in this debate, from denouncing wrong when he thought there was wrong, and for standing for the best interests of his country and for the honor of the body of which he is a Member. When did it become an offense or even an inappropriate thing for a southern Senator to take part in defending the good name of this body and in demanding clean and honest government at the Capital of the Nation?

It is the duty of Senators from Alabama, just as it is the duty of Senators from Maine, Kansas, Ohio, California, and all the other States, to guard with diligence the honor and integrity of the Senate of the United States. This is not a sectional question, nor is it a party question; it is a question of the highest national importance; it concerns the whole American people. Opposition to Mr. Newberry is not confined to the Democratic side. Some of the ablest and best Republicans in this Chamber are outspoken in their opposition to him. So there must be something radically wrong about the means that he employed to secure a seat in the Senate of the United States. It does appear, I am sorry to say, that certain partisan Republicans seem determined to do everything in their power to see that he is seated here regardless of all the ugly and odious charges that stand against him. Let us go back to the early part of the year 1918 when Truman H. Newberry was making his plans to run for the Senate in Michigan.

Mr. Newberry is in New York.

He sends for Paul King, a prominent politician in Michigan. King goes to New York and has a conference with Truman Newberry, the prospective candidate. He wants King to manage his campaign in the Republican primary, and the first thing he asked King was, how much it would cost him, Newberry, to make the race.

King told him that it would cost him \$50,000, or rather as Paul King puts it, "It will cost your friends more than it did Mr. TOWNSEND's friends; it will be at least \$50,000."

The suggestion that it would cost the friends of Mr. Newberry so much was, of course, an afterthought. It was never thought of until after an investigation was commenced by a Federal court grand jury in Michigan. Then it was decided that they would all say that it was Newberry's friends and not Newberry that did this thing or that thing in the primary for the Senate.

He made Paul King his campaign manager with the distinct understanding that the primary race in Michigan was going to cost him at least \$50,000. So it is clear and plain that Mr. Newberry entered the Republican primary in Michigan as a candidate for the Senate knowing that \$50,000, at least, was going to be expended in his behalf, in open violation of the law of Michigan and of the Federal law governing expenditures in a race for the Senate. When he consented at the outset to the expenditure of at least \$50,000 in his behalf in the primary in Michigan, he committed himself to a money or boodle campaign and showed very clearly his intention to use whatever amount of money was deemed necessary to secure the nomination to the Senate.

What does the law of Michigan say upon the subject? It says that a candidate for the Senate in a primary in either party shall not expend for all purposes more than \$3,750. What did the law of Congress say upon that subject—and that law was in full force and effect at that time? It said that no candidate nor his friends should expend for all purposes more than \$10,000.

What do we find Mr. Newberry doing? Agreeing at the beginning to violate both the State and the Federal statute. He spent, according to the testimony, more than fifty-two times as much as the State of Michigan said should or could be spent legally in a primary. He spent, that we know about, nineteen times as much as the House and the United States Senate said should or could be spent in a senatorial primary. Mr. President, I have practiced law in my time. It has been a good, long



time since I tried a law case. I have heard some very ridiculous propositions made in the courthouse in the trial of cases, but the most ridiculous and the flimsiest contention that I have ever known intelligent men to indulge in is that Truman Newberry knew nothing of what was going on in the primary in Michigan; that he had nothing to do with the primary when he selected his own campaign manager after being informed by him that it would cost him, Newberry, \$50,000; that he had nothing to do with it when his brother, John S. Newberry, a partner with him in business, aided him financially, their funds one and the same, kept in the same strong box, both of them having the same confidential agent, with power of attorney to give checks upon both, as he did—that he knew nothing about what was going on in his behalf in a race for the Senate up in Michigan. I repeat is preposterous and ridiculous.

Why, Mr. President, as the able Republican Senator from Idaho [Mr. BORAH] said this morning, a man could be convicted of murder upon the character of testimony that has been adduced in this case against Truman Newberry if he were being tried upon the charge of murder.

Mr. McKELLAR. Mr. President—

The PRESIDING OFFICER. Does the Senator from Alabama yield to the Senator from Tennessee?

Mr. HEFLIN. Yes; I yield to my friend from Tennessee.

Mr. McKELLAR. I merely wanted to call the Senator's attention to the fact, which he may discuss later, that immediately after this campaign manager was selected he not only had a conference with Truman Newberry but thereafter, until the primary was over, he wrote him or telegraphed him or telephoned him nearly every day, making reports to him, and Newberry wrote to this campaign manager almost every day during the entire time.

Mr. HEFLIN. I thank my friend from Tennessee for that suggestion. I will discuss that a little later.

Mr. President, how grimly amazing are some of the features of this Newberry case. This man who seeks admission to this body was indicted in his own State for corrupting the voters of Michigan, for unlawfully obtaining the nomination in the primary. He was indicted, and a petit jury was impaneled to try him; it did try him, and convicted him, and with all this testimony raging around him, accused of the high crime of corrupting the voters and through scandalous means obtaining the nomination for the Senate, he sat as silent as the tomb. He never took the witness stand to explain to the jury just why he expended or permitted to be expended thousands and tens of thousands of dollars in the effort to secure for him the Republican nomination for the Senate. And yet some Senators on the other side have the audacity to say that we who deny that Truman Newberry, under the circumstances, is entitled to a seat here are persecuting him.

Far from it, Mr. President. When we condemn the Newberry campaign in Michigan we are doing our duty and serving the people of the whole country.

John S. Newberry, brother to Truman Newberry, testified that he contributed, in round numbers, about \$100,000 to his brother's campaign, when the law of the State of Michigan said that only \$3,750 should or could legally be expended.

Does that look like persecution upon our part? But let us continue to follow the trail of this brazen attempt to buy a seat in the United States Senate.

The Senate Committee on Privileges and Elections is called to consider this case. Its members sit for days and weeks taking testimony. But those who oppose Mr. Newberry are denied the most important testimony in the case. Old checks and check stubs and the books of the bank, which would show what the checks were for, were denied, and this after the Newberry checks had been destroyed, and destroyed, I think, by the friends of Mr. Newberry. An effort was made to get the old checks, stubs, and bank books used in the primary in Michigan, but Mr. Newberry's friends said that they had all been misplaced or destroyed and could not be found. And yet they accuse us of persecuting a man the title to whose seat in this body is covered and clouded with the slime and scandal of such crooked and corrupt conduct. If the primary campaign in Michigan had been free from wrongdoing and corrupt practice, all of the checks and books and documents used would have been laid by Mr. Newberry before the Senate committee.

Senators, are you ready to say in the face of this testimony that you approve the means employed by Mr. Newberry in securing the Michigan primary nomination for the Senate? Are you ready to vote for campaign methods in a senatorial race that will make of this body a millionaire's club?

I have shown, Mr. President, that minority members on the committee investigating the Newberry case tried to secure the checks, check stubs, and bank books used in financing the New-

berry campaign. Now I wish to call to the attention of the Senate the fact that Senators POMERENE, WALSH of Montana, KING, and ASHBURST, members of the committee, requested the majority of the committee to invite Mr. Newberry to come before the committee and testify. But, strange to say, Mr. Newberry did not come of his own accord, and the majority members of the committee declined to even request him to come. I wonder why?

Senators, are you going to vote to seat a man in this body who fails and refuses to explain to you the campaign methods employed by him to secure a seat in the Senate? He remained silent when tried by a Federal court jury in Michigan, and after giving him the benefit of every doubt that jury, composed of 11 Republicans and 1 Democrat, found him guilty as charged. The same Michigan primary is under consideration here. The same Truman H. Newberry is on trial, and he is doing the same thing here that he did up there. He is refusing to testify. He is silent here as he was silent there. Does not this show that he is afraid to permit himself to be questioned? Senators, are you going to reject the testimony, permit this man to remain silent, and vote to seat him anyhow just because he is a man of tremendous wealth?

I can not believe that you will do it. But we are reminded that he was required by law to make a statement regarding campaign expenses and that he did so just after the primary in Michigan. In that statement he said that the money contributed and expended was done without his knowledge or consent, and that he had nothing whatever to do with the senatorial primary. That statement was there when the Michigan jury convicted him of the extravagant and unlawful use of money in the senatorial primary. It is evident that the jury did not, could not, believe that statement. How could the jury believe that statement when the testimony showed that his brother, John S. Newberry, his partner in business, had contributed to his campaign about \$100,000, and that he, Truman Newberry, had been writing and wiring his campaign manager, Paul King, all during the campaign? Of course, he knew that money was being expended in his behalf. Does any Senator here believe that he did not know all that was going on in his campaign?

Mr. President, if thousands and tens of thousands of dollars could be spent as was spent by his brother and other members of the family without him knowing what was going on, and if he was conferring with Paul King frequently, as was the case, and writing and wiring him about the campaign, as he did do, and still knew nothing about what was going on, I submit that he is incompetent to sit as a Member of this body. You could not conduct a campaign like that around a 5-year-old boy without him knowing something about it.

The Senator from Georgia [Mr. WATSON] told us that Mr. Ford contracted to build certain ships for the Government. I want to read what Mr. Templeton, the chairman of Mr. Newberry's campaign committee, said in his testimony before the Senate committee investigating the Newberry case. He said:

If I might explain, I will try to do so briefly. I had been going to New York every few weeks to see Mr. Newberry in connection with our business. We were the two largest stockholders, and we were doing a great deal of Government work at that time, and it was customary for me to go at least once a week to New York.

Mr. Templeton was in charge of the Newberry headquarters at Detroit, Mich., while Paul King was general manager. So it seems that Mr. Newberry was not entirely a disinterested patriot. He and his partner were selling the Government vast quantities of war material and making, no doubt, a tremendous profit.

Mr. President, while Henry Ford is not at all involved in this contest, I want to say just here that during the war he devoted the vast machinery of his great American workshop to the needs of the Government and furnished war supplies at a price that barely covered the cost of production.

Does anybody believe that Mr. Templeton, Mr. Newberry's partner and actively aiding in the conduct of the Newberry campaign in Michigan, went to see Mr. Newberry, had talks with Mr. Newberry, and did not even mention the senatorial campaign to Mr. Newberry?

Of course Mr. Templeton discussed with candidate Newberry the senatorial race in Michigan and of course they discussed what Mr. Templeton and Paul King regarded as the financial needs of the campaign, and of course Mr. Newberry knew what was going on in his own senatorial campaign.

Mr. POMERENE. Mr. President—

The PRESIDING OFFICER (Mr. FERNALD in the chair). Does the Senator from Alabama yield to the Senator from Ohio?

Mr. HEFLIN. I yield.

Mr. POMERENE. The Senator from Alabama has called attention to the fact that Mr. King had given Mr. Newberry the information that it would cost him and his friends at least \$50,000. Mr. Newberry did not hold up his hands in horror at that statement, but a short time before that, when he was seeking to get Mr. Hayden to manage his campaign, and Mr. Hayden told him that he—Newberry—would have to conduct a barrel campaign in order to win out, then he said that of course he did not want any barrel campaign.

Mr. HEFLIN. Mr. President, I thank the able Senator from Ohio for that suggestion, and in that connection I want to show how money was to figure in this campaign.

Prior to the engaging of Paul King as manager Mr. Newberry sent Mr. Cody down to Washington to see a brilliant newspaper man of this city, Mr. Hayden, and Cody said, "Hayden, Mr. Newberry wants you to take charge of the campaign. You are representing a big daily paper up in Michigan," and Mr. Cody told Mr. Hayden that Mr. Truman H. Newberry would make it very interesting for him financially. Hayden said, "I do not think I could undertake the work," and he intimated very strongly that it was to be a money campaign, and that he did not want to have anything to do with it.

Then what did Cody, Mr. Newberry's special agent, say to him? He said, "Mr. Newberry will make you such a flattering financial offer that you can not afford to refuse it." Mr. President, Mr. Newberry had changed his mind about the barrel campaign, and he had, according to Cody's statement to Hayden, determined to get the primary nomination in Michigan by the unlawful use of vast sums of money. But Hayden refused to prostitute his talents and sell his soul even for a fabulous sum of Newberry money. May his tribe increase. Then Paul King was employed by Mr. Newberry, and the first thing the candidate discussed with his manager was the probable cost of the campaign. He was told, as I have said, at the outset that it would cost him half a hundred thousand dollars. Through the extravagant and unlawful use of money he procured the nomination, and now in order to have him seated here they would have us believe that he had nothing to do with providing money and nothing whatever to do with the campaign. How absurd and ridiculous! Suppose there was a man who, with certain other persons, was an heir to a large estate, and suppose that man should express the desire to have the other heirs put out of the way so that he could inherit all of the estate; and suppose he should ask a man what it would cost him to have the other heirs removed or put out of the way; and after being told that it would cost him \$50,000 he should agree to pay the man that amount to do that dastardly thing; and suppose it is done as he suggested, and upon investigation it is shown that the heirs were murdered according to his expressed desire and plan, and that the \$50,000 was paid to the murderer by the brother of the man who first suggested the putting of the heirs out of the way. Is there a jury in the world that would say that that man was not responsible for the death of the other heirs?

Is there a jury in the world that would acquit him of being a party—and the principal party—to the crime of murder? Is there a just judge in the world who would permit that man to inherit that estate under those circumstances?

In this illustration we have the Newberry case stated in another form. Mr. Truman Newberry wanted the Republican nomination for the Senate in Michigan, and others were also desiring it. Mr. Newberry asked how much it would cost him to obtain the coveted prize, and upon being told that it would cost him \$50,000, he employed a man by the name of Paul King to represent him in securing it. Under Paul King's generalship the other candidates were all swamped with money and put out of the way, and the nomination was thus procured for Truman H. Newberry.

Now comes Mr. Newberry and tries to escape all responsibility for his own acts and doings, and his hard-pressed advocates here say that he did not contribute or spend any money in securing the nomination.

Upon investigation the testimony showed that the \$50,000 that Paul King told Mr. Truman Newberry that it would cost to secure the nomination was paid by John S. Newberry, a brother and partner in business of Truman Newberry. The testimony showed that John S. Newberry paid twice \$50,000 toward securing that nomination for his brother, and the testimony also showed that the agent of Truman Newberry and John S. Newberry, Fred Smith, who had authority to give checks on the joint bank account of both of them, did give checks for money used in the primary campaign upon the bank account belonging to both Truman H. Newberry and John S. Newberry. Is there any escape from the conclusion that Truman H. Newberry is

responsible for and should be held accountable for the conduct of his senatorial campaign in Michigan?

Every one of the 12 jurors in Michigan, acting under their oaths, held that he was responsible and should be made to suffer the consequences of his own deliberate acts. Are Senators, acting under their oaths, now going to say by their votes that this man should be permitted to occupy a seat in the United States Senate?

Mr. President, I do not believe that there is an intelligent, unbiased man or woman in the country who could sit and listen to the great speech made by the able Senator from Ohio [Mr. POMERENE] and then vote to give Mr. Newberry a seat in the Senate.

Following him came a brief but able and convincing speech by the junior Senator from Tennessee [Mr. MCKELLAR]. Then the distinguished Senator from Montana [Mr. WALSH], a great lawyer, took up the testimony in the Newberry case and in a speech four hours long made a powerful and unanswerable argument in favor of unseating Mr. Newberry. He pleaded for the protection and preservation of the honor and integrity of the Senate.

Senators, the founders of the Republic never intended that seats in this body should become a matter of barter, to be bought and sold as a commodity in the market place.

The senior Senator from Ohio [Mr. POMERENE] in his speech here very appropriately asked why it was that Mr. Newberry did not of his own accord go before the Senate committee and tell the committee just what he did and did not do in connection with his race for the Senate.

The Senator from Ohio [Mr. POMERENE] has the right view of this thing. He said that if his right to a seat in this body was questioned and a charge made that there was a cloud of scandal hanging over his title that he would not wait to be invited but would go to the committee having the case in hand and demand the right to be heard. That is the proper view to take of a case of this kind.

Senators, Mr. Newberry is accused of having wrongfully and unlawfully obtained the primary nomination for the Senate from the State of Michigan, and it is claimed that there is a black cloud of scandal hanging over his title to a seat in this Chamber, but he has never been before the Senate committee to explain the matter and he has never said one word in defense of his title. Mr. President, I submit that no man should be permitted to occupy a seat in this body who is not willing to explain and who can not fully explain to the satisfaction of the Senate matters involving his right to membership in this the greatest law-making body in the world.

The effort is being made here by some on the majority side to seat this man because he is a Republican. To appeal to party spirit in a case like this is to place blind partisan zeal above our oath of office, above duty to country, and above the best interest of the American people. I thank God that there are some on the other side who will not respond to the party call to cloak and cover up conduct that strikes at the very heart of the honor and integrity of the United States Senate.

No man, be he Democrat or Republican, situated as Mr. Newberry is in the case pending here, should be permitted to have membership in this body. There are Senators on the Republican side who feel just as I do about this matter, and they are not going to sanction the sale of seats in the Senate. Let me mention two of them—Senators BORAH and KENYON, both Republicans and two of the best lawyers in the Senate. They are reputed to be very just and fair men, and yet they do not feel that Mr. Newberry is entitled to a seat in this body. They would not deny him a seat here unless the charges were very serious and the proof very strong.

Why, Mr. President, the amount of money spent in the Newberry campaign was so large that the majority members of the committee, who now seek to give him a seat in this body, condemned in their report the expenditure of that enormous amount. The condemnation expressed by the majority members of the committee supports our contention and justifies our position. We do not stop with condemning it; we say that a seat obtained in that manner will never be occupied by him who is guilty of such a thing.

Mr. ASHURST. Mr. President—

The PRESIDING OFFICER. Does the Senator from Alabama yield to the Senator from Arizona?

Mr. HEFLIN. I gladly yield.

Mr. ASHURST. Some time ago—two hours ago—I interrupted the able speech of the Senator from Montana [Mr. WALSH] to quote from the majority report, wherein they say, "We condemn the use of such a large sum of money," and asked my learned friend the Senator from Missouri [Mr.



SPENCER] to say whom they condemned. Now, just the abstract condemnation means nothing. I would like, in the Senator's time, to have the Senator from Missouri tell us whom they condemn. To condemn expenditure means nothing. You can not condemn the money, the bills, the bank notes; you condemn, of course, the person who spends the money.

I have waited a good while and I want an answer as to whom they condemn. Whom do they mean when they say, "We condemn the use of such a large sum of money." Do they mean Paul King? Do they mean Newberry? Whom do they mean, if anyone? I will ask my friend to answer that in the time of the Senator from Alabama. Whom do they mean when they say we condemn this expenditure?

Mr. SPENCER. Is the Senator from Arizona asking me a question?

Mr. ASHURST. If the Senator from Missouri will not consider me impertinent or improper, I am asking him that question.

The PRESIDING OFFICER. Does the Senator from Alabama yield?

Mr. HEFLIN. I yield for a very brief statement, but not for a speech.

Mr. ASHURST. Let us have an answer.

Mr. SPENCER. Such an answer as is satisfactory or such an answer as states the facts?

Mr. ASHURST. No; I want an answer as to the names of the men whom the Senator condemned, if any.

Mr. SPENCER. In the first place, there is nothing in the statement that condemns any man.

Mr. ASHURST. Whom does the Senator condemn, or what?

Mr. SPENCER. The statement says that that expenditure of money was too large.

Mr. ASHURST. Whose expenditure of money? The expenditure did not make itself.

Mr. SPENCER. We condemned the expenditure. Here is what we condemned, and I think I can say it without trespassing upon the time of the Senator from Alabama, for I would not take a word out of his mouth or trespass for a moment upon his time.

In the first place, we condemned the circumstances which required the use of so large an amount of money, namely, the running by Henry Ford upon the Democratic ticket and upon the Republican ticket at precisely the same time, with the backing of the then President of the United States.

Secondly, we condemned what we considered was the absolute anarchy and treachery of Henry Ford being injected into that campaign.

Notwithstanding those two facts, we condemned the use of so much money as was spent in that campaign in spite of those facts. Those who spent that money, namely, the independent committee that was running the Newberry campaign, were the men who collected the money and who spent it, and who, if there was any individual condemnation, would of course, as the Senator knows, have to bear it. There was not and there can not be the slightest connection between Truman H. Newberry and the expenditure of the money or the committee under which the expenditure was made.

Mr. ASHURST. With the permission of the Senator from Alabama may I make this further statement? My learned friend from Missouri condemns in the last analysis Wilson and Ford for the Newberry expenditures.

Mr. SPENCER. Partly; and in the last analysis, if I had time to go into it more than I have stated—

Mr. ASHURST. The Senator then in his report, and an able report from his viewpoint, condemns Wilson and Ford for the expenditure of the Newberry money.

Mr. SPENCER. Not at all.

Mr. ASHURST. Partially, then, for the Senator has named Wilson and Ford. I know the Senator has courage. He is a man who answers questions directly. Will the Senator, now having named Ford and Wilson, name somebody on the Newberry side whom he had in mind when he said, "We condemn these expenditures?"

Mr. SPENCER. I did not have in mind the—

Mr. ASHURST. Did the Senator have anybody in mind other than Wilson and Ford? Did he have Paul King in mind?

Mr. SPENCER. Partly.

Mr. ASHURST. Surely.

Mr. SPENCER. Partly.

Mr. ASHURST. And who was he?

Mr. SPENCER. He was the manager of the campaign.

Mr. ASHURST. For whom?

Mr. SPENCER. For himself.

Mr. HEFLIN. I can not yield further. That is sufficient.

Mr. ASHURST. Paul King was running, was he?

Mr. SPENCER. Oh, no.

Mr. ASHURST. I insist upon an answer. That is not sufficient.

Mr. SPENCER. That is sufficient. The Senator from Arizona is camouflaging. The Senator is quibbling. The Senator knows that Paul King was not running, and the Senator, away down in the bottom of his heart, knows that Paul King was not selected by Truman H. Newberry. The Senator knows that Paul King was selected by the independent committee that was voluntarily conducting that campaign—

Mr. ASHURST. For whom?

Mr. SPENCER. May I finish?

Mr. ASHURST. For whom?

Mr. HEFLIN. Mr. President, I decline to yield further on this matter.

Mr. SPENCER. I thought it was coming to the time when the Senator would decline to yield further.

Mr. HEFLIN. I certainly do, when the Senator from Missouri states that Truman H. Newberry did not select Paul King.

Mr. SPENCER. There is no doubt about that statement, and if the Senator from Alabama will read the testimony he will come to the same conclusion.

Mr. HEFLIN. I have read the testimony. Paul King went to New York, and Mr. Newberry, the commander of the wooden ship out in the grove on dry land, asked how much it would cost him—not John Newberry—and Paul King told him, and later he made Paul King his manager, and Paul reported to him, according to his own testimony before this committee. He said, "I reported to him nearly every day."

I have here a letter that Truman H. Newberry wrote to his manager, Paul King, the day before the primary, thanking him and telling him how deeply he felt under obligation to him for what he had done. What he had done as John Newberry's manager? Oh, no; but for what he had done as Truman Newberry's manager.

Right in line with the suggestion that the majority members of the committee condemned the large amount of money expended, let me read what the attorneys for Mr. Newberry, those in charge of his case before the Senate committee, had to say about the Newberry campaign:

No man connected with the Newberry senatorial organization in a managerial or executive capacity has had the slightest occasion to apologize or be ashamed of anything he did in that connection.

They admit that they spent \$200,000 in the Newberry campaign in Michigan. The conduct of that campaign was condemned by leading Republicans and leading newspapers in the State of Michigan. Even the majority of the Senate committee condemn it, but Mr. Newberry's attorneys boast that they do not apologize for anything, that they regret nothing that was done.

Mr. Attorney for Newberry, did you know what the statute of Michigan said about this thing? If you did not, I will read it to you:

No sums of money shall be paid and no expenses authorized or incurred by or on behalf of any candidate to be paid for him in order to secure or aid in securing his nomination to any public office or position in this State in excess of 25 per cent of one year's compensation or salary of the office for which he is a candidate.

That is the law, and it was openly and brazenly violated. Did any of the money spent in the Newberry campaign belong to Truman H. Newberry? Let us hear what his confidential agent, Fred Smith, has to say. I read from the testimony:

Mr. ALFRED LUCKING. You had been talking to him—

Referring to Truman H. Newberry—

He wanted to know when these expenses were going to stop, did he not?

Mr. SMITH. I do not believe so. I think his conversation was about the drain on the balances in the office, and he was complaining about the money that was being spent.

Whose money is he talking about, Senators?

Mr. ALFRED LUCKING. Complaining about the large amount of expenses being drawn?

Mr. SMITH. Or the money that was being spent and drawn from the account all the time and put into his brother's account to keep from being overdrawn.

Mr. ALFRED LUCKING. And his funds as well as his brother's were used?

Mr. SMITH. And everybody else's.

So Fred Smith says that they used the money of Truman H. Newberry, of John S. Newberry, and the money of other members of the Newberry family. This is the trusted, confidential agent, the man who had the power of attorney to draw checks on Truman H. Newberry's money, testifying before the Senate committee that Truman H. Newberry's money was in that joint fund, his sister's money, his brother's money, his wife's money was there. So it is clear that they were drawing out of that

fund and dishing money out in the State of Michigan to defray the expenses of the campaign of Mr. Truman H. Newberry.

Mr. CARAWAY. Mr. President, may I suggest to the Senator that if he had not been agreeing to it, he could have canceled the power of attorney and stopped it that night?

Mr. HEFLIN. Absolutely. I thank my good friend from Arkansas for that very pertinent suggestion. Yes, Mr. President, if Truman H. Newberry had wanted to stop it, he could have said to Fred Smith, "I hereby revoke the power of attorney that you hold for me. Do not give another check on a dollar of my money." The thing would have stopped. But there is not a scintilla of testimony to that effect. What else do we see? We find Mr. Blair made treasurer of the Newberry campaign committee. He was president or vice president of the Union Trust Co. of Michigan, and Mr. Truman H. Newberry is a large stockholder in that company. We behold the trail of the serpent over it all. He is made treasurer, and what does he do? He gives out checks for money. To whom did he give them? To various people. He admits that he gave some checks to Templeton and Emery and Paul King, the general manager. Remember, Fred Smith was giving checks on the strong box of the Newberrys. Mr. Blair was asked why he was giving checks to certain people. He said: "Sometimes they needed cash and they wanted it quickly, and I gave them checks"—King, Templeton, and Emery.

Who is Blair? Why, he is Truman H. Newberry's partner in business. And what is he? He is treasurer of the Newberry campaign committee. What do we find him doing? We find him, just before the primary, calling upon a Mr. Dennis. Mr. Dennis is the secretary to Mr. Joy, and Mr. Joy is the brother-in-law of Truman H. Newberry; he married Mr. Newberry's sister. What does Mr. Blair say to Mr. Dennis? He says, "I want to call on you for \$25,000 for the Newberry campaign fund. Mr. Joy told me that I could draw on him for that amount." And Mr. Blair got the \$25,000 for use in the Newberry campaign. O Senators, how I would like to try this case before a precinct jury and a justice of the peace. There would not be any question about their verdict. They may be able to fool some United States Senators with this feeble, flimsy stuff, but it would not pass muster before a precinct jury and justice of the peace.

Talk about him not having anything to do with it! Again, I repeat, the suggestion is ridiculous.

"Mr. Blair, you gave checks to various people?" "Yes, sir." "Some of the checks were used for corrupt purposes, were they not?" "No, sir; none that I gave." Listen, Senators! Mr. Lucking asked: "Do you know what that money was used for?" "Well," he says, "I do not, except by what the vouchers showed." Mr. Lucking asked: "Then, you do not know, except by what the vouchers showed?" He said, "That is all."

Now, Senators, what are you going to do with a witness like that? He first testified that the money was not used for corrupt purposes, and then, on the next page of the testimony, he said, "I do not know for what purpose it was used, except what the vouchers showed."

Who fixed the vouchers? Why, the witnesses, who are trying to keep Truman H. Newberry in the background, fixed them. They wrote upon the vouchers whatever they were pleased to write.

Mr. President, what else do we find? The testimony shows that a check went in from Mrs. Truman H. Newberry, the wife of the candidate, for \$15,000. "How much was it, Mr. Blair?" He said, "I do not remember, but I think it was for \$15,000." "Did you cash the check?" Mr. Blair: "No, sir." "Why not, Mr. Blair?" Mr. Blair: "Because of the close relationship between Truman H. Newberry and his wife." "How about his brother John? He admits that he gave money freely." "Oh," says Mr. Blair, "that is all right." Again, "Why did you not cash Mrs. Newberry's check, Mr. Blair?" Here is what he said, "Because the lieutenant governor and the newspapers of Michigan were complaining about the expenditure of money in Truman H. Newberry's campaign, and the reason I did not cash the check was because I thought it would give them an opportunity to be more nasty than they had been before."

Mr. President, here is a confession on the part of Mr. Truman Newberry's business partner and campaign treasurer that the lieutenant governor of Michigan, a Republican, was complaining against and denouncing the scandalous conduct of the Newberry campaign, and here is an admission on the part of Mr. Blair that the campaign methods employed to secure the nomination to the Senate were of such a nature as to call down upon them the condemnation of newspapers in that State.

Paul King, Mr. Newberry's campaign manager, said that he kept Candidate Newberry informed about what was going on in the primary in Michigan, and the testimony shows that Mr.

Newberry wrote to him about the campaign constantly. And yet some Senators would have us believe that Mr. Newberry had nothing to do with his campaign, knew nothing about it, contributed no money to it, and did not consent for anybody else to contribute anything.

The jury in Michigan would not accept that theory. I wonder if they think United States Senators will accept it.

The Senator from Ohio [Mr. WILLIS] does not seem to understand that the resolution passed by the Senate directed the Senate committee to inquire into the senatorial primary in Michigan. I submit to the Senator from Ohio that if Mr. Newberry obtained the primary nomination for the Senate through unfair methods and foul means, as the testimony shows he did, he was not properly before the people of the State as the Republican candidate for the Senate.

The petition against Mr. Newberry states, among other things—

That the large sums of money expended by and in behalf of the nomination of Truman H. Newberry, as hereinbefore stated, unlawfully enlisted the aid and support of large numbers of persons, papers, and periodicals throughout the State, and the results and influence of which extended down to and affected the election materially in favor of said Truman H. Newberry.

There is no denying the fact that if Mr. Newberry had not expended vast sums of money in the primary in Michigan he would never have defeated ex-Gov. Osborn for the primary nomination.

Where is Gov. Osborn, an able Republican and ex-governor of Michigan? Where is ex-Gov. Warner, a distinguished and popular Republican who was three times elected governor of the State of Michigan?

Mr. ASHURST. Will the Senator yield to me at that point?

Mr. HEFLIN. I will yield for a question.

Mr. POMERENE. The Senator from Alabama asks, Where is Gov. Osborn? After the nomination of Mr. Newberry, Gov. Osborn wrote a very strong rebuke to him on account of the expenditure of money. He said, "You spent all the money before Mr. Ford got into the race." Hence when my learned friend from Missouri says that President Wilson and Ford are to blame, he has forgotten that most of the money was spent before Ford ever got into the race.

Mr. HEFLIN. The Senator from Ohio is correct about that. Mr. SPENCER. The Senator from Missouri has not forgotten, for the knowledge that Ford was going to enter the race was common knowledge all over the State of Michigan long before he actually entered it.

Mr. HEFLIN. That is disputed by the witnesses.

Mr. WALSH of Montana. Mr. President—

The VICE PRESIDENT. Does the Senator from Alabama yield to the Senator from Montana?

Mr. HEFLIN. Certainly.

Mr. WALSH of Montana. The Senator from Missouri heretofore made that statement, and I disputed it and referred to exactly what the record shows. The record does not show that it was generally understood throughout the State of Michigan that Mr. Ford was to be a candidate. Such a statement is made in the brief filed by the attorney for Mr. Newberry before the committee, but it is wholly unsupported by the evidence. There is not anything of the kind in the record. I stated what the record shows. The record shows that Paul King said that he, Paul King, had always counted that Mr. Ford would be a candidate.

Mr. SPENCER. It was stated that that was the rumor. The word "rumor" is used in the testimony.

Mr. WALSH of Montana. That Paul King had always counted that Mr. Ford was going to be a candidate. In another place he said it was rumored. That is the evidence.

Mr. SPENCER. The Senator establishes my statement.

Mr. WALSH of Montana. When the Senator says that it was generally understood that Ford was to be a candidate, and upon a record which says it was rumored to that effect, and that Paul King so concluded, he is about as accurate as to the record as he is as to the case generally.

Mr. SPENCER. If it will please the Senator, we will say that it was rumored over the State of Michigan.

Mr. WALSH of Montana. But that is not the testimony—that it was rumored over the State of Michigan.

Mr. SPENCER. Where does the Senator think it was rumored—in some secret closet? Rumors do not so spring.

Mr. HEFLIN. I will answer the Senator from Missouri.

Mr. SPENCER. Rumors run like lightning; rumors spread from man to man, from locality to locality. A thing that is rumored about is general; it is not localized in a particular room. That is not what "rumor" means.

Mr. HEFLIN. Mr. President, I appreciate the discourse of the able Senator from Missouri on rumors. That is all that



Senators who favor Mr. Newberry have got to rest their case upon—rumors, mere rumors.

Now, let us see whether Henry Ford was the man whom Truman H. Newberry was after. Here is a letter from Mr. Newberry to the king-maker of Michigan, Paul King. He begins in this manner:

My dear Paul—

In his first letter he addressed him as "My dear Mr. King." That was on March 8. But he is warming up now as the money bags move upon Michigan and in this letter dated April 4, 1918, he draws a little nearer to his manager and addresses him as "My dear Paul," and then he says:

The question of Mr. Warner's candidacy or of anyone else besides Osborn is, of course, of the highest importance, but I can not avoid the thought that the main idea in the minds of many influential people and papers like the Free Press and the News, is anything to beat Osborn, and when you have impressed these papers and the public with the certain knowledge that I will continue in the race to a finish they will then have to decide whether they can beat Mr. Osborn better by urging another candidate to enter besides myself, or whether their best opportunity to beat Osborn would be to concentrate and cooperate with all the most satisfactory publicity that you have already given to me. It seems most probable from what I hear and from what you must know, that you have already covered so much ground that any investigation by those who want to back some one besides myself will certainly show that a division of the opposition to Osborn will certainly result in his election—

Mr. Ford is not even mentioned—

At the present writing I feel that you have secured for my candidacy what might be described as the inside track for the nomination.

TRUMAN H. NEWBERRY.

So it was Mr. Osborn and not Henry Ford that Mr. Newberry had in mind.

Mr. President, in the next few years there are going to be several vacant seats in this body as a result of the vote on the Newberry case. It was true in the Lorimer case, and ought to have been, and it will be true of the Newberry case. Just how a Senator can make up his mind to stand here with his hands uplifted to God and swear to support the Constitution and defend it against all enemies, both foreign and domestic, and then vote to permit a millionaire to buy a seat in the Senate is beyond my comprehension.

Ah, Mr. President, some of the Republican Members of the Senate will not sit here and listen to the testimony now, but they will listen to it out in their States when the people back home demand to know why they voted to seat this man when the testimony showed that he obtained his seat by the unlawful and corrupt use of money.

Senators, the people out in the States will ask you who vote to permit this man to occupy a seat here: "You voted to seat this man, did you not?" "Yes." "He asked how much the primary would cost him, did he not?" "Yes." "Paul King told him \$50,000, did he not?" "Yes." "And he went into the campaign with that understanding, did he not?" "Yes." "He knew he was violating the law of the State of Michigan, did he not?" "Yes." "He knew he was violating the Federal statute, did he not?" "Yes." "His brother admitted that he spent \$100,000, did he not?" "Yes." "They spent vast sums of money, did they not?" "Yes." "They admitted that they spent over \$200,000 to obtain the nomination, did they not?" "Yes." "And in spite of all that you voted to permit him to occupy a seat in the United States Senate?" "Yes." And then they will say, "You have proven yourself unfaithful, and by this act convinced us that you are no longer worthy to represent this State in the United States Senate."

Mr. President, I want to read you another letter from him about Mr. Osborn. Listen, Senators: I would that we had all of you over there. There are only five or six Republicans upon the other side while this great case is up for trial by the jury sent here from 48 sovereign States. Listen to what Mr. Newberry wrote on August 9. I do not want the Senator from Missouri [Mr. SPENCER] to lecture on rumors any more. I want to read him some facts. They are written by Truman H. Newberry. He refused to talk, and I am sure that he is sorry he wrote.

Listen, you who have sworn at the altar place of this body to guard its sacred name from pollution and scandal, you who should look to the highest and best interest of the mass of the American people and protect them from the corrupt use of money in politics; you who have seen the evidence in various sections of how the greedy money power seeks to crowd out the poor man and the man of moderate means and put its agents to the front whenever a senatorial election is to be had—listen to this letter from Truman Newberry written to his manager about 15 days before the primary. It is dated August 9, 1918. At first he addressed him as "My dear Mr. King" and then

as "My dear Paul," but now it is "Dear Paul"; and this is what he said:

DEAR PAUL: There is much more information about Osborn's present plight. I will tell you when I see you. The statement that he is short of ammunition is an absolute fact. Whether or not this was a feeler, I will leave to you to judge when I talk to you about it.

I have noticed Osborn's strength with the labor people, and, of course, do not understand it, but am thankful we have a fighting minority, which I hope has gained enough time to include my views in their circular of the workmen's publicity committee.

I am inclosing a copy of my noncommittal reply to the Grand Rapids people, which covers the situation in a rather flimsy manner.

TRUMAN H. NEWBERRY.

Senators, do you get the significance of that letter? There is ex-Gov. Osborn, an able and distinguished citizen of Michigan. When free from the corrupting and corroding power of money in politics, he was honored with the high office of governor of that great Commonwealth. Here he is in a race for the Senate. A man of modest means in a contest with John Newberry, Truman Newberry, Joy, Victor Barnes, and the trust companies all combined, and Osborn is fighting by himself out in the open field, making a clean race, as he did when he was elected governor, and they are firing upon him from ambush and using their field guns hidden in the cliffs of Detroit and Wall Street to throw shells of corrupt campaign funds and thus beat him back and impede his progress. Candidate Truman Newberry looks upon his opponent's sad plight and chuckles as he reminds Paul King, his manager, that Osborn is down, prone upon the ground; his finances about exhausted; his ammunition gone. Keep firing on him, Paul.

Senators, are we ready to place the stamp of our approval upon such a slush-fund campaign as that?

Mr. ASHURST. Mr. President, then we are asked to countenance and set the seal of approval upon the bizarre proposition that the sitting Member said in a letter that he knows all about Osborn's financial situation; he knows that Osborn is short of ammunition, but he knows nothing about his own case!

Mr. HEFLIN. Oh, yes; he writes to Paul King, his manager, that he knows it to be a fact that Osborn's funds are exhausted. Senators, is it not rather strange that this man Newberry knew all about Osborn's finances in the primary campaign and knew nothing at all about his own? To ask us to accept such a theory is a reflection upon the intelligence of the Senate.

No doubt Paul King had his instructions from his chief to do whatever was necessary, to spend whatever amount of money he thought was necessary to get the primary nomination. Paul had heard of the money campaign conducted on behalf of Mr. Herrick up in Ohio. Mr. Herrick's manager routed every Republican candidate in the primary and secured for his chief the Republican nomination for the Senate as a candidate against the able and brave senior Senator from Ohio [Mr. POMERENE]. So Paul King went up to see the manager of Mr. Herrick's campaign and he got all the points he could from him. The Newberry campaign was to be run on a large scale and Paul King wanted to learn all the tricks of the trade, so he journeyed over to Ohio to get pointers from a man who had done the "trick" in the Herrick campaign. Mr. President, I do not know how much he learned from the Ohio manager of Mr. Herrick's costly campaign, but I do know that leading Republicans and prominent newspapers in Michigan denounced the conduct of the Newberry campaign.

Mr. Truman H. Newberry wrote Paul King as follows:

I want to be successful in what I undertake, and I am in this campaign to a finish.

Does that look as if he was having nothing to do with his campaign? Again, he wrote Paul King:

I devour your reports.

Reports about what? About Truman Newberry's campaign for the Senate.

What did he say on the last day? Why, he said on August 26, 1918:

MY DEAR PAUL: \* \* \*

While to-morrow's primary vote will record the result of your efforts, please know that every day I live will be a reminder of this obligation and debt to you—

Under obligations to him for what? Why, for managing his, Truman H. Newberry's, senatorial campaign—

which I can never repay except when some fortunate hour arrives when I may reciprocate in actions instead of words this sense of real and deep thankfulness that I have such friends as you and the other gentlemen associated with you on your committee.

TRUMAN H. NEWBERRY.

That letter was written after the newspapers of Michigan had complained about the extravagant and unlawful use of money in the Newberry campaign. It was written after an open letter had been addressed to Truman H. Newberry and published in the papers of Michigan calling his attention to the extravagant

expenditures of campaign funds in his name, by his committee, in the primary in the State of Michigan. When was that letter written? It was written after the lieutenant governor of Michigan, a Republican, had himself written a letter to Mr. Newberry, addressed:

Hon. Truman H. Newberry, Brooklyn Navy Yard, New York.

They got his address wrong. They ought to have said, "Highland Park, on a wooden ship, out amongst the trees."

DEAR SIR: Men of all walks of life, who have the best interests of our State at heart, believe the men who are conducting your campaign for United States Senator are conducting one that will bring one of the greatest scandals on our State that Michigan politics ever saw and have asked me to take the lead in attempting to rid our State of this blight.

I note by your statement that you say you do not know of these things.

In giving you the information I will give you the terms that I hear everywhere in the 62 counties in which I have been recently. I have always had the highest regard for you and must believe you will relieve the Republican Party and the State of a campaign that is now being likened to the notorious Lorimer campaign of Illinois a few years ago. The terms "buddle" and "rotten" seem to be general terms that I hear.

Mr. President, it was so bold and brazen, so notorious and scandalous, that the lieutenant governor of the State dared the money power of Wall Street and Detroit, marched out upon the highest elevation overlooking the State and called on this man to stop this degrading, demoralizing, and debauching campaign. He said further:

Every section of the State shows evidence of an expensive newspaper campaign costing thousands and thousands of dollars. Thousands of men are liberally paid for work at many more thousands of dollars, an expensive suite of offices with a large force sending out hundreds of thousands of letters to influential voters at more thousands of dollars, thousands of autos already engaged for use on primary day at many more thousands; that practically every opponent of the primary system is backing your campaign; and that hundreds of the experts who have figured in or conducted for money the wet campaigns of the past are among the most active of your supporters.

Conservative estimates say everywhere from \$250,000 to \$500,000 is being used. The good people of the State are apparently powerless to give the voters these matters on short notice. In case you get the most votes you must expect to have the placing of your name on the election ballot contested.

Mr. STANLEY. Did he say "wet campaign" and refer to wet voters?

Mr. HEFLIN. That referred to a previous campaign.

Mr. STANLEY. The records show that this man contributed \$10,000 to the Anti-Saloon League; so he must have been playing both ends against the middle.

Mr. HEFLIN. He was playing both ends against the middle. He was relying on the power of money to put him over and would doubtless contribute money to any cause that would get him votes.

The lieutenant governor continues:

I can not believe you understand the situation, and if you did you would come to the rescue. I am, therefore, asking you in behalf of the old Republican Party, clean politics, preservation of the primaries, social and business interest, to withdraw from this campaign and save the everlasting disgrace to the party and the State from a pollution that would stay for years. Hoping you may act favorably and retain the high esteem in which you have been held in the State, I am,

Sincerely, yours,

L. D. DICKINSON,  
Lieutenant Governor of Michigan.

Would you say in the face of that letter written to Truman H. Newberry, the candidate, by the Republican lieutenant governor of Michigan, that Mr. Newberry did not know when he praised Paul King and thanked him for all that he had done, just what manner of campaign had been conducted in his name and in his behalf?

Mr. WATSON of Georgia? Mr. President—

The VICE PRESIDENT. Does the Senator yield to the Senator from Georgia?

Mr. HEFLIN. I gladly yield to my friend from Georgia.

Mr. WATSON of Georgia. I would like to ask the Senator if he knows that Henry Ford employs 50,000 men in Detroit, and that he levied blackmail on those men to pay the expenses of his campaign?

Mr. HEFLIN. No, Mr. President, I never heard of such a thing. Henry Ford is not on trial here. This Senate must decide whether Truman H. Newberry—not Henry Ford—is entitled to a seat in this body.

Mr. President, I was reading letters from prominent Republicans of Michigan about their complaints with reference to the conduct of the Newberry campaign which was being carried on in that State. I had just called to the attention of Senators a letter from the lieutenant governor of that State. I now desire to read a line or two from an article written by Mr. William G. Simpson, of Michigan, to the citizens of Michigan and published in the newspapers of that State:

Personally, I refuse to believe other than in the old-fashioned goodness and honesty of the common people of Michigan.

If the evils of which Newberry and his friends are charged are allowed to continue, it means that we, the common people, must submit to rule by a class and that class the rich class. We therefore lose our much-vaunted democracy.

It is not a question of loyalty between parties. It is a question of common honesty, decency, and principles among men.

Does any Senator here believe that such charges could be made and published all over Michigan without Mr. Newberry's knowledge?

Do we need any more testimony to convince us that Mr. Newberry knew all about what was going on in his primary campaign?

They hired workers by the weeks and months. They flooded the Commonwealth of Michigan with his literature—spent money in various ways. They carried pictures of him in the moving-picture shows all over the State. He was standing on a wooden battleship up in a park, and it was so camouflaged that it looked like a sure-enough battleship. But, Mr. President, the ship that he was commanding was not upon the waves of the ocean; it was out upon the high land, far removed from the deadly missiles of the submarine.

What were they doing? They were merely feeding that out to the people of Michigan, filling the columns of the newspapers. One of the labor papers the day before the primary carried a whole page of Newberry matter. That cost a good deal of money, but it was said, "Spare no expense; go to it; keep our publicity at full pressure." What does that mean? "Do not neglect any paper; do not spare dollars and dimes; do not let anything interfere; go to it, and spread the news over Michigan; boost me; Osborn is down; he is wounded sore; his campaign funds are exhausted; he lies helpless upon the plain."

The statute of Michigan provides that not more than \$3,750 can be spent for all purposes in a senatorial primary and yet the friends of Mr. Newberry admit that more than \$200,000 were expended in his primary campaign. The Congress of the United States said, "You can not spend more than \$10,000 in a senatorial primary"; and it is admitted nineteen times that amount was expended in the Newberry campaign. How are you going to get around this testimony, Senators?

Are you going deliberately to set a precedent by your vote that men can go out and spend money in unlimited amounts in any way in order to secure the nomination, just so they do not actually buy the votes? Are you going to take the position that they can offer men fabulous sums in order to secure their employment and get the weight of their influence, and then say that they did not do it illegally because it can not be proven that they actually corrupted the man by buying his vote? When you do that you put a premium on the extravagant use of money in senatorial campaigns and you invite the corrupt use of money in politics, and you make it almost impossible for a man of moderate means to obtain a seat in the Senate. Do you want to do that?

Senators, if you seat this man in the face of the testimony in this case, you are going to have a hard time explaining your vote to the people who sent you here. The CONGRESSIONAL RECORD will carry into 435 congressional districts in all the States of the Union enough of the argument and the testimony to convince everyone who reads them that the extravagant, wrongful, and unlawful use of money procured the primary nomination for Truman Newberry.

We are going to do one of two things—condemn such an unlawful and corrupt use of money in politics or openly approve it.

Mr. Newberry is accused of a very serious offense; his campaign, we are told, was a stench in the nostrils of the people of Michigan, and they cried out against it.

The grand jury in Michigan indicted Mr. Newberry and he employed as one of his attorneys Martin Littleton, of New York, one of the very best criminal lawyers in the United States. When the facts in the case were submitted to the Newberry lawyers, I imagine that they all said there is only one thing that will prevent the conviction of Mr. Newberry, and that is for him to say, and for everybody else connected with his campaign to say, that he knew nothing about it and had nothing to do with the campaign. So that course was pursued. Paul King was called to the witness stand, and they thought that he was so popular politically with the powers that be that whatever he said would go. But not so. The sworn jurors who sat and listened to him said in their hearts, "This thing has got to stop; the securing a nomination to the Senate for the man who has the most money shall not be permitted in Michigan," and they convicted not only Mr. Newberry but Paul King and the others connected with that campaign.

Mr. Newberry's lawyers took an appeal to the Supreme Court of the United States, and the Supreme Court, in a decision



with which I do not agree, decided by a vote of five to four that Congress could not limit the expenditure of money in a senatorial primary. The other four members of that court held that we could. The court did not express any opinion as to the guilt or innocence of Truman H. Newberry, but left the question of his eligibility or fitness for a seat in the Senate to be decided by the Senate itself. The Michigan statute limiting campaign expenditures in a senatorial primary is still the law. The law of fair play and common decency in political contests is still in existence. The right of the Senate to protect itself and the American people against the corrupting influence of money in politics, thank God, can still be invoked.

Mr. WILLIAMS. Mr. President—

The VICE PRESIDENT. Does the Senator from Alabama yield to the Senator from Mississippi?

Mr. HEFLIN. I yield.

Mr. WILLIAMS. Was not what the Supreme Court decided substantially this: We have nothing to do with the merits of the case; we have nothing to do with the facts in the case. We merely decide that we have no jurisdiction because the Federal primary law had been declared unconstitutional?

Mr. HEFLIN. Yes; that is the exact situation.

I had just made the point that the Senator from Mississippi suggested, but he did not hear me. What he is stating is what the court decided. The court said: "The Congress is not without power to defend itself; it is the business of the Senate," that is the substance of what the court said, "to say whether or not this man, under the circumstances, shall have a seat in that body."

Senators, are you going to ask Mr. Newberry any questions? No. He would probably resent such a thing.

So you can ask anybody else and everybody else about everything else, but you can not interrogate a millionaire about buying a seat in the United States Senate. And I repeat, the majority members of the Senate committee declined to request him to come before the committee to make a statement and permit other Senators to ask him questions. Senators, you can not excuse such conduct.

At this point Mr. HEFLIN announced, before yielding the floor, that he would conclude his speech the next morning.

Mr. HEFLIN. I want the attention of the Senator from Ohio [Mr. WILLIS] for a moment.

Mr. WILLIAMS. Mr. President—

The PRESIDENT pro tempore. Does the Senator from Alabama yield to the Senator from Mississippi?

Mr. HEFLIN. I yield.

Mr. WILLIAMS. I would like to ask the Senator a question for information. When the Senator, or, rather, when the contestee from Michigan, declined to appear before the committee and declined to be heard in his own behalf, did he give any reason for it? Did he take refuge? I thought perhaps he took refuge in the statute which says that a criminal may not be compelled to testify against himself. Did he ever make that plea? I am not familiar with the record.

Mr. HEFLIN. Well, I know that he did not go before the committee, and I do know that he did not testify in the court in Michigan, and that he did not testify before the committee here, and that the minority asked that he be produced, and the majority declined to produce him or to invite him to appear.

Mr. WILLIAMS. It is a principle of criminal law that a criminal can not be called upon to testify against himself, he can not be made a witness in his own case against his will, and in my innocence, and folly, perhaps, I thought maybe the Senator from Michigan had invoked the protection of that statute.

Mr. BRANDEGEE. Mr. President—

The PRESIDENT pro tempore. Does the Senator from Alabama yield to the Senator from Connecticut?

Mr. HEFLIN. I yield.

Mr. BRANDEGEE. Mr. President, the Senator from Mississippi has made a statement which I do not think ought to stand just as he made it, and upon reflection I do not believe he will want it to stand. He refers to some statute, stating that a criminal shall not be compelled to testify against himself.

Mr. WILLIAMS. I wish to correct that by saying "a defendant," because the question of criminality has not been settled until the case is settled. But it is a principle of criminal law that a defendant can not be made a witness except with his own consent, and this particular defendant, the contestee, has not been made a witness, even though requested by the other side, and I merely wanted to know whether he was hiding himself behind the spirit of that statute.

Mr. BRANDEGEE. Of course, the object of the Senator was perfectly apparent, but I do not know what statute he refers to, whether it is some State statute or all State statutes of a simi-

lar nature. I do not think the ordinary language of those statutes excludes the word "defendant" even. The language is that no person shall be required to testify against himself.

Mr. WILLIAMS. I acknowledge that to be correct. Suppose we call him a person, this particular person.

Mr. HEFLIN. Mr. President, my good friend the Senator from Ohio [Mr. WILLIS], with whom I had the honor of serving in the House a few years ago, raised the question here a day or two ago as to whether we had a right to inquire into the conduct of a senatorial primary. He was not in the Chamber at the time I discussed this feature of the case yesterday, and that is why I mention it again at this time.

I wish to call his attention to the fact that the resolution which authorized this committee to investigate the Newberry case provided in part as follows:

It is hereby authorized and directed to investigate the said charges and countercharges of excessive and illegal expenditures of money and of unlawful practices in connection with the said election of a Senator from the State of Michigan, including the proceedings for the nomination of candidates at the primary.

In that connection I wish to call attention to a letter from ex-Gov. Osborn, who, himself, was a candidate for the Republican nomination. He had been a governor of that State and was a candidate in the primary against Mr. Newberry. He was referred to in letters from Mr. Newberry to Paul King, and Mr. Newberry showed delight at the fact that Osborn's financial condition was poor. He said his ammunition was about out. When the primary was over this Republican ex-governor of the State of Michigan wrote Mr. Newberry a letter, in which he practically said, "I am going to vote for you just because you have the nomination." In that letter he condemns the method that Mr. Newberry employed to secure the nomination. In that letter he accuses Mr. Newberry of violating the law.

Mr. President, that is an awful indictment against this man. I wish to inquire of the Senator from Ohio [Mr. WILLIS] that if they can go out and proceed early in the primary fight to buy up newspapers, to poison public sentiment, to gain favor amongst the reading public by a propaganda that they spread over the State day after day, week after week, and month after month, costing thousands and hundreds of thousands of dollars, how can the average man compete with such a candidate? How long will it be before the senatorial doors will be absolutely closed to the man of moderate means, the candidate of merit, the man of ability, the man of sterling manhood, the man of right principle?

Are all of these things to be swamped by a money propaganda carried on by the man of millions? His pictures were in all the newspapers, uniform on like an admiral upon a ship, flooding the State with pleasing stories going into the newspapers day after day, costing thousands and hundreds of thousands of dollars. Are we going to close our eyes to conduct like that? In my State the nomination is equivalent to election, as is the nomination on the Republican ticket for the Senate in Michigan. Are we going to encourage the candidate of any party to flood the State with money, buy up and obtain the support of certain newspapers, hire agents, establish ward leaders and precinct captains, and flood the State with his propaganda day in and day out, week in and week out for months in order to swamp, literally swamp, any other candidate, and thus obtain the nomination to the Senate for himself? Then the plain Republican or Democrat, honest, sincere patriot, has to stand aside for the man who has no qualification for the office of Senator, but relies solely upon his money.

Senators, there are two important steps to take in order to get a seat in this body. One is to obtain the nomination; the other is to win the election. If a man will debauch the voters to obtain the nomination, use unfair and foul means to obtain the nomination, there ought to be a rule in this body that will say to him "You may be able to corruptly manipulate the primary in your own State; you may be able by the unlawful use of large sums of money to secure the nomination, but remember whenever you spend money wrongfully and lavishly like that to secure the nomination, you are not going to cross the threshold of this Chamber, because we will guard the good name, the honor, and the integrity of this body and stand with drawn swords against you when you present your bought credentials at the door of the United States Senate."

Senators, there ought not to be any division in this Chamber upon this question. There ought to be 95 votes cast here to declare this seat vacant. The pity is that that is not the case.

Mr. President, they undertook to bring up Henry Ford as a bugaboo in this case. "Oh, it is Henry Ford." It was said that some wanted to get Henry Ford in the Senate and some wanted to keep Newberry out. That was not what Mr. Newberry said in his letter to Paul King to which I referred briefly

on yesterday. I wish to refer to that letter to-day in connection with my reference to ex-Gov. Osborn. This letter was written by Mr. Newberry on the 4th of April, 1918, to Mr. Paul King, his manager:

The question of Mr. Warner's candidacy or anyone else beside Osborn is, of course, of the highest importance, but I can not avoid the thought that the main idea in the minds of many influential people and papers like the Free Press and the News is anything to beat Osborn—

Did you get that, Senators—not Henry Ford but Osborn—and when you have impressed these papers and the public with the certain knowledge that I will continue in the race to a finish, they will then have to decide whether they can beat Mr. Osborn better by urging another candidate to enter beside myself, or whether their best opportunity to beat Osborn would be to concentrate and cooperate with all the most satisfactory publicity that you have already given to me. It seems most probable from what I hear and from what you must know, that you have already covered so much ground, that any investigation by those who want to back some one beside myself will certainly show that a division of the opposition to Osborn will certainly result in his election. At the present writing I feel that you have secured for my candidacy what might be described as the inside track for the nomination.

This letter, as I said before, was written by Truman H. Newberry to Paul King, his manager.

Senators, this letter was written by the man who said in a written statement to the Secretary of the Senate that he had had nothing whatever to do with his own campaign. He compliments his manager for having covered the ground so thoroughly and tells him, in substance: "If you will see these people and bring to their attention what I am doing, how my candidacy is progressing, they will rally to me as the man who can best beat Osborn." Henry Ford was not thought of and was not mentioned in that letter.

A little later on, to show what Mr. Newberry thought about money and the part money was playing in the campaign, he wrote to Paul King about finances. This was on August 9, about 15 days before the primary:

DEAR PAUL: There is much more information about Osborn's present plight I will tell you when I see you.

Tell him about what? He swore that he had nothing whatever to do with his campaign.

The statement that he (Osborn) is short of ammunition is an absolute fact.

It is very evident that he had made inquiry of somebody who knew about Mr. Osborn's financial condition, and his statement to Paul King regarding it shows that he was relying on money to secure for him the nomination, and it appears that he wanted Paul King to put out the report that Osborn did not have any money and therefore would not be able to do much in the campaign.

Mr. WILLIAMS. Mr. President, pardon my innocence, but he used the word "ammunition"?

Mr. HEFLIN. Yes—ammunition.

Mr. WILLIAMS. What did he mean by that?

Mr. HEFLIN. You see, he was a commander, for a while, of a wooden battleship out in a park in New York, and he thought of ammunition—not the kind used by the guns of a real battleship, but he was thinking of the kind of ammunition that his brother John and other relatives were carrying by the thousands and tens of thousands of dollars into the State of Michigan to be used in securing for him the nomination for the Senate.

Mr. WILLIAMS. Does the Senator from Alabama mean to tell me that even a naval officer thinks in terms of money when he is mentioning ammunition?

Mr. HEFLIN. No; not a naval officer. I am speaking of the commander of the wooden ship in the park.

Mr. President, he rejoiced at the financial straits of his opponent, Mr. Osborn. Did Senators ever read Eliza Cook's story about the carrion crow, how across the plain and into the mountain he follows the deer suffering from pains produced by the arrow that pierced his side and growing weaker and weaker from the loss of blood until, his strength gone, he falls upon the ground; and then the carrion crow, chirping notes of triumph, pounces upon the stricken deer and feeds upon his body? Here is a candidate for the United States Senate gloating over the fact that his opponent, ex-Gov. Osborn, a high-toned, honorable man, is fallen upon the plain, his finances exhausted, his ammunition gone.

He can not stand up against Newberry in the battle of dollars. Pounce upon him, Paul! Rejoice and be glad! He is too weak and feeble to do much more in this race.

I want to see my good friend, the junior Senator from Ohio [Mr. WILLIS], vote right on this question. I do not believe that he will cast his vote to seat Mr. Newberry after he has read the testimony and heard the arguments in this case. I believe that he and others will be convinced that Mr. Truman H. New-

berry knew about the unfair and unlawful methods employed to secure for him the senatorial nomination; that he approved those methods, contributed to and had to do with the management of his campaign. Again I say, a precinct jury and a justice of the peace would have no trouble, in the face of the testimony in this case, in placing the responsibility for the conduct of the Newberry campaign right where it belongs and of making it clear that Mr. Newberry was not entitled to a seat in the United States Senate.

The effort to shield Mr. Newberry is seen in the testimony of every witness who was connected with the senatorial campaign of Mr. Newberry. Let me invite your attention to a Mr. Phillips, who was one of the publicity agents in the Newberry campaign. He testified before the Senate committee:

Mr. ALFRED LUCKING. Did you see Mr. Truman H. Newberry in the pursuance of your work?

Mr. PHILLIPS. I did.

Mr. ALFRED LUCKING. Where?

Mr. PHILLIPS. In New York City.

Mr. ALFRED LUCKING. How many times?

Mr. PHILLIPS. Several times; perhaps a dozen or more.

Yet Mr. Newberry swore to a statement filed with the Secretary of the Senate that he had nothing whatever to do with this campaign.

Mr. ALFRED LUCKING. How did you come to see him?

Mr. PHILLIPS. At the suggestion of Mr. King I made—I think it was four trips to New York City.

Mr. ALFRED LUCKING. What work did you do with Mr. Newberry?

Mr. PHILLIPS. I did very little work with Mr. Newberry aside from taking some motion pictures of Mr. Newberry, or directing having them taken.

Mr. ALFRED LUCKING. Did you write up the advertising in his—

Mr. PHILLIPS. I did not.

He did not wait for Mr. Lucking to finish the question, and he did not know what Mr. Lucking was going to ask him, but he answered, "I did not." How quick and clever he is.

Mr. ALFRED LUCKING. From what he furnished you, or at least the points he furnished you?

Mr. PHILLIPS. No, sir; I did not. I talked to Senator Newberry on an automobile ride one evening, and from what I gathered of his past life I wrote certain publicity.

Mr. President, in their efforts to keep Mr. Newberry in the background out of touch with and far removed from the senatorial campaign they have made themselves and the candidate to appear absolutely ridiculous.

Let me continue with Mr. Phillips. Listen to this:

The ACTING CHAIRMAN. When was that?

Mr. PHILLIPS. On the occasion of my first visit. I think it occurred about June 1.

The ACTING CHAIRMAN. 1918?

Mr. PHILLIPS. Yes, sir.

Mr. ALFRED LUCKING. You went down to get the information for your publicity from him?

Mr. PHILLIPS. Yes, sir.

Mr. ALFRED LUCKING. Did you tell him so?

Mr. PHILLIPS. I did not.

Did you ever hear of such a muffle-mouthed and mysterious campaign?

Listen to this:

Mr. ALFRED LUCKING. Did he know what you were getting it for?

Mr. PHILLIPS. I do not know.

Mr. ALFRED LUCKING. He did not know what you were there for?

Mr. PHILLIPS. I do not know whether he knew or not.

Mr. ALFRED LUCKING. You did not tell him you were there for any such purpose?

Mr. PHILLIPS. No, sir.

Senator WOLCOTT. Did he know what you were getting moving pictures of him for?

Mr. PHILLIPS. I do not know.

Oh, Mr. President, they would have the Senate believe that they led him around and stood him up like a dummy and posed him for moving pictures for use in his campaign and he did not know what they were doing to him or with him. They would have us believe—although Paul King sent Phillips, the Newberry publicity agent, up to see Mr. Newberry to get from him information and data to be used in an article to be published in the newspapers of Michigan—that Mr. Newberry did not know that he was being interviewed, that he did not know that the information given by him to his publicity agent was going to be used in his campaign. I wonder if there is one Senator here who believes that any such thing ever occurred. As the junior Senator from Florida [Mr. TRAMMELL] says, of course no such thing happened.

Why, Mr. President, they tell us that they displayed all over Michigan moving pictures of Mr. Newberry standing on the deck of the wooden battleship, which was made to appear as a real battleship. Did he know that those pictures were going to be used and that deception practiced upon the people of Michigan? Listen to this:

Mr. ALFRED LUCKING. Did you suggest to him [Newberry] moving pictures?

Mr. PHILLIPS. No, sir.

Mr. ALFRED LUCKING. Did he tell you who did?

Mr. PHILLIPS. No, sir.



Mr. ALFRED LUCKING. Did you get any moving pictures of him?  
 Mr. PHILLIPS. Yes, sir.  
 Mr. ALFRED LUCKING. With his consent?  
 Mr. PHILLIPS. Yes, sir.  
 Mr. ALFRED LUCKING. You say he did not know what it was for?  
 Mr. PHILLIPS. I do not know.  
 Mr. ALFRED LUCKING. Did he know it was for his campaign?  
 Mr. PHILLIPS. I do not know.  
 Mr. ALFRED LUCKING. Did he know you were on the committee?  
 Mr. PHILLIPS. I imagine he did.

We must all admit that while Phillips seems to have no definite knowledge about anything he has a vivid imagination, for he says positively that he imagines that Mr. Newberry knew that he, Phillips, was on the Newberry committee. It is fortunate that Phillips has an imagination. But listen to this:

Mr. ALFRED LUCKING. You do not even know that?  
 Mr. PHILLIPS. No, sir.  
 Mr. ALFRED LUCKING. Did you know you were going for the ride?  
 Mr. PHILLIPS. I did not know that.  
 Mr. ALFRED LUCKING. How did he come to invite you for a ride?  
 Mr. PHILLIPS. Mr. King and Mr. Sibben and myself went to New York and arrived on Sunday morning, and Sunday evening when Mr. King and Mr. Sibben were returning from New York he said, "The Senator is going to take you for a motor ride," and he did take me for a motor ride.  
 Mr. ALFRED LUCKING. Did Mr. King say that in the presence of the Senator?  
 Mr. PHILLIPS. No, sir; he did not.

Even the motor ride is cloaked in mystery and secrecy. They do not want the truth told about Mr. Newberry's joy ride with an imaginative genius by the name of Phillips, who knows not anything.

Mr. WILLIAMS. Mr. President—  
 The PRESIDENT pro tempore. Does the Senator from Alabama yield to the Senator from Mississippi?

Mr. HEFLIN. I yield.  
 Mr. WILLIAMS. I should like to ask the Senator from Alabama whether he is sure that he is not making a mistake in identity? He says he is quoting from the testimony of a Mr. Phillips. It strikes me that it must have been about a 9 or 10 year old girl who was just picked up to take an automobile ride, and, of course, was glad to take it regardless of what might occur. Is the Senator sure that the record shows that it was Mr. Phillips?

Mr. HEFLIN. Yes, Mr. President; but there is not a 5-year-old girl in the country who knows as little as Phillips appears to know.

Mr. WILLIAMS. Was he grown?  
 Mr. HEFLIN. Oh, yes; he was grown. He could write and talk and walk and ride, too, with Truman H. Newberry without either one of them knowing what they were doing. Now, let me proceed:

Mr. ALFRED LUCKING. What was there about this film or motion picture that you took?

Mr. PHILLIPS. Mr. King told me that he had made arrangements with some New York man—I do not know who he was—to make motion pictures of the Senator; that the arrangements had not gone through as they planned, and asked me to go to New York and see that the pictures were made.

Mr. ALFRED LUCKING. Did Senator Newberry pose in your presence?  
 Senator WOLCOTT. Yes.

Mr. ALFRED LUCKING. On the battleship in the park?  
 Mr. PHILLIPS. The wooden battleship; yes.

In another place Phillips said that it was an imitation ship, a fake battleship.

Mr. President, we are told that in all the moving-picture shows of Michigan this fake wooden battleship floated across the screen, and there, in all his glory, stood Candidate Newberry, clad in his uniform and peering through his glasses as if looking for an enemy ship at sea. Those pictures were made for use in the Newberry campaign in Michigan. They were used in the Newberry campaign. Can a man arrange to have moving pictures made of himself for use in his own campaign and then pose for the pictures which are used in his own campaign and then tell the truth when he says that he had nothing whatever to do with his campaign?

O consistency, thou art a jewel.  
 While they were misrepresenting Henry Ford and trying to make him out an enemy to his country he was devoting his time and the energy of his great industrial plants to making war implements and contributing as best he could to the winning of the war, and he, as I have said before, was letting the Government have that material at cost. Mr. Newberry and Mr. Templeton were selling the Government vast quantities of war materials, but there is no evidence to the effect that they sold them at cost.

And where was Mr. Newberry then? He was standing erect and in his uniform on the deck of a fake wooden battleship in New York, posing for moving pictures to be used in his senatorial campaign in Michigan.

As he stood there upon the deck of that wooden ship a look of senatorial ambition was depicted on his face and the light

of boodle battle was in his eye as he gave the command, "Take your places on the deck, and don't forget to bring your check." And there he stood in calm magnificence.

Oh, Mr. President, I am reminded of the thrill that came to me when I first heard recited, "The boy stood on the burning deck, whence all but him had fled," and "How the flames rolled on and he would not go." But here is a picture of a man robed in all the habiliments of a warrior ready to do and die. Four-square he stood to every wind that blew. Alone, but undaunted he stood upon the deck of his fake battleship out in the park, defying noisy, chirping English sparrows and angry chattering squirrels.

Selling the Government war materials at magnificent prices and posing on a fake battleship for moving pictures for his senatorial campaign in Michigan while his brother John is shoveling the shekels into the campaign fund at Detroit. Will even Paul King deny that for real courage and service of a high order here is a picture whose beautiful suggestiveness is enough to make it immortal in the annals of senatorial contests in the United States?

Admiral Dewey's immortal words to Gridley were, "Fire when you are ready, Gridley." How different the words of the candidate commander of the fake wooden battleship in the park. Listen, "Keep firing, Paul! The enemy (Osborn) has exhausted his ammunition. Keep our publicity going at full pressure," and that publicity was costing thousands of dollars every day. "My lips are sealed. Let money talk for me—say it with dollars! Keep on firing! Fire through your newspaper columns! Fire through your circulars! Fire through your hired agents! Fire through your precinct captains and your ward and beat leaders! Let the battle rage, Paul! Osborn is penniless—my money is plentiful and I have just begun to fight."

And again he stood four square to every campaign wind that blew from the senatorial battle up in Michigan.

Mr. President, there are many queer and very remarkable things revealed in this Newberry campaign. I want to read at this point a line from Mr. Newberry's agent, Fred P. Smith. He sent a telegram to Mr. Newberry.

Mr. WILLIAMS. Mr. President, before that is read I should like to ask the Senator a question.

Mr. HEFLIN. I gladly yield to my friend from Mississippi.

Mr. WILLIAMS. Does he not think this accusation is rather cruel? Does he not really think that Truman Newberry was just a perfectly innocent little child whom everybody was robbing and taking money from, and he did not know why, and they did not tell him why? Is the Senator dead certain that he knew he was running for the Senate at all?

Mr. HEFLIN. Mr. President, I believe that he knew, because he sent for Paul King and asked him what it would cost, and Paul told him \$50,000 and upward, and he started in with that understanding.

Here is the telegram that was sent by Fred P. Smith, the confidential man, the special agent of Truman Newberry and John Newberry; and again I say he had power of attorney to draw checks on Truman Newberry's account and John Newberry's account, and he did so. Now, listen to this telegram:

Detroit, Mich., July 28, 1919.—Lieut. Truman H. Newberry, third naval district, 280 Broadway, New York.

Not far from his wooden ship.

I misinformed you this morning the date of close of regular expenses. Should have said August 27. The circular work, advertising, clerical help, postage, and all regular overhead expenses will naturally continue until primary. Have written.

FRED P. SMITH.

And yet Mr. Newberry stated under oath to the Secretary of the Senate that he had nothing whatever to do with his campaign; and here is his agent, his confidential man, wiring him about the expenses of the Newberry campaign and letting him know that he can continue to spend money right on until primary day.

What are you going to do with that, Senators? It wouldn't take a precinct jury and a justice of the peace long to reach a true verdict in this case.

Let us see, then, whose money was used in the campaign of Truman Newberry. The testimony shows that Mr. Truman Newberry was talking to Mr. Fred P. Smith, his agent, about their transferring too much money from his account to somebody else's account, which was a complaint that they were using his money altogether and not helping him as freely as they promised they would.

Now, Mr. Lucking says:

And his funds, as well as his brother's, were used?

Listen, Senators.

Mr. SMITH. And everybody else's.

Whom did he mean by that? He meant the whole Newberry brigade—John Newberry and his wife, and Joy and his wife, and Barnes and his wife, and Truman Newberry. Would you want it any plainer? He said, Truman Newberry's money and everybody else's. There can not be any denial about who furnished this money, Senators, and that Truman H. Newberry had a hand in this thing from beginning to end.

Mr. President, I want to call attention in this connection to a remarkable incident. I have already mentioned the fact that Mr. Newberry never testified himself at his trial in Michigan. He declined. He never testified here. Paul King, the manager for Mr. Newberry, did testify in court in Michigan; and just when the attorneys who were prosecuting wanted to ask him questions, he collapsed, got sick, left the witness stand, and they were never permitted to ask him a single question.

He told his story just like he wanted to tell it, and he got sick just when he was going to be cross-questioned.

What about this man Emery? As the Senator from New Jersey [Mr. EDGE] said at the hearings before the Senate committee, the matter of handling money and checks was mainly up to Mr. Emery. Well, that is largely true; and where is Mr. Emery? Mr. Emery never has been heard. They tell us that he was sick; that they could not get his testimony. They never did get him before the Senate committee, and the man who knew more about the financial transactions than anybody else has not testified in this case. Then we asked, "Where are the books; where are the documents that show these transactions? Where are the checks that were paid? Where are the stubs of the checks? Where are the vouchers? Let us have them, and go into this case, and ascertain the truth," and they said, "They have all been destroyed," and they covered up their tracks; and, Mr. President, as the Senator from Ohio [Mr. POMERENE] suggests, that is an additional reason why Mr. Newberry himself should be called upon and required to testify.

This is the most mysterious case that was ever considered by the Senate. The Lorimer case does not touch it. The Stephenson case is not in its class. It is without an exact parallel in the history of senatorial contests in this body.

Why, they admit spending \$200,000. Let me remind the Senate again that that is 52 times more than the State of Michigan permits, 19 times as much as the Federal statute permitted, and it was in force and effect at that time. It is the general belief among many who were in close touch with that campaign that it cost anywhere from \$250,000 to \$500,000. Who said so? The lieutenant governor of Michigan, Gov. Dickinson, a Republican, said so in a letter to Mr. Newberry. He said, "Your campaign, it is said, has cost anywhere from \$250,000 to \$500,000," and Mr. Newberry never denied a line of it.

Senators, I want to read you here what one of our editors says about this Newberry case. I have forgotten what paper I got this from. I failed to note the name of the paper and the date; but here is the eternal doctrine that it proclaims:

But it does materially matter that the Senate is so negligent of its reputation, so indifferent to decent public opinion, flouted and offended by this unprecedented purchase of office, that it first admits to its membership one thoroughly discredited and unworthy, and then insults the intelligence of the country with preposterous and exasperating bunk.

The idea of trying to foist this thing upon the Senate and the American people, without testimony showing the innocence of this man, when we have here many pages of testimony containing a straightforward recount of facts and circumstances that connect him up with the campaign and tie him body and soul to its corrupt and scandalous conduct.

Truman H. Newberry sent for Paul King and Paul King told him that the senatorial race would cost him upward of \$50,000. In possession of that information he entered the race knowing perfectly well that it was going to cost a lot of money. His brother spent about \$100,000 for him. His confidential agent says that he checked money out of the fund where money belonging to both Truman and John Newberry was deposited. The case is proven; it is established beyond a doubt that he is guilty.

And what did Paul King, Mr. Newberry's manager, say about his conduct of the campaign? He said, "I did whatever I thought was necessary to be done, without regard to expense."

Mr. President, do Senators get the full significance of that? "The limitations fixed by the law of Michigan do not deter me. Metes and bounds established by the Federal statute do not deter me in the least. I do not permit any moral standard or the good of the country to deter me. I do whatever I think is necessary to get the nomination for Truman H. Newberry without regard to the amount of money that it takes." Senators, what are you going to do with that?

Mr. President, if all the facts were known, I believe they would disclose testimony showing the expenditure of money in

the senatorial campaign of Mr. Newberry amounting to between \$500,000 and a million dollars. The idea of relying upon money seemed to be the controlling thought in all that was done and said.

May I remind you again of what Mr. Cody said to Mr. Hayden here in Washington when Mr. Newberry sent him down to see if Mr. Hayden could be induced to take charge of his campaign? Mr. Hayden did not enthuse over the suggestion, whereupon Cody told him in substance, "The sum that will be offered you will be so fabulous that you can not afford to decline it." Money, money was the thing relied on from beginning to end.

Then what happened? I imagine from what I read about this case that some one scented the trail of the Newberry cash and suggested that with strong and sufficient financial inducement Paul King could be persuaded to take charge of the senatorial campaign for Mr. Newberry, and that he was the man who could, with sufficient cash, put it over. He brought the nomination back to Mr. Newberry. Then what did Mr. Newberry, through his counsel, say? He said, "It was the most perfect organization, the best political machine, ever established in the State of Michigan," boasting about it.

Now, let me propound this question to Senators: If Mr. Truman H. Newberry would make an offer to Mr. Hayden in the early stages of the game so flattering from a financial standpoint that it was thought by Cody that he could not decline it, what must have been the fabulous sum that he paid to Paul King, who managed the campaign successfully and who bore the nomination back to him covered all over with the dollar marks of a boodle campaign?

One witness said, "I went into the office of Paul King"—Mr. Newberry's manager—"and there I saw a table 2½ feet wide and 3 feet long, covered with \$10, \$20, \$50, and \$100 bills arranged in stacks."

Senators, are you ready to say by your votes that that dangerous and degrading method of selecting a United States Senator is the proper method and has your approval?

Mr. Newberry told Paul King to keep "our publicity going at full pressure," and Paul said, "I have got 201 newspapers supporting you now and I am carrying a full-page advertisement in the labor paper the day before the primary. I am doing whatever I think is necessary without regard to cost," and the boodle campaign raged in the senatorial race in Michigan.

Consideration for true worth and statesmanship was stifled; the rules of common decency and fair play were ignored or forgotten. The corrupt use of money was the dominating note, while the Newberry headquarters was a clearing house for political tradesmen.

In the language of Thomas Moore:

Like Jove of old,  
They turn their thunder into showers of gold,  
Whose silent courtship wins securer joys;  
Taints by degrees and ruins without noise.

No man here or elsewhere can truthfully say that Truman Newberry would have received the nomination to the Senate if he had not resorted to the extravagant and unlawful expenditure of money.

And it follows as the night the day that no Senator here can vote to seat him without approving the method employed to secure that nomination. Senators' wealth is already getting a strong hold upon a portion of this body. I do not want to see the Senate become a millionaire's club, and I pray God that it may never become the rendezvous of sinister interests and predatory wealth. There should be no division among us upon the Newberry case. Our decision in this case is going to be instrumental in discouraging and preventing the extravagant and unlawful use of money in the selection of a United States Senator or it is going to invite and encourage men of large wealth to debauch the voter, make barter of the ballot, and acquire seats in this body by the sheer use of money.

The main thing for Mr. Newberry to do is to come to the bar of the Senate and say, "Senators, I am accused of having transgressed the proprieties, of violating the law, and of committing grievous wrongs in obtaining the nomination to the United States Senate from the State of Michigan. Minority members of the Senate committee charged with the duty and responsibility of investigating the charges against me hold that I am not entitled to a seat in this body. The majority members of the same committee, while recommending that I be seated, criticize and condemn the amount of money expended in securing for me the primary nomination to the Senate. In view of these things I realize that there is reason for the charge that a cloud rests upon my title, and I therefore desire to announce to the Senate my purpose to relieve the Senate from further embarrassment by resigning and going back to Michigan and submit-



ting my claims for vindication in a primary, where I intend to see that no unfair or foul means are employed."

That is what he should do. Instead of doing that he employs able lawyers at great expense to represent him before the committee and declines to even go before the committee to say one word in defense of his claim to a seat in this body.

Mr. President, this man with his millions may think that he can buy and hold a seat here as he would a seat on the New York Stock Exchange. You can pay so many thousand dollars down and buy a seat on the stock exchange. Senators, are you ready to place the stamp of your approval upon the sale of a seat in the United States Senate? God forbid that the Senate shall ever so degenerate as to do such a thing.

Does any Senator here believe that John Newberry, the brother and business partner of Truman H. Newberry, contributed \$100,000 to his brother's senatorial campaign and that never during all that time said one word to his brother about his race for the Senate? It is as unnatural as it is untrue.

Does any Senator here believe that Templeton, the business partner of Truman H. Newberry and chairman of the Newberry senatorial campaign committee at Detroit, went to New York, saw Mr. Newberry and talked with him, without ever mentioning the senatorial campaign to him? Such a contention is absurd and ridiculous. And yet we are asked to seat Mr. Newberry in the Senate of the United States upon just such testimony as that.

It does not take the eye of a trained lawyer to see that the witnesses for Mr. Newberry were all keeping in mind the statement that he filed under oath with the Secretary of the Senate that he had nothing whatever to do with his campaign and that none of the money was advanced with his knowledge or consent.

Mr. STANLEY. Mr. President—

Mr. HEFLIN. I gladly yield to my friend from Kentucky.

Mr. STANLEY. My accomplished colleague has said that Truman Newberry testified.

Mr. HEFLIN. I did not mean Truman; I meant John.

Mr. STANLEY. I think Truman is deaf and dumb. We have had blind men in the Senate, but we never had a deaf and dumb man before Truman. He never testified, and he never will.

Mr. HEFLIN. I do not know whether he could hear or not. The Bible tells us about men who having eyes see not and having ears hear not. Truman must be in that category, because he saw his brother, but never heard him speak about doing anything to help him in his campaign for the United States Senate, nor did he talk with his brother or anybody else about it. He stood afar off, on the deck of his wooden ship. The names of witnesses are given who swore that he was in Michigan, in Detroit, during the campaign. That is set out in Henry Ford's brief.

They saw him in the office of Paul King. Paul King, in his testimony, referred to the time when the newspapers of Michigan opened up on them. What were those newspapers doing? They were crying out against the conduct of that corrupt and scandalous campaign.

Is not that a confession that the Newberry campaign was so ugly and odious that the newspapers felt it necessary to criticize and condemn it?

Mr. STANLEY. Mr. President, I know that my genial friend would not do Mr. Newberry an injustice. He talks about that wooden ship being out in the woods. I was going through Central Park not long ago and they pointed out to me a little lake about as large as the Capitol building, or somewhat larger. They also pointed out the place where the papier-mâché ship upon which Commander Newberry had stood was anchored. They tell me that the Senator from Alabama has done him a great injustice, that it was not a wooden ship, that it was a papier-mâché ship; that it had things on it that looked like guns and turrets, and the picture shows it as a battleship on the sea. I am certain that the Senator, if he would examine the film, would find that he was really near water, that the ship appeared to be a battleship, and he looked like he was facing all kinds of danger. I am also told that they have this funny kind of powder that is burned and which makes much smoke, and they had the smoke there apparently and things that looked like hostile ships all around it, and the boy who stood on the burning deck was not in anything like the danger that Newberry was in from the smoke of this calcium powder that floated all around him while he stood like the boy, whence all but him had fled.

Mr. HEFLIN. I thank my brilliant friend from Kentucky. This battleship might have been near the water, but it is like that little doggerel the Senator quoted here the other day.

Mother, may I go out to swim?

Yes; my darling daughter:

Hang your clothes on a hickory limb,

But don't go near the water.

His witness, Phillips, testified that it was a fake battleship. My friend has pictured a paper concern built down near the water. It was said that this thing did look like a ship on the water, and it was really intended to impress the voters of Michigan that it was a real battleship, and that he was the commander standing on it. He was a successful commander, too, in gathering ammunition for his campaign up in Michigan.

"Take your stand upon the deck and don't forget to bring your check." Every fellow that boarded that ship had that instruction, and they brought the checks, and they got enough of them when accumulated to do the dirty work in Michigan to procure, through the lavish and wrongful use of money, a nomination which meant a passport up the road toward the Senate, not into but toward it, because there is another threshold to cross here before he can have and hold a seat in this body.

Why do certain big-moneyed interests want men they can control in this body? I will cite an instance. Just a few days ago I saw Mr. Newberry vote against allowing the Government to use the excess-profits tax to pay the soldiers who saved the Nation's life in the hour of its peril. He voted against allowing the Government to use that money to make a fair and just settlement with the soldiers, when 500,000 of them were out of employment. Does that give an idea as to why they want to control this body? Mr. President, if the day ever comes when they can control a majority in the Senate, it will not make any difference then whom we elect to the House, they can pass a bill unanimously over there, and it will find its death chamber here where purchased privilege and power will send it to its long last sleep. Sinister interests are fighting for control here. There is rarely now an election of Senator in any State in the Union that they do not in some way seek to elect one to their liking.

This is a small body when compared to the House. It has just 96 Members, and if they can control the votes of 49 of them they will have a majority and then they can block any legislation, I do not care how necessary or meritorious it may be. They can shape and control the destiny of the Nation by having and controlling 49 votes in this body.

Senators, are we by our votes going to do that which everybody knows is against the best interests of the American people and at the same time prove ourselves unworthy and unfaithful guardians of the good name, the honor, and integrity of the Senate?

Mr. President, one of the things necessary to wholesome, healthful government is a free press. The press must be kept free and untrammelled. Paul King tempted certain newspapers in Michigan and committed vicious dollar assaults upon the freedom of her press. Paul King's campaign motto was: "Whatever I think should be done for Mr. Newberry, I do it without regard to cost. I have already got 201 newspapers actively supporting you and I am going after the other 300 and more." Imagine Paul King calling on a moderately well-to-do newspaper man in Michigan and asking him to support Mr. Newberry and hear the newspaper man say, "Well, I had about decided to support ex-Gov. Osborn. He made us a good governor and he is a very able, clean man."

PAUL KING. Well, do not make up your mind. Suppose we were to take some advertising space with you—say, \$500 worth—would that help the situation?

Then, almost too dumbfounded for utterance, Paul's victim said, "Say that again, and say it slow."

Why, Mr. President, Paul King wrote to Mr. Newberry that the labor situation at a certain point was improving, and said he was going over there and take a page advertisement in the labor paper the day before the primary. Thousands upon top of thousands and even hundreds of thousands of money was so spent to purchase newspapers and mold public sentiment.

Lieut. Gov. Dickinson of Michigan himself wrote to Truman H. Newberry, "It is estimated that you have spent from \$250,000 to \$500,000," and Mr. Newberry declined to go before the Senate committee and deny the charge made by the lieutenant governor of Michigan.

Just here, Mr. President, I want to read a few lines from a letter written after the primary by Ex-Gov. Osborn to Truman H. Newberry. I read:

My idea is that the thing for you to do is to honestly confess that you broke the law and that you knew all about the campaign, but that you did not realize the enormity of your offense. In such a position you would be intrenched in honesty, I fully believe. And an indulgent people would forgive you and fight for you because of the past services they think you have given and what they have been told you are giving now. In addition, this action would make for your name an honorable place in the history of Michigan. Otherwise the future will curse you.

The plea can not be honestly made that you spent money in excess because you were fighting Ford, because you had begun your reckless campaign long before Ford was mentioned and had already transgressed the law. Nor can you plead you "did not know." That would prove you to be both an ass and a liar, which I choose to think you are not.

Senators, are you going to vote to seat Mr. Newberry in the face of what Ex-Gov. Osborn said to Mr. Newberry about that corrupt and scandalous primary?

Mr. Newberry has never denied the charges made in that letter by ex-Gov. Osborn. I have heard it whispered about that they might bring him, Mr. Newberry, in at the last moment and get him to make a statement. Well, whenever they do that, they are going to do it under circumstances when I can interrogate him and when other Members of this body can interrogate him. I am not going to submit to any agreement by which he could come in here in the last 30 minutes of the debate, read a prepared statement, and not be open to question by the Members of this body.

This case is going to be fought to a finish. I owe it to myself, I owe it to the State that honors me with a seat in this body, I owe it to the Nation whose institutions I love, and I owe it to those who fought and yet live and to those who died in defense of my country to do all in my power to keep this place free from the corrupting and corroding power of the dollar in politics.

I recall the Lorimer case. They waited until the last minute and had him to come in and sob and say that he hoped he would not be unseated; but Senators who thought more of their oath of office and more of their own honor as guardians of the integrity of the Senate and defenders of the people's rights voted to unseat him and he was unseated. Those who voted for him, all of them but seven, are gone; and I call upon Senators now to choose you this day whom you will serve—the god of mammon or the god of good government, the god of clean politics in America.

You may vote to seat this man; you may clothe him with power to sit here and kill the vote of Senators who stand here with clean credentials, without a taint on their titles. I do not know what your judgment will be; but, mark you, Senators, you are going to face these facts out in the States.

Thank God, there is a judgment bar where we can go with these terrible facts and submit them to the women and the men who constitute the electorate of America. If you vote to seat this man you are going to have to answer to an outraged and indignant people. So remember that when you vote to seat Mr. Newberry you may be voting to unseat yourselves. Choose you this day then what course you will pursue.

Let me remind you again before I close that they admit that they spent over \$200,000. That amount of money would pay the salary of a Senator for more than a quarter of a century. That amount of money would pay the salary of all the Senators for one year from the States of New York, New Jersey, Ohio, Indiana, Wisconsin, Illinois, Alabama, Georgia, California, Texas, Pennsylvania, and Iowa. Senators, are you ready to tolerate that? They admit the expenditure of a campaign fund that would pay the salary of one Senator in this body for more than four full terms, and that would pay the salaries of 26 Senators for one year. That is nearly one-third of the membership of this body.

Senators, Mr. Newberry went into the senatorial campaign knowing that it was going to cost a large amount of money. He went in knowing that it would cost him more than the salary would amount to for a full term in the Senate. He went in knowing that he was going to violate the law of his State and the law of the National Government. He went in intending to spend all the money deemed necessary to secure the nomination. He did secure the nomination by the extravagant and unlawful use of money.

Paul King, his manager, said he kept him informed as to what was going on in the campaign. Fred Smith, his confidential agent, said that he drew money on checks given by him out of the joint fund of Truman H. Newberry and John S. Newberry.

In the face of all this testimony and in spite of the criticisms made by prominent Republicans and newspapers in Michigan, Mr. Newberry's lawyers say in their closing statement of his case, "We have no apology to make; no shame for anything that we have done."

Senators, it is high time that the Senate should teach Mr. Newberry's attorneys and managers that their conception of what is a proper method of selecting a United States Senator can not in common decency and good morals be accepted by the United States Senate.

Mr. President, I remember that during the Republican convention at Chicago last June it was charged that an effort was being made to buy the Republican nomination for the Presidency, and I remember that the brave and able Senator from Idaho [Mr. BORAH], whose voice will be heard in this Chamber, thank God, in defense of the honor and integrity of this body, rose and reminded the convention of the days when the emperor-

ship of Rome was put upon the auction block and sold to the highest bidder. He denounced the corrupt use of money in politics and called upon the delegates in convention assembled to spurn and frown upon the candidate who dared to make barter of the high office of President.

Senators, we are told to watch as well as pray, and that eternal vigilance is the price of liberty.

Mr. President, we know what happened to Rome. When money became the controlling power in her politics, she fell down among her beautiful hills and died. Lord Byron, in speaking of the woe that came to her, said:

Oh Rome! City of the soul!  
The orphans of the heart must turn to thee,  
Lone mother of dead empires, and control  
In their shut breasts their petty misery.  
What are our woes and sufferance? Come and see  
The cypress, hear the owl, and plod your way  
O'er steps of broken thrones and temples, ye!  
Whose agonies are evils of a day—  
A world is at our feet as fragile as our clay.  
The Niobe of nations! There she stands  
Childless and crownless, in her voiceless woe;  
An empty urn within her wither'd hands,  
Whose holy dust was scatter'd long ago.

Senators, will we not profit by the experience of Rome? God forbid that anyone shall ever point to a vote of mine and say, "He voted to permit the corrupt use of money to be employed in selecting Members of the United States Senate." Let us who are honored and trusted with the guardianship of the Senate's honor and integrity swear that this thing shall not be done. Let us for the sake of the good name of the Senate and for the good of our common country halt this thing at the threshold of the Senate and "break the jaws of the wicked and pluck the spoil out of his teeth."

Mr. President, why do they want seats in this body? Why, if they can control this Chamber they can legislate money into their pockets. Senators, have we not seen votes in this Chamber in the last 60 days that legislated money out of the Treasury back into the pockets of men with millions when 6,000,000 human beings in the country are unemployed, and 500,000 of them ex-soldiers, men who wore the uniform of their country? Do you wonder then why certain interests want seats in this body? God pity the Senate if this thing is consummated.

Senators, I call on you to stand firm and steadfast. Near the Grampian Hills in Scotland there is a lonely, rocky headland that overlooks the homes on the moors, and when, on the far-away battle line, there is any lagging amongst the soldiers the commander steps out in front and says, "Soldiers!" And when he gets their attention he looks toward Scotland and says, "Stand fast, Craig Alachie!" When they were on the battle plains of France—God bless them, as brave soldiers as ever battled—the cry, "Stand fast, Craig Alachie!" rang down the lines as the Scotch soldiers hurled implements of destruction into the ranks of the German Army.

Mr. President, to-day, as an humble Member of this body, I call upon Senators to stand fast. This historic tribunal and guardian of the people's rights is being assailed. They are storming one of the legislative citadels of the Nation. They are seeking to make barter of the seats in this honored body. Stand fast, Senators! If the time shall ever come when seats in this body are for sale as they are upon the stock exchanges of the country, God pity us. There is nothing that will do more to foster bolshevism, socialism, and anarchy than for the impression to prevail that seats in the United States Senate are bought and sold.

If the time ever comes, whether Democrats or Republicans have a majority in this body, when the people believe their seats are bought and sold, then you may well tremble for the safety of any country.

The able and eloquent Senator from Ohio [Mr. POMERENE] told in beautiful fashion how the various States used to open the wardrobe of their civic households, and as an expression of their confidence, esteem, and love took out the senatorial toga and placed it with their blessings upon the shoulders of a worthy son, and in withering contrast with that picture he showed how Mr. Newberry had built a stairway with gold dollars leading up into the wardrobe in Michigan and that in an evil hour he purchased with money the senatorial toga, which, being secured under those conditions, had become a dirty and filthy rag.

O Mr. President, I recall the time when Cullom, of Illinois; Teller, of Colorado; and Daniel W. Voorhees, of Indiana, Republicans and Democrats, stood in their places in this Chamber, having obtained their nominations and elections without money and without price. From some of those States a poor man can not come to the Senate now.

Has the Senate entered upon a state of degeneracy; has decay commenced its terrible work upon this historic body?



Are virtues which warmed the hearts of the statesmen of other days become corrupt and dead in us? I can not believe it. It was Anacharsis, the Greek historian, I believe, who said that when Solon had completed his laws for the Athenians, he decided to leave Athens for a period of 10 years, and at the expiration of that time to return to see how they had progressed under his laws. The 10 years passed and great Solon returned. Processions came out to do him honor. He stood upon the highest elevation overlooking the city and viewed the processions as they passed.

The first procession was that of old men with bowed backs and feeble step. The banner above their heads bore the inscription, "We have protected the State." "Yes," said Solon, "those were glorious days for Athens, but they are gone."

Another procession came into view, men in middle life, with firm and steady tread, and the banner above their heads bore the inscription, "We protect the State." "Yes," said Solon, "but what will become of dear old Athens when you are no longer her defenders?" Hark, a shriller note is borne on the morning air. The vigorous, elastic step of young manhood, now glorying in its might, passed in review. The banner above their heads bore the inscription, "We will protect the State." "Praised be the gods," shouted Solon, "the State is safe."

Mr. President, Washington, the father of our country, warned us against the baneful influence of money in politics. He admonished us to always be on guard against it. Aye, he appealed to us to protect and safeguard the free institutions of America against its dangerous, corrupting, and deadening influence. Senators, can we vote to seat Truman H. Newberry as a Member of the United States Senate and be true to ourselves, true to our oaths, and true to our country?

Where are they who made up the list of United States Senators since under God this honored institution came into being? Gone! Nearly all of them are gone.

Time was when they guarded with intrepid vigilance the good name, the honor, and integrity of the Senate and stood a mighty bulwark in defense of the rights and liberties of the people.

Mr. President, if Washington could return to earth and they could pass in procession before him, nearly all of them would march with heads erect and light upon their faces as they carried an honored banner bearing the inscription, "We protected the honor and integrity of the Senate and safeguarded the rights and liberties of the American people." But, Senators, how would it be with us now honored with places in this body if Washington should ask us to provide a banner and march in procession before him? Could we, in the face of the evidence in the Newberry case and in all good conscience after voting to seat Mr. Newberry as a Member of the Senate of the United States, carry a banner bearing the inscription, "We protect the honor and integrity of the Senate and safeguard the rights and liberties of the American people"? God grant that we will say just that by our votes in the Newberry case.

#### TAX REVISION—CONFERENCE REPORT.

The Senate resumed the consideration of the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 8245) to reduce and equalize taxation, to amend and simplify the revenue act of 1918, and for other purposes.

The PRESIDING OFFICER (Mr. JONES of Washington in the chair). The question is on agreeing to the conference report. Those in favor of agreeing to the report will say "aye."

Mr. HITCHCOCK. Mr. President, what is the motion which is being put so fast?

The PRESIDING OFFICER. The question is on agreeing to the conference report.

Mr. SWANSON. Let us have a quorum.

Mr. HITCHCOCK. I do not think it necessary for us to proceed quite so fast.

The PRESIDING OFFICER. The Chair stated the pending question, which is on agreeing to the conference report.

Mr. HITCHCOCK. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Secretary will call the roll.

The reading clerk called the roll, and the following Senators answered to their names:

Borah	France	Kenyon	McLean
Bursum	Glass	Keyes	McNary
Calder	Hale	King	Nelson
Capper	Harris	Ladd	Norris
Caraway	Harrison	La Follette	Oddie
Crow	Heflin	Lenroot	Page
Culberson	Hitchcock	McCormick	Penrose
Curtis	Jones, N. Mex.	McCumber	Pittman
Dial	Jones, Wash.	McKellar	Poin Dexter
Elkins	Kendrick	McKinley	Robinson

Sheppard  
Shortridge  
Simmons  
Smith  
Smoot

Spencer  
Stanley  
Swanson  
Townsend  
Trammell

Wadsworth  
Walsh, Mass.  
Walsh, Mont.  
Warren  
Watson, Ga.

Watson, Ind.  
Weller  
Willis

The PRESIDING OFFICER. Fifty-eight Senators having answered to their names, a quorum is present. The question is on agreeing to the conference report.

Mr. SIMMONS. I desire to ask the Senator from North Dakota [Mr. McCUMBER], who is at this time in charge of the report, if he proposes to make any statement with reference to the action of the conference?

Mr. McCUMBER. I assume that the Senator from Pennsylvania [Mr. PENROSE] will return to the Chamber in a moment. He just had to step out of the Chamber and will be back immediately. The Senator from North Carolina may proceed, and when the Senator from Pennsylvania returns he can make his statement as the chairman of the committee.

Mr. SIMMONS. I would prefer not to go on until the Senator from Pennsylvania or some one representing the majority membership of the conference makes a statement. I desire to inquire meanwhile if the report of the conferees has been read.

The PRESIDING OFFICER. The conference report has been printed in the RECORD. The Chair does not know that it has been read to the Senate. It has been printed in the RECORD and is on the desks of Senators.

#### AMENDMENT OF GONZAGA COLLEGE CHARTER.

Mr. CALDER. Mr. President, I ask unanimous consent for the present consideration of the bill which I send to the Secretary's desk. Is that in order?

The PRESIDING OFFICER. It is not really in order as long as the Senator from North Carolina [Mr. SIMMONS] holds the floor.

Mr. SIMMONS. I yield the floor.

Mr. CALDER. The bill merely amends the corporation charter of Gonzaga College of the District of Columbia.

The PRESIDING OFFICER. The Senator from New York asks unanimous consent for the present consideration of the bill which the Secretary will report.

Mr. SMOOT. If it leads to any discussion, I shall have to object.

Mr. SIMMONS. Let the bill be read.

The bill (H. R. 7428) to amend section 1 of an act entitled "An act to incorporate Gonzaga College, in the city of Washington and District of Columbia," was read, as follows:

*Be it enacted, etc.,* That section 1 of the act entitled "An act to incorporate Gonzaga College, in the city of Washington and District of Columbia," approved May 4, 1858, is amended to read as follows:

"That Burcard Villiger, Charles H. Stonestreet, Daniel Lynch, Edward X. Hand, and Charles Jenkins, and their successors, be, and they are hereby, made a body politic and corporate forever, by the name of the president and directors of Gonzaga College, for purposes of charity, religion, and education; and by that name may sue, and be sued, prosecute and defend; may have and use a common seal, and the same alter and renew at pleasure; may adopt rules, regulations, and by-laws not repugnant to the Constitution and laws of the United States, for properly conducting the affairs of said corporation; may take, receive, purchase, and hold estate, real, personal, and mixed necessary for occupation and use by said Gonzaga College in carrying on in a comfortable and convenient manner its educational, religious, and charitable work, and may manage and dispose of the same at pleasure, and apply the same, or the proceeds of the sales thereof, to the uses and purposes of the said corporation, according to the rules and regulations which now are, or may hereafter be, established."

The PRESIDING OFFICER. Is there objection to the request of the Senator from New York for the immediate consideration of the bill?

Mr. HITCHCOCK. Reserving the right to object, I should like to ask the Senator whether there is not a law providing for the incorporation of associations in the District?

Mr. CALDER. I will state that this college was incorporated in 1858 and, of course, it has been proceeding under its incorporation. The bill simply changes the limitation permitting it to own and control only \$200,000 worth of property, so that it may exceed that limit. When it bought its property in the District of Columbia land was cheap and the school buildings were small. Last year it erected a building at a cost of several hundred thousand dollars. It is an organization which has existed for 100 years and which celebrated its centenary last week. The bill merely seeks to amend the present charter so that it may own more than \$200,000 worth of property.

Mr. HITCHCOCK. Does it exempt that property from taxation?

Mr. CALDER. All colleges are exempt from taxation.

Mr. HITCHCOCK. It is exempt now?

Mr. CALDER. It is exempt now.

Mr. NELSON. Mr. President, the bill places no limitation on the property which they can now own. The old limitation

was \$200,000. They have now a million dollars worth of property and the bill gives them an unlimited power to hold property.

Mr. CALDER. The present property is not taxed at all. In transactions involving the borrowing of money on their property there always appears in their charter the statement that they can own only \$200,000 worth of property, while as a matter of fact they actually own more than a million dollars worth of property.

Mr. KING. Mr. President, may I inquire of the Senator from New York or the Senator from Minnesota, in view of the statement just made by the Senator from Minnesota, whether, if it should acquire holdings, the same would be exempt from taxation if its property were not used for educational purposes? If that were true, then we ought not to grant the right to hold unlimited quantities of property. I think colleges ought to be exempt from taxation as to the property which is absolutely necessary for educational purposes, but if they should engage in the real estate business I doubt if that principle should apply.

Mr. CALDER. As I understand it, the enactment of this measure simply puts them under the same conditions they would be under if they had incorporated under the general law. I can assure the Senator of that.

Mr. KING. May I inquire whether they could not avail themselves of the general law and amend their charter without coming to Congress?

Mr. CALDER. They contend that they can not, because they were incorporated under a specific law.

Mr. KING. If the general law is properly drawn it certainly would apply to corporations that have specific charters and would permit them by going to the general law to avail themselves of its provisions for amendment. It seems to me they could amend by filing under the general law.

Mr. WALSH of Massachusetts. Mr. President, the bill simply amends the present law. The present charter of the college puts a limitation upon the amount of property it can own or the amount of money it can invest. The bill will permit it to conform to the general law and hold property the same as any other college.

Mr. CALDER. That is correct.

The VICE PRESIDENT. Is there objection to the present consideration of the bill?

There being no objection, the bill was considered in Committee of the Whole.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. Overhues, its enrolling clerk, announced that the House agreed to the amendment of the Senate to the amendment of the House to the bill (S. 843) to amend section 5 of the act approved March 2, 1919, entitled "An act to provide relief in cases of contracts connected with the prosecution of the war, and for other purposes."

The message also announced that the House had passed the joint resolution (S. J. Res. 33) permitting Chinese to register under certain provisions and conditions, with amendments, in which it requested the concurrence of the Senate.

The message further announced that the House had passed a bill and joint resolutions of the following titles, in which it requested the concurrence of the Senate:

H. R. 8346. A bill granting the consent of Congress to the board of supervisors of Whiteside County, Ill., to construct a bridge across Rock River;

H. J. Res. 210. Joint resolution for the appointment of one member of the Board of Managers of the National Home for Disabled Volunteer Soldiers; and

H. J. Res. 225. Joint resolution authorizing payment of the salaries of officers and employees of Congress for November, 1921, on the 23d day of said month.

#### LIST OF JUDGMENTS BY COURT OF CLAIMS (S. DOC. NO. 82).

The VICE PRESIDENT laid before the Senate a communication from the President of the United States, transmitting, pursuant to law, a list of judgments rendered by the Court of Claims amounting to \$293,107.91, submitted by the Secretary of the Treasury and requiring an appropriation for their payment, which, with the accompanying list, was referred to the Committee on Appropriations and ordered to be printed.

#### CLAIMS ALLOWED BY GENERAL ACCOUNTING OFFICE (S. DOC. NO. 80).

The VICE PRESIDENT laid before the Senate a communication from the President of the United States, transmitting,

pursuant to law, schedules of claims amounting to \$406,490.53 allowed by the General Accounting Office as covered by certificates of settlement under appropriations the balances of which have been exhausted or carried to the surplus fund and requiring an appropriation for their payment, which, with the accompanying papers, was referred to the Committee on Appropriations and ordered to be printed.

#### JUDGMENTS RENDERED BY DISTRICT COURTS (S. DOC. NO. 81).

The VICE PRESIDENT laid before the Senate a communication from the President of the United States, transmitting, pursuant to law, a list of judgments rendered by district courts of the United States amounting to \$4,371.80, submitted by the Attorney General through the Secretary of the Treasury and requiring an appropriation for their payment, which, with the accompanying papers, was referred to the Committee on Appropriations and ordered to be printed.

#### DAMAGES CAUSED BY COAST GUARD CUTTER (S. DOC. NO. 83).

The VICE PRESIDENT laid before the Senate a communication from the President of the United States, transmitting an estimate of appropriation in the sum of \$110 required by the United States Coast Guard for payment of damages caused by collision of the Coast Guard cutter *Manning* with the schooner *Alice May Davenport*, which, with the accompanying paper, was referred to the Committee on Appropriations and ordered to be printed.

#### TRAVEL OF EMPLOYEES, FEDERAL BOARD FOR VOCATIONAL EDUCATION.

The VICE PRESIDENT laid before the Senate a communication from the secretary of the Federal Board for Vocational Education, transmitting, pursuant to law, a statement showing in detail travel from Washington to points outside of the District of Columbia performed by officers and employees (other than those who in the discharge of their regular duties are required to constantly travel) of the board during the fiscal year 1921, which was referred to the Committee on Appropriations.

#### PRESIDENTIAL APPROVALS.

A message from the President of the United States, by Mr. Latta, one of his secretaries, announced that the President had approved and signed bills of the following titles:

On November 17, 1921:

S. 1408. An act authorizing the Rolph Navigation & Coal Co. to sue the United States to recover damages resulting from collisions; and

S. 2153. An act authorizing the owners of the steamship *Texas* to bring suit against the United States of America.

On November 18, 1921:

S. 513. An act granting a deed of quitclaim and release to J. L. Holmes of certain land in the town of Whitefield, Okla.;

S. 904. An act for the relief of Elijah C. Putman; and

S. 1894. An act to amend section 26 of an act entitled "An act making appropriations for the current and contingent expenses of the Bureau of Indian Affairs," etc.

#### ANNUAL REPORT OF CIVIL SERVICE COMMISSION.

The VICE PRESIDENT laid before the Senate the following message from the President of the United States, which was read, and, with the accompanying report, was referred to the Committee on Civil Service and ordered to be printed.

To the Senate and House of Representatives:

As required by the act of Congress to regulate and improve the civil service of the United States, approved January 16, 1883, I transmit herewith the thirty-eighth annual report of the United States Civil Service Commission for the fiscal year ended June 30, 1921.

WARREN G. HARDING.

THE WHITE HOUSE, November 22, 1921.

#### REPORT OF THE NATIONAL COMMISSION OF FINE ARTS (S. DOC. NO. 79).

The VICE PRESIDENT laid before the Senate the following message from the President of the United States, which was read, and, with the accompanying report, referred to the Committee on the Library and ordered to be printed:

To the Senate and House of Representatives:

I transmit herewith for the information of the Congress the ninth report of the National Commission of Fine Arts for the period from July 1, 1919, to June 30, 1921.

The report deals with the progress made during the past 20 years in realizing the comprehensive plan for the entire District of Columbia reported to the Senate, as a result of extensive studies of the plans of capital cities in Europe. This plan was prepared as a public service by men of the highest standing in the professions of architecture, sculpture, and landscape architecture. Professedly it was based upon the L'Enfant plan of



1792 for the Federal city in the District of Columbia, designed under the personal supervision of President Washington; and, indeed, was largely an extension of that plan to cover the entire District. The L'Enfant plan was the first and most comprehensive design for a national capital ever adopted. The plan of 1901 reasserted the authority of the original plan; extended it to meet the needs of the Nation after a century of growth in power, wealth, and dignity; and marked the path for future development. During the past two decades the essential features of the plan have been established, so that the work of the future will be largely a filling in of outlines. It is a source of satisfaction that so much has been done to make the city of Washington conspicuous among national capitals in respect of dignity, orderliness, convenience, and beauty. All that has been done increases the importance of adhering to a plan that during nearly a century and a quarter has abundantly justified the foresight and the vision of the founders of the Republic.

The report of the Commission of Fine Arts deals also with the plans made under the direction of the Secretary of War for the cemeteries in Europe where rest the bodies of American men and women who gave their lives in the World War. By reason of their location on the field of battle the French cemeteries have a double claim to our reverent consideration—they mark both the places of burial of our heroic dead, and also the very field on which their sacrifice was made. These cemeteries are indeed fields of honor. They represent in the highest and most sacred way the participation of this Nation in the Great War. They should be treated in a manner befitting their representative character.

Further, the report discloses the work of the commission in its many details. During the 11 years since Congress created that body its helpfulness has constantly increased. In many fields it has established and maintained standards of taste; and in furthering and safe guarding the plan of Washington it is especially useful.

WARREN G. HARDING.

THE WHITE HOUSE, November 22, 1921.

#### PETITIONS AND MEMORIALS.

Mr. SMOOT presented a memorial of sundry citizens of Spring City, Utah, remonstrating against the enactment of Senate bill 1948, providing for compulsory Sunday observance in the District of Columbia, which was referred to the Committee on the District of Columbia.

Mr. NELSON presented letters in the nature of petitions from the Archer-Daniels Linseed Co., of Minneapolis, Minn., praying for the enactment of legislation increasing the tariff duty on linseed and linseed oil, which were referred to the Committee on Finance.

He also presented petitions of sundry citizens of Minneapolis, St. Paul, Robbinsdale, Shakopee, White Bear Lake, and Duluth, all in the State of Minnesota, and sundry citizens of the States of Iowa, South Dakota, and Pennsylvania, praying for the recognition of the Irish republic by the Government of the United States, which were referred to the Committee on Foreign Relations.

Mr. LADD presented a memorial of sundry citizens of Carington, N. Dak., remonstrating against the continuance of Treasury Department regulations permitting the manufacture and sale of beer and light wines, which was referred to the Committee on the Judiciary.

Mr. WILLIS presented a petition of sundry citizens of Coshocton, Ohio, praying for a drastic reduction of war and other expenditures and real disarmament, which was referred to the Committee on Foreign Relations.

#### BILLS INTRODUCED.

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. FERNALD:

A bill (S. 2752) granting a pension to Elizabeth A. Haskell (with accompanying papers); to the Committee on Pensions.

By Mr. SPENCER:

A bill (S. 2753) for the relief of José Louzan; to the Committee on Claims.

By Mr. McCORMICK:

A bill (S. 2754) to permit the city of Chicago to acquire real estate of the United States of America; to the Committee on Public Lands and Surveys.

By Mr. WALSH of Massachusetts:

A bill (S. 2755) releasing the claim of the United States Government to land in the town of Marblehead, in the State of Massachusetts, upon which is situated Fort Sewell, to the town of Marblehead as a site for a public park; to the Committee on Public Lands and Surveys.

By Mr. POINDEXTER:

A bill (S. 2756) providing for the appropriation of funds for the construction of Toppenish-Simcoe irrigation project on the Yakima Indian Reservation; to the Committee on Indian Affairs.

By Mr. TRAMMELL (for Mr. FLETCHER):

A bill (S. 2757) to give preference to honorably discharged soldiers, sailors, and marines, the widows and the wives of such, for nomination as postmaster, and for other purposes; to the Committee on Post Offices and Post Roads.

By Mr. FRANCE:

A bill (S. 2758) to carry out the findings of the Court of Claims in the case of the heirs of Thomas J. Benson, deceased; to the Committee on Claims.

A bill (S. 2759) granting a pension to Margia A. Acton; to the Committee on Pensions.

By Mr. CALDER:

A bill (S. 2760) for the relief of Richard Andrews; to the Committee on Claims.

By Mr. NORRIS:

A bill (S. 2761) granting an increase of pension to Sarah M. Taylor; to the Committee on Pensions.

By Mr. LODGE:

A bill (S. 2762) granting a pension to Pierce O'Connell (with accompanying papers); to the Committee on Pensions.

By Mr. CROW:

A bill (S. 2763) granting an increase of pension to Mary Howe (with accompanying papers); to the Committee on Pensions.

By Mr. WATSON of Indiana:

A bill (S. 2764) to reorganize and to promote the efficiency of the United States Public Health Service; to the Committee on Finance.

#### AMENDMENT OF TARIFF BILL.

Mr. McNARY submitted an amendment intended to be proposed by him to House bill 7456, the permanent tariff bill, which was referred to the Committee on Finance and ordered to be printed.

#### INVESTIGATION OF TREATMENT OF SOLDIERS.

Mr. BRANDEGEE. Mr. President, the other day the Senate passed a resolution authorizing the committee appointed to investigate charges as to executions of members of the Expeditionary Forces abroad contrary to law to employ a stenographer and conduct hearings, and so forth. The auditor in the financial clerk's office informs me that the language of the resolution is not broad enough to include the employment of a clerk for the committee. I therefore ask that the resolution be amended by inserting a provision which I will send to the desk and ask to have read, and then I shall ask that the resolution may be referred again to the Committee to Audit and Control the Contingent Expenses of the Senate.

The VICE PRESIDENT. The amendment will be read.

The READING CLERK. In the original resolution, on page 1, line 9, after the word "committee," insert the following: "and to employ such clerical assistance as in the judgment of the committee may be necessary."

Mr. BRANDEGEE. I ask that it may be referred to the Committee to Audit and Control the Contingent Expenses of the Senate.

The VICE PRESIDENT. Without objection, the vote by which the original resolution was agreed to will be considered as having been reconsidered. Is there objection? The Chair hears none. The resolution, with the amendment, will be referred to the Committee to Audit and Control the Contingent Expenses of the Senate.

#### IMMIGRANTS AT ELLIS ISLAND.

Mr. McCORMICK. I ask unanimous consent to have printed in the RECORD a letter from the Secretary of Labor relative to conditions of immigration at Ellis Island, N. Y., and the accompanying letters.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

DEPARTMENT OF LABOR,  
OFFICE OF THE SECRETARY,  
Washington, November 21, 1921.

Hon. MEDILL McCORMICK,  
United States Senate, Washington, D. C.

MY DEAR SENATOR: In response to your inquiry concerning conditions of immigration at Ellis Island, I have taken up this matter with the Commissioner General of Immigration and wish to submit the following:

In the first place, the commissioner general assures me that the charges concerning the treatment of immigrants at Ellis Island, and particularly those which have appeared recently in syndicated articles, are so grossly exaggerated as to be misleading and are in fact essentially false from beginning to end. The particular series of newspaper articles which have come to the department's attention and which seem to have been the basis of much of the criticism alluded to

concern Ellis Island only in part. They purport to be the experiences of a reporter traveling in the guise of an immigrant from Ireland aboard the steamship, at quarantine, and while aboard the ship in New York Harbor waiting to be transferred to Ellis Island. It seems evident that the articles were aimed specifically at Ellis Island, for throughout the story of the ocean voyage and while the ship was in New York Harbor before the passengers were landed at the island the writer seems to lay particular stress on the conversation covering the probable experiences at that station. The articles seem to be largely about Ellis Island, whereas the actual experiences of the writer at the island formed only a minor part of the series.

A brief review of immigration during the past two years is necessary to an understanding of the situation at Ellis Island. The immigration station and hospital buildings at the island have a floor space of about 14 acres. This property was turned over to the Navy during the war and the immigration force was badly disorganized owing to the practical cessation of movement from Europe during the war period. The force had not been fully organized when, during the fiscal year 1921, European immigration was resumed on a large scale. As the immigration increased, hurried efforts were evidently made to increase the force at the island in order to meet it, with the result that a great many inexperienced persons were called to the service in place of trained men who had gone into other occupations during the war.

When the present administration took charge there were about 780 employees at that station, many of whom, as already stated, were inexperienced. At the same time the character of immigrants who applied at that station for admission was such that they were handled only with great difficulty. Prior to the war it was necessary to detain only comparatively few of the large numbers who passed through that station for the reason that practically all of them were supplied with railway tickets to destination and the great majority had sufficient money for their subsistence while en route. Immigration which came after the war, however, was in the main destitute. It was impossible for many of them to obtain through transportation to destination, and thousands upon thousands had to be held at Ellis Island pending the receipt of transportation money from friends or relatives, sometimes in distant parts of the country.

As has been frequently stated, Ellis Island is essentially a station and not a hotel. There are sleeping accommodations there for approximately 1,800 people, but admittedly these accommodations are not suitable for the long detention of great numbers of arriving immigrants. Immediately following the advent of the present administration steps were taken to correct conditions at the island so far as was possible, and at the same time it was necessary to greatly reduce the force, with the result that on July 1, 1921, only about 520 persons were employed there. The enactment of the 3 per cent limit law, particularly during June, July, August, and September, also made necessary the long detention of a large number of aliens, and as a result certain hardships were absolutely unavoidable.

Early in the present fiscal year, however, a committee of the department and bureau was assigned to Ellis Island to make a detailed study of the whole situation. This committee was engaged there for several weeks, with the result that many changes, both in personnel and in the general method of handling immigrants, were made, which changes have already resulted in a very considerable improvement. In the few cases where it was possible to prove dishonesty, employees, some occupying positions of trust, were separated from the service, and appropriate action was taken in the case of employees who were shown to be rough or discourteous with the immigrants. Moreover, Mr. Robert E. Tod was appointed commissioner at Ellis Island and took charge on October 22. This immediately resulted in a noticeable improvement in the morale of the force, and as Mr. Tod is devoting his entire time and great organizing ability to the task a very general and gratifying improvement has been noted along every line.

Radical changes were also made in the personnel of the station at Boston, and the assistant commissioner at Montreal. Mr. Irving F. Wixon, was assigned there as acting commissioner. Mr. Wixon, aided by members of the Departmental and Bureau Committee, above referred to, has undertaken as complete a reorganization of the Boston station as is possible under the circumstances, and notable improvements have already been made. At the latter station several employees were permanently separated from the service and some transfers made.

Early in the fiscal year the commissioner general appointed an advisory committee consisting of Mr. Fred C. Croxton, director of the Columbus Council of Social Agencies, of Columbus, Ohio; Mrs. Nathaniel Thayer, director of the division of immigration and Americanization of the department of education of Massachusetts, Boston; Miss Julia Lathrop, formerly Chief of the Children's Bureau of the Department of Labor; and Mr. W. W. Sibray, inspector in charge of the United States Immigration Service at Pittsburgh. This was subsequently increased by the addition of Dr. Charles P. Neill, of the National Catholic Service School, of Washington, and Miss Loula Lasker, of New York City. This disinterested committee has undertaken a thorough study of welfare work among immigrants arriving at the various ports as well as among those en route to destination. It is anticipated that this committee will make valuable recommendations as to what is necessary to insure that aliens arriving at United States ports shall have every consideration compatible with careful enforcement of the law.

Criticism of the treatment accorded immigrants arriving at United States ports is no new thing. It has always prevailed, even in the days when there was no immigration law to interfere with the immediate admission of all who came and Castle Garden instead of Ellis Island was the principal gateway of the New World. The first Federal immigration law, enacted in 1882, provided only for the exclusion of convicts, lunatics, idiots, and persons likely to become public charges, but since that time there has been an ever-growing demand that every class and kind of physical, mental, and moral defectives and delinquents must be prevented from entering the United States, until now there are some 30 more or less distinct tests which the law directs shall be applied to every immigrant who applies for admission. In addition to this, the per cent limit act of May 19, 1921, provides that not more than a specified number of aliens may be admitted in any month of the year.

Obviously such drastic laws require that immigrants must be carefully inspected before they can be admitted, and while a large majority are immediately allowed to enter the country large numbers are necessarily detained until their cases can be finally passed upon. Of course, the detention at immigration stations of those whose right to admission under the law is in doubt is in itself something of a hardship, and this fact is at the bottom of practically all the criticism that is leveled at the Immigration Service. The detained aliens them-

selves rarely complain of ill treatment, for the simple reason that they are well treated. The complaints, as a matter of fact, almost invariably come from friends or relatives, who, individually or through attorneys, organizations, or others, seek to have the detained aliens admitted, often with little regard for the law in the case.

Failure or even delay in attaining the desired end not unnaturally engenders resentment, and this resentment not infrequently leads to wholly unwarranted criticism of conditions at places of detention, and unjust accusations of discourtesy, ill treatment, or even cruelty against officers and employees of the service who must necessarily perform their duties, however disagreeable such duties may be. The Bureau of Immigration is constantly investigating criticisms and reports of this nature, and except in rare instances finds they have little or no foundation in fact. However, when it is discovered that complaints are based on truth, measures, and sometimes drastic measures, are taken to prevent a repetition of the offense.

Ordinarily more than three-fourths of all the immigrants who come to the United States by sea enter at the port of New York, and with the exception of cabin passengers, the great majority of whom are admitted direct from ships, practically all who come pass through the station at Ellis Island, and naturally much of the criticism that arises concerns that station. Prior to the World War the daily admissions at the island not infrequently numbered 5,000, and on occasions 6,000 were handled there. But in those days there was no literacy test, no passport regulations, or per cent limit requirement, and it may be presumed that the medical and other inspections were less rigid than at present. In any event, the great majority of arriving aliens prior to the war passed through the station immediately and went on to their destination. Practically all who came held railway tickets to their destination in the United States, and as a rule they were supplied with sufficient money to provide for their wants while en route there.

For reasons that are easily understandable less favorable conditions have prevailed since the war. The way of the emigrants in Europe has been hard. They have been compelled, in several countries at least, to spend much time in waiting for passport visas, undergoing medical examination and observation, and also until recently in securing ocean transportation. As a result of such delays, combined with the high cost of every necessity of travel, a considerable proportion of the immigrants have been practically destitute on arrival at the island. This necessarily resulted in an abnormally large number being detained there, sometimes for considerable periods of time.

As said before, Ellis Island is essentially a station and not a hotel. There are sleeping accommodations, in emergencies, for as high as 2,000. The dormitory system prevails, the beds being of the closely woven wire type. For reasons which need not be stated, mattresses are not provided, but there is always an ample supply of blankets, which are used as substitutes. The equipment is sanitary in every respect, and every dormitory has fairly adequate wash rooms and toilet facilities. These rooms are thoroughly cleaned every day and fumigated when necessary, and, except in cases where a detained alien occupies the same bed more than once, the blankets are sterilized daily. Several smaller and more favorably located rooms, some of which are equipped with single beds, are provided for cabin passengers. The station, however, lacks sleeping accommodations of a better class for women with young children, aged persons, and aliens of the nonimmigrant type who occasionally must be detained, and Congress has been asked to make an emergency appropriation to meet this need.

The immigrants' dining room at the island is large and well lighted, has a tile floor and white tile walls, simple but adequate equipment, and is kept scrupulously clean. The food served is ample in quantity, excellent in quality, and is prepared by well-qualified cooks in a kitchen which compares favorably with that of any large institution.

The hospitals at Ellis Island are operated by the United States Public Health Service and are of the usual high standard of that service. Other comment regarding them is unnecessary.

It should be stated in this connection that Ellis Island is thoroughly inadequate for the handling of large numbers of aliens, especially when it is necessary to detain them for any length of time. There is little space on any one of the three islands which is not entirely covered by buildings. This means, of course, that the out-of-door recreation facilities are limited. There is ample space for handling large numbers of aliens, but with the exception of the hospitals these buildings are poorly arranged for the purpose. They have apparently been built piecemeal, with the result that they are for the most part inconvenient and unsuitable for detention purposes. The most attractive portions of the immigration station proper are devoted to the handling of those who pass through on primary inspection and therefore are, as a rule, not detained at the island even overnight. On the other hand, the quarters devoted to the detention of aliens, including the day rooms and dormitories, are less attractive. Efforts are being made to correct this situation so far as possible, but a considerable amount of money would be necessary in order to bring about the improvements desired, and this is not available. Some indication of what is believed to be actually needed in order to put the station in first-class condition may be shown by the fact that we have recommended an appropriation of nearly \$1,000,000 to be spent on improvements.

It must be assumed that when Congress enacted immigration laws it did so in the conviction that such laws were necessary to the welfare of the Nation, and it is a perfectly obvious fact that the people of the country, with comparatively few exceptions, demand that such laws shall be faithfully executed. Indeed, there has been and is a growing demand for an increasingly strict administration of the laws, and the service fully realizes that whenever it attempts to comply with this demand a storm of censure invariably follows. A single example in this regard may be cited. It has long been complained that the medical inspection of arriving immigrants is not sufficiently thorough, but when great numbers were arriving daily an intensive inspection was not feasible with the limited number of medical officers available. Of late, however, the reduced immigration has made it possible to thoroughly examine a considerable proportion of those arriving. Results have already more than justified the effort, but, strangely enough, this departure has already been characterized as an additional horror of Ellis Island. Stripping immigrants for the purpose of detecting defects or discovering disease-carrying lice appears to be regarded as an indignity by some critics, but in one case it resulted in disclosing leprosy, and in numerous other instances less terrible but nevertheless dangerous diseases.

Humane treatment must and will be given aliens seeking admission to the United States, but it is the firm belief of the bureau and department that efforts to detect undesirables of all classes, physical, mental, and moral, ought to be increased rather than diminished. This, however, can not be accomplished without adding to the alleged hardships which immigrants now undergo, and in view of the prevailing, although unwarranted, criticism to which the service is now being subjected,



the bureau and department naturally hesitate to undertake a more adequate enforcement of the law.

The per centum limit law has admittedly resulted in hardship to many immigrants and bitter disappointment to their relatives and friends already in the United States. Moreover, it has seriously interfered with certain business and other interests who desire an ample supply of cheap labor, and it is well known that in the days of free immigration an alien was usually given preference in the matter of employment, although Americans were unemployed. Even now, when so large a number of our people are out of work, it is noticeable that a very large proportion of the aliens who are admitted find work almost immediately. Obviously this means that many Americans, and even ex-service men, are either displaced or are unable to find work. It should be considered that Congress enacted this law as the substitute for the total suspension of immigration and that a very radical restriction of the promised influx from Europe is the deliberately adopted policy of the Government.

It is easy to understand why the interests just referred to object to the law, and it is not strange that every possible effort to discredit it should be made, but it is most difficult to comprehend why Americans and American newspapers accept as the fact every derogatory criticism that is hurled at the Immigration Service, without making the slightest effort to ascertain whether the accusations are true or false, thus making it extremely difficult to enforce laws which at this time clearly are necessary to the welfare of the Nation.

While it is in my hands I assure you that no stone will be left unturned to make the Immigration Service of this country as nearly ideal as it is possible to make it. As long as I am Secretary of Labor I shall endeavor to extend to every immigrant arriving at our gates and admissible a cordial welcome to the country.

Conditions have vastly improved since we took office. There has been especially a marked improvement during the past few weeks, as is evidenced from letters, dated November 5 and 12, from Mr. Howard V. Yergin, a lecturer at Columbia University, copies of which I am inclosing herewith. The first was written by Mr. Yergin before he had had first-hand information as to present conditions at Ellis Island, and shows that he also was of the opinion that conditions were intolerable, as unfortunately has been the impression throughout the country. The latter letter, written after this gentleman had visited the island and was acquainted with the actual conditions, indicates how completely he had a change of heart.

Sincerely, yours,

JAMES J. DAVIS,  
Secretary of Labor.

THE AMERICAN PARISH,  
New York City, November 5, 1921.

MR. ROBERT E. TOD,  
Commissioner of Immigration,  
Ellis Island, New York City.

DEAR SIR: For the past four years, in addition to my direct work with the immigrants under the Presbyterian Church, I have lectured at Teachers College of Columbia University on various phases of the immigrant problem. This year, under the direction of the New York State Department of Education, I am lecturing in extension courses in Elmira and Binghamton, upon immigrant backgrounds and conditions.

I have visited Ellis Island many times, both alone and with my classes from Columbia. Our last visit was a week ago Friday. Conditions seem to be so intolerable there, as I observed and heard of them from immigrants who have passed through the island, that I have been calling attention to these conditions in various public speeches, in my classes, and elsewhere. Last night before a committee of the Kiwanis Club in Binghamton I informally spoke of the bad conditions at the island, due to various causes; as result I am asked to return in two weeks and address the whole Kiwanis Club and also the Rotary Club of that city and probably of Elmira.

It is easy to criticize and find fault; it is still easier to misrepresent, unintentionally. Because I believe that the blame for conditions at the island rests more largely with the United States Government, particularly Congress, than with the failures of past commissioners, I feel that if men of the type of Rotary and Kiwanis can be interested in the problems some results may be obtained. I am anxious to speak fairly and authoritatively. Would it therefore be possible for you to grant me a few moments of your very valuable time during the week of November 7 (except on Monday and Wednesday mornings and Thursday afternoons, when I have fixed engagements at the university) in order that I may learn just how far and in what way I and others like me and such groups as Kiwanis and Rotary, can be of any service to you in your attempt to better the treatment accorded the immigrant at Ellis Island?

Pardon the lengthy prelude to my request, but I do not like to intrude on a busy man's time without justifying myself in so doing.

Very truly, yours,

HOWARD V. YERGIN.

THE AMERICAN PARISH,  
New York City, November 12, 1921.

Commissioner ROBERT E. TOD,  
Ellis Island, New York City.

MY DEAR COMMISSIONER TOD: I wish to thank you most sincerely for your courtesy in giving to me so much of your own time at Ellis Island on Thursday morning, and also for the time and interest which Mr. Sherman gave in showing me about the island and explaining the situation so clearly. I did not return to see you after the trip through the island, because of the necessity of having lunch and leaving on the next boat in order to keep an engagement in New York.

I have gained an entirely new viewpoint toward the enormous problems you have to face. I have learned, as I suspected I might, that some of the problems that we laymen on the outside would settle so easily and rapidly are so far-reaching in their complications that any solution can be arrived at only through long processes of patient work and negotiations—I am thinking in especial of the project of giving to our Consular Service abroad the power of examination for entry before the emigrant leaves his home country.

There seemed to be a new spirit on the island, a totally different one from that which I felt on my last visit with a class from Columbia only three weeks ago. In a few cases I observed what might appear roughness and unnecessary harshness, but in many others I noticed genuine courtesy toward the immigrants. You have accomplished much, apparently, in a very short time in the way of improving morale and arousing a right spirit among the workers.

I refrain from offering suggestions, for I have come back greatly heartened because of my conversation with you, and of what I saw and heard on the island. You must know whatever difficulties there are much better than I, and therefore know the remedy, if there is one, better than I.

I rejoice that I can carry a message of hope to the audiences I address. I wish that I might do more to aid you in the gigantic task ahead of you.

With every wish and prayer for your success in handling aright the problems that face you, I am  
Very sincerely, yours,

HOWARD V. YERGIN.

#### ADDITIONAL PAGES FOR SENATE CHAMBER.

Mr. CALDER submitted the following resolution (S. Res. 175), which was referred to the Committee to Audit and Control the Contingent Expenses of the Senate:

*Resolved*, That the Sergeant at Arms of the Senate be, and he hereby is, authorized and directed to employ five additional pages for the Senate Chamber at \$3 per day each from the 1st day of December, 1921, to the end of the second session of the Sixty-seventh Congress, to be paid from the miscellaneous items of the contingent fund of the Senate.

#### HOUSE BILL AND JOINT RESOLUTIONS REFERRED.

The following bill and joint resolutions were severally read twice by title and referred as indicated below:

H. R. 8346. A bill granting the consent of Congress to the board of supervisors of Whiteside County, Ill., to construct a bridge across Rock River; to the Committee on Commerce.

H. J. Res. 210. Joint resolution for the appointment of one member of the board of managers of the National Home for Disabled Volunteer Soldiers; to the Committee on Military Affairs.

H. J. Res. 225. Joint resolution authorizing payment of the salaries of officers and employees of Congress for November, 1921, on the 23d day of said month; to the Committee on Appropriations.

#### TAX REVISION—CONFERENCE REPORT.

The Senate resumed the consideration of the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 8245) to reduce and equalize taxation, to amend and simplify the revenue act of 1918, and for other purposes.

THE VICE PRESIDENT. The question is on agreeing to the conference report on the revenue bill.

Mr. PENROSE. I have no speech to make on the conference report. Does the representative of the minority desire to speak on the measure?

Mr. SIMMONS. If the Senator does not desire to make any statement, I do.

Mr. PENROSE. I have a statement here that I would be very glad to have the Secretary read or to have printed in the Record without reading.

Mr. SIMMONS. Just as the Senator wishes.

Mr. HITCHCOCK. Let us have it read.

Mr. PENROSE. I ask for the reading of the statement which I send to the desk.

THE VICE PRESIDENT. Without objection, the Secretary will read as requested.

The reading clerk read as follows:

form of the House bill and modified its substance in many im-

The revenue bill as it passed the Senate entirely changed the pertinent provisions. The Senate amendments number 833. Of these, the conference committee recommend that the Senate recede in the case of 7 amendments, that the House recede in the case of 760 amendments, and that the House recede with amendments in 66 cases.

Income-tax rates: On the vital question of income-tax rates an adjustment in the nature of a compromise is recommended. The manager on the part of the House accepted (under instructions) the Senate schedule of surtax rates applicable to individuals. The Senate conferees, in return, accepted the House rate of 12½ per cent applicable to corporations. This reduction of 2½ per cent from the proposed Senate rate on corporations will reduce the tax burden on business—and correspondingly reduce the revenue in the first instance—by \$110,000,000 a year. Fortunately, the reduction is covered or justified by further economies in the expenditures for the current fiscal year recently arranged for and announced by President Harding in his letter of November 1, 1921, and to which I shall refer later. The lower rate will be particularly reassuring to public utility companies and thousands of other corporations which are now earning only 3 or 4 per cent, or less, on the capital invested. And the 12½ per cent rate is a fair equivalent, or more than an equal equivalent, for the taxes paid by individuals and in effect by partnerships. More than 99 per cent of those who pay the individual as distinguished from the corporation tax will pay less than 12½ per cent on their net income under the bill as recommended, whereas the stockholders of corporations will pay 12½ per cent

through the corporation and in addition surtaxes on that part of the corporation's profit which is distributed.

The recommendations regarding the corporation rate must be considered in connection with other recommendations affecting corporations. The Senate proposal to repeal or withdraw the specific exemption of \$2,000 in the case of corporations having net incomes in excess of \$25,000 was accepted by the House conferees. And, as part of the same general compromise, the Senate conferees agreed to that provision of the House bill which debars or excludes corporations from the benefits of a reduced rate on capital gains. The Senate plan in effect taxed capital gains at 40 per cent of the rates applicable to ordinary or other income. This would have meant in the case of individuals a maximum tax on capital gains of over 23 per cent—that is, 40 per cent of the maximum individual tax of 58 per cent. A tax of 23 per cent is high enough to freeze up or prevent capital transactions of the kind which, for the sake of the revenue, it is desired to encourage. But in the case of corporations the Senate method would have taxed capital gains at only 5 per cent—that is, 40 per cent of the corporation tax of 12½ per cent. This discrimination or difference between the individual and corporation taxes on capital gains impressed the conferees as extreme; and accordingly—in consideration of the lower rate of 12½ per cent on ordinary corporation income—it is recommended that the privilege of paying a reduced rate on capital gains be confined, as in the House bill, to individuals; and that individuals electing to utilize this provision be permitted to include in capital gains profits derived from the sale of stock in corporations. On the other hand, the capital-gain provisions as agreed to in conference depart from the House plan in allowing full and complete deduction for capital losses. Finally, the conference plan will, if adopted, greatly simplify the administration of this new and intricate provision of the income tax.

Estate tax: On two important amendments to the estate-tax title the managers on the part of the Senate were finally compelled to yield to the persuasive arguments and persistent demands of the House conferees. In Senate amendment No. 582 the estate-tax rates were increased by four new brackets, raising the present maximum rate of 25 per cent to 50 per cent. These increased rates, it was shown, could not bring in any additional revenue before the fiscal year 1924, and they would, if adopted, so stimulate the distribution or partition of estates before death and so break the values of the assets found in the larger estates, when sold in sufficient quantity to pay these heavy taxes, as actually to reduce the collections. Moreover, it developed upon examination that the State inheritance taxes in some Commonwealths now exceed 25 per cent, and that double or multiple taxation under State inheritance taxes is rapidly increasing. The Senate conferees therefore agreed to recommend the retention of the rates as found in existing law.

A similar attitude was taken toward the proposed graduated tax on gifts. It would add in effect an entirely new tax to the present unduly extended system of Federal taxes. Moreover, gifts in contemplation of death are taxed under existing law, and in section 202(a) (2) of the proposed new revenue act both the House and Senate have approved a new provision by which in the case of property acquired by gift the basis for computing gain or loss shall be the same as that which the property would have in the hands of the donor or the last preceding owner by whom it was not acquired by gift. This new provision will, it is believed, go far to prevent evasion of the income tax through the device of gifts inter vivos. In view of its incorporation in the law it was deemed unwise to experiment with more extreme measures and to penalize by the imposition of a new and difficult tax that distribution of fortunes, particularly the so-called "swollen fortunes," which advocates of heavy inheritance or estate taxation usually assert to be the chief aim and purpose of estate or inheritance taxation.

Taxes on alcoholic beverages: The House bill made only slight changes in the existing taxes upon alcoholic beverages, but the Senate amendments contain a number of new administrative provisions and new taxes of 60 cents per wine gallon on intoxicating malt liquors, \$1.20 per wine gallon upon all vinous liquors, and \$6.40 per proof gallon upon all distilled spirits except alcohol. It appeared upon examination that the Senate provisions would not only impose a heavy new tax upon whisky withdrawn for medicinal purposes but that they would discriminate in favor of alcohol and against whisky or wine in a number of uses both legitimate and illegitimate. For these and allied reasons the simpler provisions of the House bill are recommended.

Other amendments: Other amendments on which it is recommended that the Senate recede or accept modifications adopting substantially the provisions of the House bill are found in provisions (1) repealing the nuisance tax on cosmetics and toilet

articles; (2) ignoring gain or loss in trades or exchanges when property held for investment is exchanged for property of a like kind or use; (3) exempting the income of nonresident aliens or foreign corporations which consists exclusively of earnings derived from the operation of ships documented under the laws of a country which grants equivalent exemption to United States citizens and corporations; (4) exempting for a period of five years dividends and interest not in excess of \$300 received from domestic building and loan associations operated exclusively for the purpose of making loans to members; and (5) recognizing bona fide amortization claims not only if made at the time of filing returns for 1918 and 1919 but if filed in connection with the returns for the taxable years 1920 and 1921.

In a far larger number of even more important provisions the managers on the part of the House accepted the Senate amendments. Thus the Senate amendments relating to foreign traders and foreign-trade corporations; dividends and distributions made from profits accumulated or increase in value accrued prior to March 1, 1913; evasions of tax through stock dividends; gain derived or loss sustained in exchanges of property for property, particularly exchanges connected with reorganizations; the net loss allowance; the income of marital communities; the deduction for interest paid on indebtedness incurred or continued to purchase or carry Victory 3½ notes; the deductions for depreciation and for loss arising from destruction or damage in the case of property acquired prior to March 1, 1913; the credit or deduction for dividends in the case of foreign corporations which derive less than 50 per cent of their gross income from sources within the United States; reports by corporations of the portion of their earnings or profits distributed as dividends; the period of time during which taxpayers may file claims for refund or bring suit for the recovery of taxes illegally or erroneously collected; the payment of interest on claims for refund or credit allowed to the taxpayer; and the taxation of citizens and domestic corporations whose principal business is conducted in the Philippine Islands or Porto Rico. These represent only a few of the important Senate amendments upon which the House conferees have receded; and it will be found upon examination that among this large number of changes made by the Senate in which the House has acquiesced the provisions are about equally divided between those which protect the taxpayer against harsh or unjust applications of the law and those which protect the Treasury against practices or devices which unfairly reduce the revenue.

Revenue and expenditure: The revenue act of 1921 is properly denominated "An act to reduce taxation." The act as agreed to in conference will produce, it is estimated, \$728,900,000 less than the present law would produce for the first fiscal year during which it is in full operation, and thereafter—when collections from the excess-profits tax wholly cease—the annual reduction of the tax burden will be even greater.

The net change effected by the conference recommendations, however, is not great. The act as passed by the Senate would produce, it is estimated, \$3,242,730,000 in the fiscal year 1922 and \$2,717,280,000 in the fiscal year 1923. As agreed to in conference it will, if adopted, yield \$3,216,100,000 in the fiscal year 1922 and \$2,611,100,000 in the fiscal year 1923. The net reduction caused by changes made in conference, therefore, is only \$26,630,000 for the fiscal year 1922 and \$106,180,000 for the fiscal year 1923.

These reductions are entirely consistent with a prudent and conservative financial program for the future. When the new revenue bill was first presented to the Senate the estimates of expenditures for the fiscal year ending June 30, 1922, made it necessary to raise from internal taxes \$3,272,000,000. Since that time, however, the estimates of expenditures have been decreased by one important item and increased by another. The decrease arises in connection with the special railroad expenditures in settlement of claims arising under Federal control. President Harding has recently announced that it will be possible to meet special railroad expenditures in an amount of \$94,000,000, not hitherto counted upon, from the proceeds of the sale of equipment notes and other railroad obligations held by the Government. On the other hand, the good roads bill recently approved provides additional appropriation of \$90,000,000, of which about \$80,000,000 will be available during this fiscal year, but of which, however, only about \$20,000,000, it is estimated, will be expended during this fiscal year. The budget of expenditures for the fiscal year 1922, therefore, is reduced by \$94,000,000 and increased by \$20,000,000, a net reduction of \$74,000,000. Taking into account this reduction of \$74,000,000, it becomes necessary to raise, in round figures, only \$3,200,000,000 by internal taxes during the fiscal year 1922. As already stated, the revenue bill agreed to in conference will yield during the current fiscal year, if adopted, \$3,216,100,000,



or approximately \$16,000,000 in excess of the estimated requirements.

It is not possible at this time to make an accurate forecast of the expenditures for the fiscal year 1923, but it is as certain as forecasts of this kind can be made that the special railroad expenditures during the fiscal year 1923 will be very largely reduced; and that other material economies or reductions will be effected not only by the Bureau of the Budget but as a result of the disarmament conference now in session. Taking into account these reductions, the probable increase in the customs collections, and the gradual emergence of the country from the depression from which we are now suffering, I have no doubt that the new revenue bill will supply for the fiscal year 1923 the full amount that must under the budget be derived from internal taxes.

It need not be feared that we shall fail to levy sufficient taxes. The deliberate purpose of the revenue bill is to compel economy in expenditures by restricting taxation. The bill is based on the conviction that this is a time to economize and retrench; to reduce taxes and not to juggle or manipulate taxes. The Republican conferees have accepted as their first duty the task of raising in taxes enough revenue to pay, without borrowing, all the ordinary expenditures of the Government. They have, however, gone further than that. They have proposed taxes sufficient to cover not only the ordinary expenditures of the Government but to provide in addition \$265,754,865 to be used through the sinking fund for the reduction of the public debt. Beyond that point, however, it was not thought wise to go. This is no time to impose—beyond the amount required to meet current expenses and maintain the sinking fund—new or additional taxes. It is a fitting time to halt expenditures by refusing to vote taxes.

Due provision has been made for reduction of the public debt. The budget of expenditures which the new tax bill is designed to balance and in greater part to cover authorizes expenditures for the extinguishment of public debt amounting in all to \$381,354,865, the details of which may be found in the statements or letters of the Secretary of the Treasury, dated August 4, 1921, and August 10, 1921. In the face of this program involving debt reduction of \$381,354,865, which figure does not include the \$170,000,000 hereafter mentioned, the bill will be attacked by Democratic critics for not providing enough taxes, as it has been attacked in the past because it is proposed to refund, or to meet from loans, maturing debt obligations in the amount of \$170,000,000—debts contracted by a Democratic administration, the proceeds of which were spent by a Democratic administration, but the burden of which must be borne by a Republican administration. The Democrats sneer at our efforts to save, criticize executive heads for promises to live well within their appropriations, and by inevitable inference spur the administration to spend more money and levy heavier taxes.

The revenue act of 1921 is a transitional or temporary measure. It does not place the tax system on a stable or scientific basis. But it is better than the law which it will supersede because of the reduction of the tax burden and the technical or administrative improvements which it effects. It repeals outright transportation and miscellaneous sales or nuisance taxes which in the fiscal year 1921 yielded \$326,630,266; and it reduces taxes on soft drinks, admissions, candy, and so forth, which produced \$196,482,943 in the fiscal year 1921 to an annual yield of \$127,400,000. The miscellaneous consumption or sales taxes have been reduced in all \$395,713,209 or, ignoring tobacco and alcoholic liquors, by more than one-half. This alone would make the bill worthy of adoption. It is, as has been said, a temporary measure. But nothing better than a temporary measure will be possible until the people of this country give to the question of Federal taxation an amount and kind of study which it has not yet received; until, in particular, the people become convinced of the sincerity and truth of the contention that the proposal to reduce excessive tax rates is not designed to relieve the rich and the profiteer, but to avert the breakdown of the income tax, unshackle business, and increase the tax revenue.

Mr. PENROSE. Mr. President, at whatever length I might address the Senate, I do not know that I could add to the statement concisely set forth in the paper just read. The effort has been made to put in a concise form the results embodied in the report and in the work of the majority of the Finance Committee, as ultimately agreed to by the conferees representing the two bodies of Congress.

In my opinion the bill at first glance will fail to meet the expectations and requirements of many people; but I make the prediction that in the long run the measure will be found to be substantially good. It contains many excellent provisions for

the relief of the taxpayer and the alleviation or removal of inequitable and unequal conditions. I know that as these relief provisions are learned, and the taxpayer becomes familiar with them, they will be greatly appreciated.

Mr. President, the measure as set forth in the statement is calculated to raise substantially the revenue required. Neither the productive powers of the bill nor the requirements of the Government can be gauged with mathematical certainty; but substantially I feel that it is safe for the Congress to go on with this bill as calculated to meet all emergencies.

I shall not at this time detain the Senate further. I know that at last the conclusion has been reached that this body might as well pass this bill and adjourn, and that there is a strong desire on the part of the House and the Senate for an adjournment; and unless occasion should require something further I am perfectly willing to stand on the statement which has just been read, and which will be printed in the RECORD.

Mr. HARRISON. Mr. President, will the Senator yield.

Mr. PENROSE. I yield.

Mr. HARRISON. I have had some communications about certain witnesses before the Finance Committee on the tariff bill. May I ask whether the committee is to have hearings during the vacation on the tariff bill?

Mr. PENROSE. The committee have not definitely determined the question of hearings, because they have not yet been informed as to the wishes of those who may desire to appear before the committee. I am informed, however, that the majority of the members of the committee will remain in Washington, and are perfectly ready to go on with the hearings if the persons interested in the schedules are ready to come forward during the vacation.

Mr. HARRISON. The Senator can not give us any idea at this time as to when the tariff bill will be reported out?

Mr. PENROSE. No; I can not. The effort of the committee is to keep the hearings down to a minimum, and to have them as brief and concise as is possible. The Senator, from his long experience, knows what that effort is. The committee is ready, however, to sit every day and all day from now on. There has been some interruption on account of this bill; but that is over now, and the tariff bill will be proceeded with.

Mr. SIMMONS. Mr. President, I am going to ask the indulgence of the Senate, because my physical condition is such that I feel hardly able to discuss this matter at all, and I would not discuss it but for the fact that I was the only minority conferee who attended the sessions of the conference.

It is not my purpose to discuss again the merits or demerits of this measure. These, I think, have been sufficiently threshed out upon the floor of the Senate, and I am glad to believe that the country now understands the general character of this measure. I am satisfied that as a result of the discussion which has taken place heretofore the country understands that this is a measure framed in the interest of corporations and big business, rather than in the interest of the masses of the people. It is my purpose to discuss the measure again, at some other time, especially after it gets into operation, for I believe that as soon as it is put into operation its defects, its incongruities, its inconsistencies, its injustices, and its inequities will be made more manifest to the people than they are now. All I desire to discuss to-day are the Senate amendments, the fate they met in conference, and the changes made by the conferees in the bill as it left the Senate.

There were several hundred amendments adopted in the Senate. Most of those amendments, however, were formal and clerical. There were probably 50 or 60 or more amendments which affected matters of administration. Those were discussed but very little in the Senate, and were generally adopted without objection. They were amendments brought to the committee by the experts of the Treasury Department, especially by that distinguished scholar and master of the subject of revenue, Dr. Adams, representing the Secretary of the Treasury, as I understood and as the committee, I think, understood. Those amendments were generally drafted outside of the committee, brought to the committee, explained, and accepted, of course not all of them, but generally they were accepted. A number of them were redrafted after some discussion tending to develop the opinion of the committee with reference to them.

I can not say, and I think no member of the committee will say, that those administrative amendments were as thoroughly comprehended by the membership of the committee as they should have been, because they were exceedingly technical, in the first place, and in the second place, the members of the committee from the beginning of its work in drafting this bill were constantly under whip and spur. Though we had been in extraordinary session for five or six months, and nothing had been

done in the way of redeeming the Republican pledges to the people of immediate relief from taxes, we were urged in the last minute, after that long delay, to proceed with haste and expedition, and for that reason these amendments were not given the consideration which they should have had.

I do not say, with respect to any of these amendments, that the members of the committee were misled, purposely or otherwise; I would not say that. But, Mr. President, I do feel that with respect to these administrative amendments we shall find, upon their application, that they contain many provisions vitally affecting the ultimate sums the taxpayers will have to pay which escaped our attention, and which will probably in some instances reduce the taxes of certain taxpayers more than the committee would have consented to reduce them, and increase the taxes of others more than the committee would have consented to increase them had the effect of these provisions been fully understood.

I had hoped, when we began this revision, that we would have abundant time for consideration of every provision of the bill which might vitally affect the interests of the taxpayer. I think the taxpayers of the country had the right to ask that much of us, and I think it is a matter of extreme regret that this measure, which the country was told was going to be thoroughgoing and scientific and equitable and just, was brought to us so late that we had to act upon it with such haste as to make it impossible to give that consideration to it which the importance of the matter demanded.

The Senator from Pennsylvania [Mr. PENROSE] in the statement which he has just caused to be read by the clerk says the bill is a makeshift. If it is a makeshift with reference to its taxing features, which are plain and simple, and can be easily understood, it must be a worse makeshift with reference to those provisions which are difficult to understand, which are technical, and which in many instances mean so much in their effect upon the burden which will ultimately have to be assumed by the taxpayers.

It is not such a measure with respect even to the quality of certainty, to the quality of consistency, to the quality of equalization of the burden of taxation, as the people of this country have been promised by the dominant party. So plain is this, that when we had finished our deliberations even prominent Republican majority members of the conference could not conceal their disgust for the bill and could not refrain from expressing doubts as to whether it would be preferable to the present law.

I wanted to say that much about the administrative features. I am very much afraid of them. I hope the Senate will never again have to act upon such important matters with the speed and with such lack of that deliberation which characterizes, and ought to characterize, this great law-making body, as was exhibited in this instance.

I want to speak briefly about the result of the conference, and I say right at the threshold that the bill as it was brought into the Senate by the committee was, in its vital features, much improved and bettered by the amendments which the Senate placed upon it, not amendments which the Senate placed upon it with the voluntary consent of the majority, but amendments which the Senate placed upon it through the cooperation of the Democrats on this side of the Chamber with a certain element on the majority side who are closer to the people than the dominant element which controls the organization on the other side. But for that cooperation, in which the controlling element over there, known as the old guard, was occasionally forced to join, the bill as it passed the Senate of the United States would have been a much worse bill even than it was.

I did fear, when that measure went to conference, that the stage was set for the slaughter of these beneficent amendments which had so greatly improved the bill. I am sorry to say that that would possibly have been the fate of this bill in conference; that there were many signs and indications that that would have been the fate of this bill in conference, but for coercive influences, in some instances from the outside, and but for the facts which were marshaled and presented which could not be disputed, which had to be accepted, and being accepted, made it impossible for the majority members of the conference to deal with some of these amendments as they would have liked to deal with them.

But, Mr. President, I am glad to say that as the result of those influences and that pressure the amendments placed upon the bill by the cooperation which I have mentioned have not all been slaughtered. Three or four of them have been slaughtered, but the larger number of them have been retained. I congratulate the country that so much was saved. I was there every hour of the time, and I know the sentiment and the desires which permeated the controlling element of that committee. I

know that if they could have had their way, all or practically all of the Senate amendments would have gone the way of the three or four to which I have referred.

Let me enumerate briefly some of the important amendments made in the Senate which were retained in conference.

In the first place, upon the very threshold of our discussion in the Senate the distinguished Senator from Minnesota [Mr. KELLOGG] brought to the attention of the Senate a very grave matter with reference to one of the principal provisions of the bill. That related to the distribution of assets representing earnings accumulated before 1913. The Senate amendments with respect to that matter have been retained in the main, not altogether; but as that particular provision of the bill comes back to the Senate it is made clear that the decision of the Supreme Court as to the constitutional rights of the citizen with respect to income earned before the adoption of the income-tax amendment to the Constitution shall not be ignored even by the most anxious Secretary of the Treasury or Commissioner of Internal Revenue, and that those constitutional rights shall not be denied and that income, directly or indirectly, by evasion or by juggling, in violation of the fundamental law of the land, and the decision of its highest court, be made to pay a tax to the Federal Government.

I know how eagerly the Treasury Department, pressed for money, pressed for revenue to meet the obligations of the Government, seeks to add to its store of funds. I can perhaps pardon that department for sending to the committee through its experts the amendment which thinly veiled the purpose to subject this income to taxation in the interest of revenue. I am pleased to say that the conference report upon this important subject is entirely satisfactory and effectually protects from this outrage upon their rights the owners of this income.

I shall only discuss those amendments which, because they are vital matters, formed the subject of earnest discussion here upon the floor of the Senate. There are some matters of consequence that did not attract any attention upon the floor of the Senate. I am not going to consider them at all. I have only selected those outstanding amendments which we discussed here and which we added to the bill, for they were the principal issues with which the conference had to deal. The other things were matters of relatively small consequence, most of them being unobjectionable, and if anything was done as to them it was in the main simply in the interest of clarity.

One of the big questions which arose in the beginning of the deliberations of the Senate upon this measure grew out of the provision in the House bill exempting from taxation foreign traders and domestic corporations engaged in foreign trade, 80 per cent of whose business was done abroad or whose income was derived from business done abroad. How that amendment got into the bill in the House I can not understand, but I do understand that the amendment affected a great and powerful corporate interest in this country, and I do understand and the people know that the party in power is exceedingly anxious, as the bill in all of its features touching corporations shows, to favor the corporations wherever it can, and in dealing out its favors pays but scant attention to the interests of the people as a whole as they may be affected by giving these favors to the few.

That provision was in the bill, but I do not know whence it came. I can not believe that the members of the committee of the House, representing the popular branch of our Government, of their own mind and conception deliberately proposed to give that gratuity to some of the richest and most powerful corporations, who have been heretofore and are now profiteering to as great an extent as any others engaged in business of any kind in the United States. I do not believe that. That provision came from "higher up." That proposition came from some source profoundly interested in advancing the interests of consolidated, coordinated, combined, and predatory wealth. Well, we had a battle royal here over it and by a bare majority we struck it out.

The more I thought about that proposition the more it aroused me. I was keenly apprehensive that in the conference the Senate action would be summarily reversed. I had neglected to advise myself up to the time of the vote with reference to the effect of this provision upon the finances of the Government and exactly what it would mean to those corporations, which would be its beneficiaries. I began to investigate that. I got the facts, and the facts were startling. I say to the Senate to-day that if that provision had been agreed to by the conference committee as it came to us from the House it would have been nothing more or less than a present out of the Treasury of the United States to the great, powerful corporations who control our foreign commerce, sell our exports abroad, and buy our



imports abroad, to say nothing about the great international bankers, of something near \$300,000,000.

Mr. President, when this matter came up in the conference—I must say it, because it ought to be said—I know but one friend which that Senate amendment had among the conferees on the part of the Senate. It seemed destined to go where the woodbine twineth. I brought to the attention of that conference the calculations of Mr. McCoy, the Government actuary, which I now have before me, with reference to how much revenue would be lost from the Treasury and what a royal gift it would constitute to those corporations engaged in that trade, and, the manifest purpose of the conferees with respect to this amendment was suddenly changed. And so the Senate's action safeguarding the rights of the people in this respect, protecting the interests of the Treasury, refusing to permit this donation to a favored few, was approved and agreed to in conference.

The great fight that was made in behalf of that amendment was made by the Senator from Wisconsin [Mr. LA FOLLETTE]. I seconded him with all of my power, and he is entitled, as are the Senate of the United States and the House of Representatives of the United States and the people of the United States, to be congratulated that this amendment was saved from the slaughter which had been prepared for it.

Mr. LA FOLLETTE. What was the amount of the saving to which the Senator refers?

Mr. SIMMONS. It was estimated at \$300,000,000. Mr. McCoy tells me this morning, however, that that estimate was based upon a certain conjectural situation, but, fully discounting that conjectural situation, he tells me it could not be, in his judgment, less than \$200,000,000.

One of the questions which was discussed here to a very great extent was a provision which the House had incorporated in the bill continuing the capital-stock tax upon corporations. The bill came to the Senate in that shape, and yet, Mr. President, so eager were the majority members of the committee to cut down the taxes of the corporations that they almost incontinently in committee struck out the House provision carrying \$75,000,000 of tax upon the stock of the corporations of the United States. Every Senator here knows what a fight I and others had upon the floor to prevent the old guard from having their way with respect to that amendment. We won the fight. Of course, we struck the amendment out, and the matter was not in conference. The capital-stock tax had to stay, and it did stay. I am only referring to it now for the purpose of showing that among the good things that the Democrats and the agricultural and progressive bloc protected from destruction in some instances upon the floor, and in other instances put into the bill, this was one of the things which they protected upon the floor and put beyond the reach of the conferees. That was a good piece of work, Mr. President.

Then it will be remembered that I offered many amendments, one of them being to restore the capital-stock tax, to which I have just referred; another one to repeal the \$2,000 exemption given to corporations under the present law. That was one of the amendments which the so-called bloc on the other side dealt with. I do not mean to say they dealt with my amendment, but they dealt with a substitute for my amendment. They dealt with it in a sympathetic spirit, as they dealt with the capital-stock tax amendment in a sympathetic spirit, and as they dealt with the other amendments which I offered in a sympathetic spirit. Where they did not deal with those amendments they dealt with the subject. It is no remarkable thing that men who are at heart in favor of equal rights to all men and the distribution of the burdens of Government according to the ability of men to pay should act together. It is nothing strange that that class of men on the other side of the Chamber in a fight like this, when the purpose of the majority was made so plain and so patent, should have joined together to save the interests of the people from destruction and made this bill, which was unspeakably bad in the first instance, at least as to some parts of it, tolerable. The agricultural and progressive bloc presented for this amendment a substitute limiting the exemption to corporations whose income did not exceed \$25,000. While logically I do not see the reason of that exception from the general rule, I acquiesced in it, because I saw that the small corporations under the spirit in which the majority members were handling this subject were being discriminated against in favor of the larger corporations, making a group within a group to which this discriminative principle was being applied. For this reason I consented to the modification.

Mr. President, in conference, notwithstanding that amendment occupied an advanced position over the amendment which increased the corporate income tax from 12½ to 15 per cent, when it was reached it was received coldly and action upon it deferred until the latter amendment was reached and

disposed of. It was evident that its fate was in the balance, because it would have imposed a tax of \$30,000,000 upon the corporations to which they would otherwise not be subject. It was put aside, and not taken up again until after we had reached and disposed of the corporate income tax, cutting off one-half of the increase which had been made, giving back to the corporations \$140,000,000 which the Senate had imposed upon them to recoup partially—and only partially—the tremendous load that had been taken off of their backs by the repeal of the excess-profits tax. After the corporation income tax amendment of the Senate had been duly assassinated and laid out and the last ceremonies had been performed and the burial completed, they took this amendment up and graciously consented to it. They could not well do anything else, for, if they had taken that off, after taking off the excess-profits tax and the 2½ per cent additional tax which the Senate imposed, they would have given the corporations pretty much all of the reductions made in this bill, outside of those which pertain to the transportation taxes and the miscellaneous taxes. That was saved, Mr. President, but it was saved because the axmen felt that it would be indecent to cut down this little sapling after they had cut down this great tree right by the side of it; they apprehended that it might be looked upon as a complete surrender to the corporations. They therefore desisted.

As to the transportation tax, that was not in conference, and, of course, its repeal had to be agreed to. That is another tax that has been lifted from the shoulders of the great consuming masses of this country by means of the cooperation between these same elements whose hearts beat in unison with the interests of the masses and who interfered on the floor of the Senate and would not permit the adoption of the amendment of the Finance Committee, which would have reimposed one-half of the transportation tax which the Representatives of the people in the other branch of the Congress had taken off. Fortunately, by the cooperation of these groups to which I have referred, we put that amendment beyond the reach of the sword of the element that controls in the Finance Committee and that in the main controlled the conference.

Mr. President, I am enumerating now things that we did here that have not been touched. I want the Senate and I want the country to understand that we—a part of the Republican Party and most of the Democratic Party—put in the bill these things that mean so much to the taxpayers of this country, and we have kept them in the bill, but not without a struggle that sometimes was almost desperate.

Now, I come to the next amendment that was saved, and that is the surtax amendment.

Around that amendment most of the discussion which took place with reference to incomes revolved. Does anybody doubt what would have been the fate of that amendment but for the insistence and demand of 21 or 22 strong, stout hearts over there, spoken of derisively as the agricultural bloc or the progressive bloc—some sort of a bloc in the Republican Party which the old guard would spurn and ostracize if it dared? Is there anybody here or in the country who believes that the reactionary crowd that controls the Finance Committee, thoroughly committed to the House provision of 32 per cent, ever would have yielded to that amendment if they had not been confronted by that hard and insurmountable rule of the necessity of things? They surrendered because they were beaten, and they knew it; but, oh, my friends, I fear—I dislike to say it—I fear that that surrender carried with it a mental reservation. Yea, Mr. President, if we are to interpret the thoughts of men by their actions, I know that there was a mental reservation.

Here was a hard-fought-out amendment in the interest of the people—an amendment made for the purpose of changing a provision of the bill that made a dead line at an income of \$66,000, that deliberately selected the income that represents the ordinary commercial interest upon an investment of a million dollars and made a line upon one side of which were arrayed the millionaires, and upon the other side no man whose income was beyond and above \$66,000. It lifted the bulk of the surtax imposed in the present law off of this millionaire class and took practically nothing off of the surtaxes of those below that millionaire line. The amendment upon which the aggressive and progressive forces of the other side of this Chamber were lined up with this side of the Chamber removed these inequalities by materially reducing the tax which the man whose income is below \$66,000 would have to pay, and properly and justly adding a reasonable amount to the 32 per cent surtaxes upon the men who have accumulated their millions of dollars. Many of them either accumulated them during the war, when profiteering was rife and when they marched to the head of the column of profiteers, or they multi-

plied them then. They, more than any other class of the people of this country, have profited financially by the war; and this attempt, seconded by the Secretary of the Treasury, who even wanted the maximum surtax to go down to 25 per cent, seconded by the reactionary membership of the Finance Committee, was defeated in the Senate. It went to conference. That was the issue involved. The purpose of the amendment was to increase the surtax rate to a maximum of 50 per cent, or 2 per cent less than the amendment I had introduced. What was its fate in the conference committee?

Mr. President, I go not into details; I tell not what any man in the conference did; but I do say now and here that the subject of the amendment was hardly opened in the committee before there came, hot and quick, with the vehemence of earnest desire, a suggestion from the majority conferees on the part of the Senate that a compromise should be made and that the rate should be reduced to 40 per cent instead of 50, the maximum rate in the Senate amendment. What would have happened if they had just had the power, if it had not been for that wise precaution of the House, a body that did not trust its conferees upon this question as the Senate had trusted its conferees, who felt that in dealing with a question like this, in which the interests of the masses of the country were arrayed against the interests of the classes, it was necessary for those who favored this provision in the Senate amendment to safeguard it? They did safeguard it by forcing an agreement that it should be carried back to the House for a separate vote. The House seemed to anticipate concessions by the conferees, to scent surrender on the part of this body, and seemed to feel that with their conferees, probably representing the same element in the Republican Party there that the majority of the conferees on the part of the Senate represented, it was necessary that this precaution be taken; and it was this precaution that saved the Senate amendment.

You say that is a Democratic tax. You say that is the Democratic demagogue chasing the corporations and the rich. Yet, Mr. President, in the House of Representatives, in defiance of the appeals of the Republican leadership of that body, in the very face of the earnest and almost impassioned letter which the President of the United States caused to be read in that Chamber, nearly as many Republicans in the House, defying these influences, voted to sustain that amendment as did Democrats.

Enough of that. That is another of the good things that have been saved from the shambles.

There was the community-tax provision, in which a large number of Senators in this Chamber were interested. That passed the censorship of the conference. There were a number of others of the same character—not amendments that aroused the interest and discussion aroused by these that I have referred to—that were accepted. Among them was the amendment offered by the Senator from New Jersey [Mr. FRELINGHUYSEN] with reference to corporations and partnerships, to save the partnerships from the discrimination that this bill carries against them in favor of corporations, by permitting partnerships to incorporate retroactively. That was adopted, as was the amendment offered by my good friend from New Mexico [Mr. JONES] requiring corporations to make a statement of the distribution of their earnings, the sources of those earnings, and the character of those earnings; but every companion amendment of that, every amendment having for its object the same good purpose as the amendment of the Senator from New Mexico, was incontinently slaughtered. I will reach those amendments later.

Then there were some amendments of importance made by the Senate with reference to soft drinks, which I do not think it necessary to discuss, which were preserved. Then there was the amendment added by the Senate requiring the necessity for making returns to be based upon the gross income—the line being at the amount of \$5,000. That is an important amendment; not an amendment, however, which affected the purse strings of the capitalists. So it was adopted.

It is necessary for me to be brief because my strength, which was but scant when I began, has nearly gone.

There were certain amendments which were not so fortunate in conference as those to which I have referred, and I shall state them without further discussion, except as to the last one, which I feel compelled to discuss.

There was, first, the estate tax amendment that was offered by my friend the Senator from Massachusetts [Mr. WALSH].

I believe that amendment was adopted by the bloc. I think that was one of the amendments they presented to the majority members of the committee, whom they brought into rather hurried session.

Mr. LA FOLLETTE. If the Senator will permit, I think the 50 per cent tax, which was the maximum tax proposed in the amendment of the Senator from Massachusetts, as well as in the amendment which I proposed to offer, was adopted by the bloc and was a part of that agreement—

Mr. SIMMONS. That surrender arrangement?

Mr. LA FOLLETTE. It was not to attach to estates until they reached a much higher amount than the amount proposed in my amendment, and I think it was the amount proposed in the amendment of the Senator from Massachusetts which was adopted.

Mr. SIMMONS. However that may be, I am quite certain that it was considered primarily by the so-called bloc. I know many of them were deeply interested. That amendment was disagreed to. I hope the Senator from Massachusetts, the author of it, will discuss it. I have not the strength to undertake to discuss it now.

The next amendment was the gift amendment, offered by the junior Senator from Massachusetts [Mr. WALSH]. That was an amendment to which the Senate attached very great importance. We had a heated contest. The Senator from Massachusetts made one of the most brilliant speeches on that amendment that has been made in the Senate during this session of Congress, and as a result of that discussion, and the elucidation of the able Senator from Massachusetts, that amendment was adopted by a small majority. It went out in conference by a big majority. I think the Senator from Massachusetts may want to discuss it; I do not at this time.

The amendments relating to publicity of tax returns were next, one offered by the Senator from Missouri [Mr. REED] and one offered by the Senator from Wisconsin [Mr. LA FOLLETTE].

I want to say, as to the action of the conference committee on that subject, that they may have thought that perhaps their action was in the interest of some class of taxpayers, whose business operations and the amount of whose taxes should not be scrutinized by the public; but if that sort of reasoning led the conference committee to refuse to open the records to the public I am at a loss to understand why the committee wished to carry that principle of the absolute secrecy of the return of the taxpayer to the point of striking out the amendment of the Senator from Missouri [Mr. REED], which meant nothing except that a committee of the Senate or of the House should have the right to inspect taxpayers' records with reference to any matter within their jurisdiction, and which they were considering and debating, and even then not without a resolution of the Congress, authorizing them to make the inspection.

Why it is desired to put up bars against the Congress, clothed with the power of legislating with reference to taxation, clothed with the power of legislating to prevent evasions of taxation, with a solemn duty upon them to levy those taxes justly, and to see that they are not circumvented by trick or device or scheme or what not, I can not understand. I can not see why the conferees, representing the Congress, should provide for secrecy of these returns, many of them notoriously false and fraudulent and reeking with perjury, as has been shown by the fact that the scrutiny of these returns has resulted in their being checked up, and millions piled on millions in taxes, like Pelion on Ossa piled, have been recovered. Why, with this solemn duty resting upon us, we should deny ourselves, when we are dealing with this subject, the right to examine those returns is more than my intellect can understand.

Mr. President, I have known for years that whenever a revenue bill is to be framed here powerful and mighty influences get in operation to prevent Congress or anybody else from opening the books and reading the returns, in which not only the country but every citizen in the country is interested. I am just as much interested that my neighbor should pay a tax upon his earnings as I am interested in discharging my duty in that respect. He can not devise a scheme to protect his earnings and his property from his just share of taxes without infringing upon my rights and without taking from me that which is mine, because if all pay their just taxes every man will be equal with all others, and one only loses money out of his pocket and becomes unequal in the partnership of burdens when other men escape. I know the powerful influences which attempt to influence such legislation. I have been on conference committees and I have been on Senate committees heretofore.

Mr. President, this insistence, this powerful urging, this concerted action to keep these returns secret and hidden from the eyes of the people and the public, is the very reason why the light of day ought to be turned upon them. We attempted to do it. The Senate voted for it, and the Republican conferees for the Senate voted it out.



There is but one other item of great importance that was taken out by the conferees.

Mr. LA FOLLETTE. Mr. President, the Senator just said that the conferees for the Senate voted it out.

Mr. SIMMONS. I mean by that that they consented to its going out. I know of no special fight that was made for it, and I do not think there was any.

Mr. LA FOLLETTE. I think the Senate has a right to know how its agents behaved, how the conferees representing the Senate behaved, and I call upon the Senator to state where our conferees stood on that question.

Mr. SIMMONS. I only know the majority conferees were against this item and determined to cut it out. I have been very guarded in my expressions. I have given the Senate to understand, I think, that their majority conferees were not in sympathy with many of the amendments which were retained, as well as those which were stricken out.

The most unjustifiable and unseemly thing in this whole business was the surrender of the Senate conferees without the firing of a gun, when they surrendered and gave up in glee the 2½ per cent additional tax which the Senate had placed upon corporate incomes. Oh, they said there was some sort of compromise which they were going to make. It was discovered that the gains tax amendment of the Senate, by inadvertence or otherwise, I do not know how—it was one of the administrative amendments which received very little attention, as I have stated—would require the corporations to pay a tax of substantially only 5 per cent upon their gains, while individuals would pay as high as 23 per cent in many cases, and probably an average of 15 or 16 per cent upon their gains.

I know that Senators did not know that that is what this administrative amendment meant, and they would not have known it until this day if an expert of the Treasury had not brought it to our attention in connection with the settlement of the 2½ per cent proposition as a compromise between the House and the Senate. Then we suddenly learned that there was a Senate amendment which would tax corporation gains at 5 per cent and individual gains at from 15 to 16 per cent. No one had heard of that. The experts of the Treasury, who were supposed to have had something to do with that amendment, disclosed that situation to the conferees and said, "Now, it would be a good compromise, and the Secretary of the Treasury is very much interested in this. It would be a compromise and a very good compromise probably to change the Senate amendment so as to equalize the tax which the corporations would have to pay; that is, raise the corporation tax up to 12½ per cent upon gains, which is the tax they pay upon incomes except in this case, thereby adding upon their gains a tax of 7½ per cent and bringing the individual tax down to 12½ per cent. That would be a splendid compromise, which would enable you to offset to a certain extent the additional taxes that the corporations would have to pay against the tax that you relieve them of by cutting out this 2½ per cent which the Senate added."

But when we went to investigate the amount of additional taxes which the corporations would have to pay, I believe we found that it would only be between twenty and thirty million dollars, and there was a proposition emanating, as we were told, from the Secretary of the Treasury, one in which he was deeply and profoundly interested, to swap the additional tax on corporations of from twenty to thirty million dollars for the relief of those corporations from a tax of \$130,000,000.

After the matter was brought to our attention, in common justice we had to make the changes in the amendment, but I stood there—and I have not been more earnest in connection with anything in reference to this bill—and insisted that if that inequality existed it should be relieved, and speedily relieved, upon its own merits, and I refused to ask the conferees to correct an error against the people in the interest of the corporations for a consideration. I see one of the House conferees now present in the Senate Chamber. If adopted, I insisted that it should be adopted upon its merits. It was adopted and a compromise was made and the 2½ per cent taken off.

I wish I had the strength this afternoon to go on and say all that I have in mind to say about this matter. I did not expect to speak more than 20 or 25 minutes when I began, but I confess that when I begin to discuss the things and the influences that have been at work here to deny justice to the people of the country in this matter of the distribution of taxes it arouses all the fervor that is in me and leads me to efforts beyond my strength.

Think of it, Mr. President. Here are the corporations—I have now before me the table furnished by Mr. McCoy—paying just about one-half of the tax that individuals pay on incomes and gains taken together; paying but very little more than one-half

as much as corporations pay under the present law. Under the conference report they would pay less than one-half the rate the individual pays. When I think about that and then think of the \$410,000,000 that has been stricken off the income taxes of the country, and that the corporations will get the benefit of more than \$300,000,000 of that, I am driven to bring that situation sharply to the attention of the people of the country.

The corporations now bear less than their share of the burden of taxation. Corporations representing a large part—at least one-third—of the business activities of the country, and by reason of their consolidation and organization making profits that no individual dare dream of, now, under the present law, are paying far less than their share of the taxes, and yet with one fell swoop there is taken off of the corporations by the repeal of the excess-profits taxes \$400,000,000. To recoup that enormous loss in revenue, lifting that tremendous burden off the shoulders of the corporations, there is added only the pitiful sum of \$110,000,000 to the taxes of corporations, thus taking off easily more than three times as much as was reimposed upon them.

Mr. President, may I have permission of the Senate to print in the Record this table without reading?

The VICE PRESIDENT. Without objection, it is so ordered.

Mr. SIMMONS. Mr. President, the chairman of this committee was wont, when we first met here in April, to advise the country how quickly, how speedily, how thoroughly, and how efficiently the Republican Party was going to take up the revenue bill and relieve the people of the "onerous, unnecessary, and oppressive" burdens which the wicked Democrats had imposed upon them. After waiting more than five months, impatiently waiting, appealingly waiting, this sluggish old party which claims to move with astonishing celerity and quickness of action, after two or more months spent in deliberation brings out of the committee room this abortion of a tax bill and for a while tries to bolster it up. But when in the open its iniquities and its weaknesses are presented, when it appears to the country as but a skeleton of what was promised, when the wrath of the public, finding expression not only in the Democratic dailies and in the nonpartisan dailies of the country but in the standard, orthodox publications of the Republican Party, denounced it as a monstrosity and a fraud and told of its cheating and denying the hopes and prayers and wishes of the people, they try to hurry it through, hoping that the amendments which they have been forced to accept may somewhat ameliorate the situation and help to propitiate the country.

They present it and force it through under whip and spur in this great deliberative body that never before was known to submit, with patience or otherwise, to undue haste in matters of this transcendent importance. Yet at the last minute, when all the amendments have been made, when the conference has acted, when the result has been disseminated throughout the country, they hear the rumblings still and they learn seemingly for the first time that all their efforts have not placated especially the big interests whom they have been unable to help in the way they promised to help them, because the friends of the people in the two Houses would not permit them to fully accomplish that outrage and shame. They find that the very men to whom the Republican Party is obligated by an obligation upon which it hardly dares turn its back at the last minute are still indignant and dissatisfied and demanding the favors they bought and paid for. They find these men saying, "What you promised has not been given; you do not satisfy us by telling us that you did not have the votes, by telling us about the insurrection in your own party, by telling us about the combination between the bad Democrats and the equally sinister progressive and agricultural blocs. That does not satisfy us. We have paid the price; we have had the promise; it is your business to deliver the goods."

Then, Mr. President, in the conference room when the last chapter is closed we hear remarks falling from the lips of prominent and controlling members of the conference, expressing their disgust with their work, but when we get upon the floor of the Senate the Senator from Pennsylvania [Mr. PENROSE] in one breath, when he himself was reading, said that the work was very good. "Very good!" Mr. President, it sounded so differently from some remarks which I heard fall from his lips very recently. The Senator, however, forgot that in the memoranda which he sent to the Secretary's desk and had read was embraced the statement, clear cut, that the bill was but a makeshift, merely a temporary bridge over which the old Republican Party might pass; that speedily, very speedily, we would have to make another revision of the tax laws.

Mr. President, did the Senator from Pennsylvania think that that would satisfy the demands of the men that he and his conferees wanted to please by the passage of this bill? It was,

however, I grant, all he could do. His excuse to them is a promise to relieve them at a later time.

Mr. President, let me say to the Senator from Pennsylvania that he and his party will not be able to revise this tax measure as much in the interests of those classes as they would wish and as they have demanded during this Congress, because on the other side of the Chamber there are at least 20 Senators whose sympathies are with the masses of the people, as are the sympathies of the rank and file on this side of the Chamber; and we shall see that the people's interests are not sacrificed to the classes. Let me say that the Old Guard's failure in this bill is a demonstration of the Republican Party's incapacity to legislate effectively in the interest of the people. It is a disclosure of their want of constructive ability and initiative. It gives the lie to all the pretenses of the past that theirs was the party of ability, of courage, and of adequate capacity for action to meet any situation. This bill will disclose the falsity of that claim; this bill will disclose the Republican weakness, as it has disclosed to the American people the desire of the Republican leaders to lift the taxes off the shoulders of a few thousand millionaires and corporations and to place it upon the shoulders of the people.

When the polls are next closed and the result is registered, Mr. President, there will be another Congress here which will safeguard the interests of the people of the United States against any such sinister invasion of their rights under the law, in equity, and in morals hereafter as is perpetrated in the bill now to be enacted.

## APPENDIX.

Tax on different forms of business under provisions of revenue act of 1921.

Form of business.	Total net income.			
	\$1,000,000.		\$500,000.	
	Amount.	Per cent.	Amount.	Per cent.
Individual.....	\$550,740	55.07	\$260,740	52.15
Partnerships:				
2 partners.....	521,480	52.15	231,480	46.30
4 partners.....	462,960	46.30	176,320	35.26
5 partners.....	432,900	43.29	151,200	30.24
8 partners.....	352,640	35.26	103,560	20.71
Corporations:				
With no dividends to individual taxpayers.....	125,000	12.50	62,500	12.50
With 50 per cent of net income distributed to individual taxpayers—				
4 stockholders.....	268,240	26.32	95,560	19.11
5 stockholders.....	237,800	23.78	87,800	17.56
8 stockholders.....	191,120	19.11	76,060	15.21
10 stockholders.....	175,600	17.56	71,600	14.32
With 75 per cent of net income distributed to individual taxpayers—				
4 stockholders.....	404,240	40.42	141,260	28.25
5 stockholders.....	357,800	35.78	123,750	24.75
8 stockholders.....	282,520	28.25	97,092	19.42
10 stockholders.....	247,500	24.75	88,900	17.78
20 stockholders.....	177,800	17.78	69,800	13.96
With 100 per cent of net income distributed to individual taxpayers—				
4 stockholders.....	509,240	50.92	200,740	40.15
5 stockholders.....	480,300	48.03	175,300	35.06
8 stockholders.....	401,480	40.15	128,620	25.72
10 stockholders.....	350,600	35.06	113,100	22.62
20 stockholders.....	226,200	22.62	80,700	16.14

Mr. CURTIS. Mr. President, I suggest the absence of a quorum.

The VICE PRESIDENT. The Secretary will call the roll.

The principal legislative clerk called the roll, and the following Senators answered to their names:

Ashurst	Hale	McKinley	Smoot
Brandegee	Harris	McNary	Spencer
Broussard	Harrison	Nelson	Sterling
Bursum	Heflin	Nicholson	Swanson
Calder	Hitchcock	Norbeck	Townsend
Cameron	Jones, N. Mex.	Norris	Trammell
Capper	Jones, Wash.	Oddie	Underwood
Caraway	Kendrick	Overman	Wadsworth
Cummins	Kenyon	Page	Walsh, Mont.
Curtis	Keyes	Penrose	Warren
Dial	Kling	Phipps	Watson, Ga.
Elkins	Ladd	Poinceter	Watson, Ind.
Ernst	Ia Follette	Pomerene	Weller
Fernald	Lenroot	Robinson	Williams
France	Lodge	Sheppard	Willis
Gerry	McCumber	Shorridge	
Glass	McKellar	Simmons	

Mr. TRAMMELL. I desire to announce the absence of my colleague [Mr. FLETCHER] on account of official business.

The VICE PRESIDENT. Sixty-six Senators have answered to their names. A quorum is present.

## MESSAGE FROM THE HOUSE—ENROLLED BILLS SIGNED.

A message from the House of Representatives, by Mr. Overhues, its enrolling clerk, announced that the Speaker of the

House had signed the following enrolled bills and joint resolution, and they were thereupon signed by the Vice President:

S. 843. An act to amend section 5 of the act approved March 2, 1919, entitled "An act to provide relief in cases of contracts connected with the prosecution of the war, and for other purposes";

S. 1039. An act for the promotion of the welfare and hygiene of maternity and infancy, and for other purposes;

S. 2555. An act to construct, maintain, and operate a bridge and approaches thereto across Great Peedee River, S. C.;

S. 2594. An act authorizing the counties of Allendale, S. C., and Screven, Ga., to construct a bridge across the Savannah River, between said counties, at or near Burtons Ferry;

S. 2722. An act to extend the time for constructing a bridge across the White River at or near the town of Des Arc, Ark.;

S. 2724. An act to authorize the construction of a bridge across the White River, in Prairie County, Ark.;

H. R. 7394. An act to extend the time for the construction of a bridge across the Tombigbee River at or near Ironwood Bluff, in the county of Itawamba, Miss.;

H. R. 8346. An act granting the consent of Congress to the board of supervisors of Whiteside County, Ill., to construct a bridge across Rock River;

H. R. 8347. An act to authorize the New York Central Railroad Co. to construct a bridge across the Grand Calumet River within the corporate limits of the town of Gary, Ind.; and

H. J. Res. 225. Joint resolution authorizing payment of the salaries of officers and employees of Congress for November, 1921, on the 23d day of said month.

## REGISTRATION OF CHINESE.

The VICE PRESIDENT laid before the Senate the amendments of the House of Representatives to the joint resolution (S. J. Res. 33) permitting Chinese to register under certain provisions and conditions, which were to strike out the preamble, to strike out all after the resolving clause, and insert:

That the Commissioner General of Immigration be, and he hereby is, authorized and directed to register, and to issue an appropriate certificate showing registration to, the 365 Chinese men, now temporarily domiciled in the United States, who attached themselves to the punitive military expedition under the command of Gen. Pershing which entered Mexico in 1916, and who were brought into the United States as refugees by said expedition when it returned from Mexico.

SEC. 2. That the registration hereby provided shall correspond as nearly as circumstances permit to the registration of domiciled Chinese prescribed by section 6 of the act approved May 5, 1892 (27 Stat. L., p. 25), as amended by section 1 of the act approved November 3, 1893 (28 Stat. L., p. 7), and the certificates of registration issued to such Chinese shall constitute evidence of their right to be and remain within the United States: *Provided, however,* That before being registered hereunder the said Chinese shall be given the examination prescribed by the immigration act of February 5, 1917 (39 Stat. L., p. 874), with the exception of the reading test prescribed by section 3 thereof, and such of them as may be found inadmissible under said act shall not be registered hereunder, but shall be deported by the Secretary of Labor in the manner prescribed by section 19 of said immigration act: *Provided further,* That if any of the said Chinese shall, at any time after being registered pursuant to this resolution, become members of any of the classes for the expulsion of which provision is made in section 19 of the said immigration act, they shall be taken into custody and deported upon the warrant of the Secretary of Labor in accordance with the terms of said section.

SEC. 3. That the certificate of registration herein provided shall be issued to the said Chinese by the Commissioner General without charge; and it shall be unlawful for any person, directly or indirectly, to collect any fee, gift, or remuneration for services rendered, or alleged to have been rendered, said Chinese in the procurement of such certificate, or, directly or indirectly, to collect from the said Chinese any fee, gift, or remuneration for services performed in placing before Congress evidence or information on which the passage of this resolution is based; and any person who shall violate either of these provisions shall be deemed guilty of a misdemeanor and shall be punished by a fine of not more than \$10,000 or by imprisonment for not more than six months, or by both such fine and imprisonment.

And to amend the title so as to read: "Joint resolution permitting certain Chinese to register under certain provisions and conditions."

Mr. STERLING. I move that the Senate concur in the amendments of the House of Representatives.

Mr. KING. Mr. President, may I inquire of the Senator what the amendments are, and what effect they would have upon the general measure?

Mr. STERLING. I think the amendments make a great improvement on the original measure. The original joint resolution consisted for the most part of recitals and a long preamble. Those recitals are stricken out, and the substance of the joint resolution is incorporated in the House amendment, and then some safeguards are added. It is provided that these Chinese, before registration, shall take the examination prescribed by the immigration law, except the reading test. They are exempted from that. It is further provided that any who may not be able to pass the examination shall be subject to deportation, and that any who afterwards disqualify themselves by belonging to any of the orders or organizations whose



members can not be admitted under the immigration law shall be deported.

Mr. KING. These are the Chinese who were with Gen. Pershing's expedition in Mexico?

Mr. STERLING. Yes.

Mr. KING. The matter was fully discussed here some time ago.

Mr. STERLING. They were in the punitive expedition to Mexico and rendered very valuable service in one way or another.

Mr. McKELLAR. About how many of them are there?

Mr. STERLING. There are 365 of them. Further safeguards are put upon the matter by providing that the registration certificates shall be issued free of charge, and a penalty is prescribed for anyone who attempts to procure money from these Chinese for obtaining the certificates.

The VICE PRESIDENT. The question is on concurring in the amendments of the House.

The amendments were concurred in.

#### NATIONAL HOME FOR DISABLED VOLUNTEER SOLDIERS.

The VICE PRESIDENT. The Chair lays before the Senate a joint resolution from the House of Representatives, which will be stated.

The joint resolution (H. J. Res. 210) for the appointment of one member of the Board of Managers of the National Home for Disabled Volunteer Soldiers was read twice by its title.

Mr. WADSWORTH. Mr. President, upon yesterday, during the executive session but as in legislative session, I made the error of asking unanimous consent of the Senate to pass this measure. I labored under the impression that it had been messaged over from the House. It is a House joint resolution. The Senate last night passed it; but, as a matter of fact, it was not in the jurisdiction of the Senate at the time. That transaction has been stricken from the record, and I now ask unanimous consent for the immediate consideration of the joint resolution.

The VICE PRESIDENT. Is there objection?

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution, which was read, as follows:

*Resolved, etc.*, That Roy L. Marston, of Maine, be, and he is hereby, appointed a member of the Board of Managers of the National Home for Disabled Volunteer Soldiers of the United States, to fill the unexpired term of Menander Dennett, deceased.

The joint resolution was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

#### ROCK RIVER BRIDGE.

The VICE PRESIDENT. The Chair lays before the Senate a bill from the House of Representatives, which will be stated.

The bill (H. R. 8346) granting the consent of Congress to the board of supervisors of Whiteside County, Ill., to construct a bridge across Rock River, was read twice by its title and referred to the Committee on Commerce.

Mr. CALDER. Mr. President, out of order, I ask unanimous consent to report from the Committee on Commerce House bill 8346.

The VICE PRESIDENT. Is there objection? The Chair hears none.

Mr. CALDER. I ask unanimous consent for the present consideration of the bill.

The VICE PRESIDENT. Is there objection?

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill, which was read, as follows:

*Be it enacted etc.*, That the consent of Congress is hereby granted to the board of supervisors of Whiteside County, in the State of Illinois, and their successors and assigns, to construct, maintain, and operate a bridge and approaches thereto across the Rock River at a point suitable to the interests of navigation, at or near the city of Sterling, in the county of Whiteside, in the State of Illinois, in accordance with the provisions of the act entitled "An act to regulate the construction of bridges over navigable waters," approved March 23, 1906.

Sec. 2. That the right to alter, amend, or repeal this act is hereby expressly reserved.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

#### PAYMENT OF SALARIES FOR NOVEMBER.

Mr. WARREN. From the Committee on Appropriations I report back favorably the joint resolution (H. J. Res. 225) authorizing payment of the salaries of officers and employees of Congress for November, 1921, on the 23d day of said month, and ask unanimous consent for its immediate consideration.

The VICE PRESIDENT. The joint resolution will be read.

The reading clerk read the joint resolution, as follows:

*Resolved, etc.*, That the Secretary of the Senate and Clerk of the House of Representatives are authorized and directed to pay to the officers and employees of the Senate and House of Representatives, borne on the annular and session rolls, including the Capitol police, their respective salaries for the full month of November, 1921, on the 23d day of said month. Such amount as may be necessary to pay the session employees from the date of the adjournment of the first session of the Sixty-seventh Congress until the beginning of the second session thereof is appropriated out of any money in the Treasury not otherwise appropriated.

The VICE PRESIDENT. Is there objection to the present consideration of the joint resolution?

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution.

The joint resolution was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

#### STATEMENT AND INTERVIEW BY HON. T. P. GORE.

Mr. ASHURST. Mr. President, I have here a statement and interview of former Senator Gore, who gives some pungent and interesting views on the political and economic situation of today. I ask that the statement be included in the RECORD.

The VICE PRESIDENT. Without objection, it will be so ordered.

The matter referred to is as follows:

#### INTERVIEW BY HON. T. P. GORE.

I am leaving for Oklahoma within the next day or two. I will spend several weeks in the State. I am going on business and pleasure. The trip is void of political significance. I say this in order to silence speculation.

I feel that I ought to make an additional statement in behalf of my friends, who should be making their political alignments for the coming campaign. I have received numerous solicitations to enter the approaching contest for governor. I have received friendly assurances from some who have not always favored me with their support. I am deeply sensible of the compliment implied in these requests. I am deeply grateful to my friends for their confidence and fidelity. If gratitude be not a legal tender in payment of such debts, then am I a bankrupt, indeed. My appreciation is deepened by the fact that I went to defeat when I last submitted myself to the suffrage of my fellow Democrats. Fidelity in triumph is a virtue, but fidelity in defeat shineth like a jewel in the soul.

I have an abiding interest in Oklahoma, in her growth and prosperity. This interest will cease with life only. As I have said before, I prefer to spend time remembering what the people of Oklahoma have done for me rather than remembering what they did to me. I would like to see the government of our State placed on a footing of the greatest economy and efficiency. Every dollar's worth of taxes should secure a dollar's worth of service at all times. This is preeminently true in bad times. I regret the adverse conditions which Oklahoma is now suffering in common with the rest of the country and the rest of the world. I regret the disastrous consequences which overtook and overwhelmed the Democratic Party last November. But what concerns us now is not the way in but the way out of our difficulties. That there is a way out none need doubt. That the way will be short and easy none need imagine. The country should insist upon a practical and constructive program. I would like to see the Democratic Party present a practical and constructive program, espousing not the interest of a part only but the whole, a program which considers the community of interest between the farmer, laborer, and business man as vital as the bond which joined together the celebrated Siamese twins. When one of the twins died the other was apparently hale, but they suffered a common fate and shared a common grave.

This leads me to observe that I am too old-fashioned for present-day politics. There are two fatal flaws in my political creed—I still believe in the law of gravitation and I do not believe in the fairies. These are among my eccentricities. Can anyone survive in politics to-day who doubts that by a mere congressional enactment or Executive order the Government can change the established order of the universe, can suspend the relation between cause and effect, can repeal the fundamental laws of economics or eradicate the primary instincts of human nature? I could not expect such serious faults of faith to be redeemed by the mere fact that I still believe in the Constitution and in the safeguards with which it undertakes to shield the rights and liberties of the people. I believe that no person should be deprived of life, liberty, or property without due process of law. The street urchin should not be stripped of the rags upon his back without his consent or without compensation. "Due process of law" is the finest fruit of more than 60 centuries of evolution. I believe in a government of law as distinguished from a government of men. I am opposed to autocracy, no matter how brilliant the autocrat. I am opposed to an oligarchy, no matter who constitutes the governing faction or the reigning mob. I believe with Jefferson in a government based upon the consent of the governed. I believe with Lincoln in a government of the people, by the people, and last, but not least, for the people. I believe in a democracy where the majority has both the right and the power to govern, but the majority should exercise its power to govern under such restraints as will safeguard the rights and liberties of the minority. The rights and liberties of the minority should be sacred and secure, even though it consists of a single individual, and even though that individual be destitute alike of friends, influence, and fortune.

I have, of course, the greatest respect for the wishes of my friends, but I can not accept their conclusion that I should enter the contest for governor. There are several sufficient reasons which make it impracticable for me to contest the governorship. I shall not detail them. It is only necessary to say that the senatorial contest last year became exceptionally acrimonious. It was surcharged with crimination. If I should now seek the governorship, if I should now seek the chief magistracy of the State, it would be regarded by many and accepted by some as a challenge. This would engender strife when harmony within the party is essential to the triumph of Democratic principles. I have no disposition to fan the smoldering embers into flame, but rather to quench them. I have no disposition to fling the apple of discord into the councils of the party. I shall take an interest

in politics, but stripped of my shoulder straps. I shall do so as a high private. Even though I were ambitious to be governor of Oklahoma, I should feel constrained to subordinate my personal ambition to the duty of advancing the principles and improving the prospects of genuine Democracy.

WASHINGTON, February 15, 1921.

HON. GEORGE L. BOWMAN,  
Democratic National Committeeman from Oklahoma,  
Kingfisher, Okla.

MY DEAR SIR: I have the honor to acknowledge your letter of late date inquiring my views as to the proposed meeting of the national Democratic committee to consider the election of a successor to the national chairman, George White. I appreciate your request and the opportunity to give expression to my views. I also appreciate your desire to take the sense of the party on this and other questions. This is a course recommended by wisdom as respects even those whose voice is least likely to be heard and whose counsel is least likely to be heeded.

I believe in party government. It is not perfect. It is the best, however, which the experience and wisdom of man have yet devised. I think that much can be done and everything possible should be done to improve the prospects of the Democratic Party. Wrangling over the national chairmanship will not contribute to that end. Chairman White is not responsible for the disaster which befell us last fall. The torrent had gone over the precipice before he was pressed into commission and human power could not then reverse the cataract. If the Democratic nominee had assumed a different attitude or had taken a different tack toward the so-called paramount issue, he might have fared further and fared better. But I assume that he pursued the course dictated by his judgment and his conscience. We can not mend the past. We can, in some measure, direct the future.

There should be a resurvey of Democratic principles and a new consecration to those principles. The party should stand for a government of laws as distinguished from a government of men. A government of men in every time and in every clime has ended in tyranny. A government of laws is the only hope and the only security for freedom. Autocracy and democracy are the antipodes of politics. A cross between the two is a political monstrosity. Unless everybody knows more than anybody, democracy is false in theory and must fail in practice.

The party should take its stand for the rights of man, for the rights of the citizen, for the personal rights of the humblest, as well as for the property rights of the highest—for the personal and property rights of all without distinction. It should stand for those inalienable rights which constitute the breath of the life of liberty—a free press, unpurchased and unpersecuted—freedom of thought, freedom of speech, and freedom of conscience—those things without which freedom is but a mockery and democracy is but a name.

The party should stand for the fundamental principles underlying our Federal system—for the rights and powers of the States within their appointed sphere of action as well as for the rights of our General Government within its appointed sphere of action. A confusion of things fundamental leads to chaos.

The party should stand for the constitutional partition of the powers of the Federal Government into the legislative, executive, and judicial departments. It should defend the powers of each against any encroachment on the part of the others. No department should be allowed to invade the province or to usurp the power of any other. All human experience testifies with one voice that the separation of those powers is indispensable to liberty. Their consolidation is the unflinching cause of despotism.

The party should stand for the fundamental principles of economics. It should respect those laws of economics which can not be disregarded with impunity, which can not be disregarded without disaster. Economic outlawry never prospers well. If policies are to be judged by their consequences, that Democrat is an optimist indeed who views recent economic adventures of the Democratic Party with entire approval and complacency.

The party should stand for the most rigorous economy in power as well as out of power. Every dollar expended should purchase a dollar's worth of service. Otherwise the taxpayer is cheated and the Government is particeps criminis.

The party should stand for the lowest taxation consistent with the requirements of the public service and the public credit. Taxes should not only be as low as circumstances will allow, but should also be just and equal—should be founded upon sound principles. A system of taxation which helps one citizen and hurts another, which benefits one class and burdens another, is incompatible alike with justice and permanent prosperity.

The party should stand for the promotion of both domestic and foreign commerce. Trade is a blessing, not a curse. We can not sell to others unless we buy from others. Others can not buy from us unless we buy from them. Trade is nothing more nor less than the exchange of goods, and is advantageous to all parties concerned. We should not through shortsighted tariff restrictions forfeit our newly acquired position as the creditor nation of the world.

The party should stand for even-handed justice alike to labor and capital, demanding equal protection for both and refusing to become the patron of either to the prejudice of the other. Business is not a crime, and business men should not be presumed to be criminals. The Government should discriminate between the honest and the dishonest and should be as industrious to protect the one as to punish the other. Farming is a business, and the farmer is a business man. A system of short-time rural credits should be instituted as part of an improved system for the marketing of farm products. The party's watchword in State and Nation should be "ECONOMIZE TILL IT HURTS."

As concerns international affairs, time and experience have revealed no wiser principle and no safer guide than was contained in the inaugural address of Thomas Jefferson, the founder of the Democratic Party. "Honest friendship with all nations, entangling alliances with none." The relations that obtain between independent nations are founded upon interest and not upon sentiment. If America will not take care of her own, she will find that dependence upon others is the vanity of vanities.

Why is government, anyhow? What is it all about? Why all this intricate and magnificent mechanism? Why this elaborate system of county, State, and National organizations, with all their powers and majesty? It is to protect the individual in the enjoyment of his rights to life, liberty, and the pursuit of happiness. It is to maintain equal opportunities for him to pursue happiness with some prospect of attaining happiness. With equality of opportunities, let unequal talents and

thrift enjoy their legitimate rewards. Add to this the performance of those public and essential services which the Government can better perform for the individual than the individual can perform for himself and you have a catalogue of the true functions of self-government and free institutions. That government which, instead of preserving and protecting the rights of its citizens, violates them sins the deepest sin and incurs the deepest guilt of which human government is capable.

The party government itself should be democratic. Those who are selected for leadership and those who assume leadership should take counsel of the rank and file of the party. The true function of the Democratic organization is to elect Democratic candidates, not to select Democratic candidates. To forget this truth is to commandeer defeat. What the Democratic Party needs now is a few active recruiting stations. It needs those much more than it needs presidential aspirants. Let the dead past be its own sexton. The living should address themselves to the future. If the Democratic Party will but be democratic, hope will revive and victory will return. It will find, as I observed on the eve of our late catastrophe, that after the darkness cometh the dawn.

With assurances of the highest esteem and best wishes,

T. P. GORE.

#### CONDITIONS IN IRELAND.

MR. LA FOLLETTE. Mr. President, I submit a resolution which I ask to have printed and lie on the table, to be called up by me at the earliest opportunity when Congress assembles on December 5. I ask to have it read. It is very short.

THE VICE PRESIDENT. Without objection, the Secretary will read the resolution.

The resolution (S. Res. 173) was read, as follows:

Whereas friendly relations between the United States and Great Britain are vital to the peace of the world; and  
Whereas conflict between Great Britain and Ireland is a constant menace to those amicable relations so earnestly desired by the people of the United States: Therefore, be it

Resolved, That the Senate of the United States expresses the hope that the differences between Great Britain and Ireland, now the subject of negotiations at London between the representatives of the two Governments, may be speedily composed by a treaty of peace and amity, which will guarantee Great Britain against hostile aggression and secure the recognition of the existing government in Ireland.

THE VICE PRESIDENT. The resolution will be printed and lie on the table.

#### CLAIMS GROWING OUT OF FEDERAL CONTROL OF RAILROADS, ETC.

MR. LA FOLLETTE. Mr. President, I ask unanimous consent to submit the resolution which I send to the desk and ask to have read; and I shall follow that with a request for unanimous consent for its present consideration.

THE VICE PRESIDENT. Without objection, the resolution will be read.

The resolution (S. Res. 174) was read, considered by unanimous consent, and agreed to, as follows:

Resolved, That the Director General of the Railroad Administration be, and he is hereby, requested to furnish to the Senate, on or before December 10, 1921, the following statements and accounts with reference to the settlement of claims growing out of Federal control of the railroads and the administration of the affairs committed to him by the transportation act:

1. A statement of account between the Government and the carriers from the beginning of Federal control down to December 1, 1921, showing clearly and concisely the amount of funds which have been appropriated or otherwise put at the disposal of the Railroad Administration; the purposes for which said funds have been paid or expended; the amount of indebtedness incurred by the railroads for all purposes, including additions and betterments, equipment, and permanent and temporary loans; the amount of claims filed by the carriers prior to December 1, 1921; the estimated amount of claims still remaining to be filed; and setting up as of December 1, 1921, a balance between the amounts due the railroads on all accounts arising out of Federal control and the resources available to the Railroad Administration for the payment or offset thereof; the purpose of said statement being to provide a clear and intelligible account of the financial relations between the railroads and the Government from the beginning of Federal control down to date.

2. A statement showing in detail and by individual carriers the claims which have been settled down to December 1, 1921, and setting forth in parallel columns for each road with corresponding totals for all roads (a) the amount claimed to be due from the Government on account of each principal item, including compensation, money taken over, maintenance of way and structures, maintenance of equipment, materials and supplies, and depreciation; (b) the "set-up" by the Railroad Administration as against such claims, i. e., the finding by the divisions of review of the Railroad Administration as to the amount of such claims which are, in the view of the Government, valid under the contracts; and (c) the basis of settlement finally arrived at by the director general and his staff in conference with the representatives of each railroad company, showing the amount offset on account of each variety of indebtedness, the amount paid in cash, and the amount of indebtedness which has been funded; the purpose of said statement being to show in concise form the character of the settlement which has been made with each individual road.

#### TAX REVISION—CONFERENCE REPORT.

The Senate resumed the consideration of the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 8245) to reduce and equalize taxation, to amend and simplify the revenue act of 1918, and for other purposes.

MR. PENROSE. Mr. President, I now submit to the Senate a request for unanimous consent:

That the Senate shall meet in recess on to-morrow morning at 10 o'clock, and that on or before 5 o'clock on the afternoon of



the same day a final vote shall be had upon the conference report now pending before the Senate on the revenue bill.

Mr. SIMMONS. Mr. President, I understand the Senator's proposition to be that at 5 o'clock a vote shall be taken without further debate.

Mr. PENROSE. Not later than 5 o'clock. My request is that the Senate shall meet in recess at 10 o'clock to-morrow morning, and that not later than 5 o'clock on the afternoon of the same day a final vote shall be had on the conference report on the pending revenue measure.

Mr. TOWNSEND. Without further debate?

Mr. PENROSE. Of course; a final vote, I say.

Mr. SIMMONS. Speaking for myself, I shall not feel disposed to object to that, unless some who desire to discuss this matter feel that if such an agreement is made they would not have sufficient time to discuss it.

Mr. ROBINSON. A number of Senators about me have suggested that the debate probably will not run as late as 5 o'clock, and that if Senators are to reach home in time for the Thanksgiving festivities, they must leave the city to-morrow afternoon. I have wondered if the agreement to vote could not be altered so as to bring the time forward to 3 o'clock, for instance. It is the opinion of some Senators about me here that that should be done.

Mr. LA FOLLETTE. I understand that the request for unanimous consent is that the vote shall be taken at not later than 5 o'clock. If opportunity has been afforded before 3 o'clock for everybody to speak who desires to speak on this important proposition the vote can be taken then. Otherwise, I think the desire of Senators to attend upon social and other festivities at home should yield to important business of the Senate.

Mr. ROBINSON. I have no purpose or intention of objecting to the request for unanimous consent. My thought was that if a Senator expected to leave to-morrow he would like to know in advance that he would be able to do so, and if he could not know that, he might be prevented from going at all.

Mr. LA FOLLETTE. Possibly he could arrange for a pair to meet the particular situation.

Mr. ROBINSON. I made the suggestion because I was requested to do so by a number of Senators about me. I have no purpose or intention of objecting to the request.

Mr. SIMMONS. I think it would be quite easy for us to get through by 3 o'clock, and probably before that hour. Still, I think it would be better to extend the time to 5 o'clock in case it should be found necessary. I do not think it will be found necessary.

Mr. LA FOLLETTE. I think very likely it will be possible to get through earlier than that hour. I do not know how many Senators desire to be heard, but I think as a matter of safety, and to provide full opportunity for Senators to discuss this important proposition, we had better fix 5 o'clock as the hour. If we can conclude the discussion of the bill before that time, well and good.

Mr. McKELLAR. Is it the purpose to have the Senate adjourn after this unanimous-consent agreement is entered into?

Mr. PENROSE. It is my purpose to move a recess.

Mr. JONES of New Mexico. I would like to inquire of the Senator from Pennsylvania about the number of Senators, if any, who desire to speak in support of the conference report.

Mr. PENROSE. I am not informed of any Senator desiring to speak in behalf of the conference report, and only one or two in opposition to it.

Mr. JONES of New Mexico. If there is no one who intends to speak in support of the report, I think it is quite likely that we shall conclude the discussion so as to get a vote by 3 o'clock; but I agree with the Senator from Wisconsin, and apparently it is the sentiment of others, that we might fix the time at 5 o'clock, and of course if we can expedite the discussion, and all work to that end, we can bring about a vote at an earlier hour.

Mr. PENROSE. It is a matter of entire indifference to me what hour is fixed.

Mr. JONES of New Mexico. I may say that the views of the majority of the committee in support of the conference report have only been submitted this afternoon. They have not been printed, and Senators have had no chance to study them or to give them any considerable thought. I have managed to get them page by page, and during the very learned discussion of the Senator from North Carolina I have been trying to listen to him and read the views of the majority at the same time; but if there is no one who desires to occupy much time in support of the conference report, I feel certain that we shall be able to conclude the discussion by 5 in the afternoon to-morrow, and I hope at a much earlier hour.

The VICE PRESIDENT. The question is on agreeing to the unanimous-consent request.

Mr. HITCHCOCK. Mr. President, I do not recall, but I believe we have had no quorum call on this question.

The VICE PRESIDENT. It is not required.

Mr. HITCHCOCK. This is the final passage of the bill.

The VICE PRESIDENT. Is there objection to the unanimous-consent agreement? The Chair hears none, and the unanimous-consent agreement is entered into.

#### FINAL ADJOURNMENT.

Mr. CURTIS. Mr. President, I offer the following concurrent resolution, and ask for its immediate consideration.

The concurrent resolution (S. Con. Res. 15) was read, as follows:

*Resolved by the Senate (the House of Representatives concurring): That the two Houses of Congress shall adjourn on Wednesday, the 23d day of November, 1921, and that when they adjourn on said day they stand adjourned sine die.*

Mr. TOWNSEND. Mr. President, I realize that Senators are desirous of having a recess after this long special session of the Congress. Personally, however, I am opposed to that proposition at this time, and I think I have as high a regard for my mileage, and am quite as much in need of it, as Senators who are so anxious to adjourn.

But I have been thinking about the experiences we have had during the last six or seven months. The Republican Party is charged with the responsibility for legislation; but the minority, aided and abetted by a few Republican Senators who have no regard for the responsibilities of the Republican Party, have made it impossible, under the rules of the Senate, to transact its business effectively.

There are many things which ought to be done, many things which ought to have been done in the past. If an account could be had of the expense caused to the people of this country by Senators who have occupied the floor of the Senate for the purposes of delay, for the purpose of confusing the issue, and for manufacturing political capital—if that account could be had, as possibly it will be had, the people would understand somewhat of the luxury which filibustering under the rules of the Senate is.

I repeat that the Republican Party is charged with the responsibility of legislation, but under our rules it has been impossible, apparently, to exercise that responsibility in an effective manner. Obstructionist Senators have insisted, whenever an effort was being made to legislate, that legislation was being "jammed" through the Senate. When an attempt has been made to hold night sessions, there has always been opportunity, which has been improved by Senators, to prevent consideration of bills before the Senate, until out of sheer exhaustion the Senate has been obliged to adjourn without making any progress.

I know that this is considered good politics on the part of the minority, and probably it has been exercised by Senators on this side when they were in the minority; nevertheless, I contend that it is a bad practice and is bringing and has brought the Senate into disrepute. Never were conditions of the country more disturbed or more in need of such relief as legislation can give, and yet filibustering is indulged and action delayed.

I offered a resolution some time ago to amend the rules of the Senate by providing that a majority might invoke cloture of the kind which we now have, only that it shall be brought about by a majority instead of a two-thirds vote. Under that rule a motion for cloture would have to lie over for a day, and then, after it had been debated for two days, it would come up for a vote, and if two-thirds of the Senate decided that cloture was desirable, from that time on no Senator could speak more than once on any bill or amendment or more than an hour, which would mean that 96 hours of debate could be indulged after cloture was invoked. Is that undue restriction of debate?

I realize the situation we are in now, and have been in for a long time. We have been discussing for several days the so-called Newberry case, and because some Senators desire—I will not characterize it by the term in which I think it ought to be characterized—but because some Senators desire to take a trip down to Haiti it is proposed that we shall put off a vote on a matter which has been debated here for days until some time at the beginning of next year when these Senators may have returned. I am not going to object to the unanimous-consent request for a time to vote in January, because I find it is absolutely necessary to consent if we are ever to have a vote on the question. The resolution which I offered to amend the rules has been opposed because it was said it would interfere with pending legislation, and therefore it could not be consented to.

It has been contended that unlimited debate should be permissible, and that any resolution would interfere with pending business. Could anything be devised which would more interfere with and delay action than the course which has been and is now being followed in the Senate?

Mr. HITCHCOCK. Mr. President—

The VICE PRESIDENT. Does the Senator yield?

Mr. TOWNSEND. I will ask the Senator to excuse me until I get through with this statement.

I propose that instead of adjourning and going to our homes now in order to obtain the mileage which some of us think we ought to have, we stay in session and debate that rule until the 5th day of December, if necessary, in order that we can determine whether—

Mr. CURTIS. Mr. President, I rise to a point of order.

The VICE PRESIDENT. The Senator will state his point of order.

Mr. CURTIS. I make the point of order that this resolution is not debatable. It is a resolution in relation to adjournment.

The VICE PRESIDENT. The Chair will have to state that the resolution is not yet before the Senate.

Mr. CURTIS. I thought it was before the Senate.

Mr. TOWNSEND. It was my understanding it was not before the Senate, and that is why I rose.

The VICE PRESIDENT. The Chair will inquire if there is objection to its immediate consideration. Is there objection?

Mr. TOWNSEND. I object, until I get through with my statement.

Mr. LODGE. I rise to a point of order. Is not a motion to adjourn always in order?

Mr. TOWNSEND. I do not think I can be taken off the floor by any Senator for the purpose of making the motion.

Mr. LODGE. Any Senator must yield when another rises to make a point of order.

The VICE PRESIDENT. A motion to adjourn is always in order.

Mr. TOWNSEND. Would a motion to adjourn be in order while I have the floor?

The VICE PRESIDENT. No motion to adjourn has been entertained by the Chair. The Chair answered a parliamentary inquiry raised by the Senator from Massachusetts as to whether a motion to adjourn was always in order.

Mr. TOWNSEND. I will proceed by stating—

Mr. HITCHCOCK. Mr. President, a parliamentary inquiry.

Mr. TOWNSEND. Let me finish this sentence and I will yield to the Senator.

Mr. HITCHCOCK. I would like to inquire what is before the Senate; and if there is nothing before the Senate, I make the point of order that the Senator from Michigan is out of order.

Mr. CURTIS. The conference report is before the Senate.

The VICE PRESIDENT. The question is on agreeing to the report of the conference committee on the revenue bill.

Mr. TOWNSEND. Mr. President, I wish to repeat that I am in favor of remaining in session for the purpose of taking up the amendment to the rules allowing Senators who wish to indulge in unlimited debate to discuss that question from now until the 5th day of December.

Mr. HITCHCOCK. Mr. President—

Mr. TOWNSEND. I yield to the Senator from Nebraska.

Mr. HITCHCOCK. I would like to inquire of the Senator from Michigan if he can, with a straight face, hold the Democrats of this Chamber responsible for the monstrous and outrageous delay in the Newberry case, a delay that has now gone on for nearly three years.

Mr. TOWNSEND. It has been thoroughly explained why there has been that delay. The Senator from Ohio [Mr. POMERENE] and others agreed that the matter ought not to be taken up while it was in the court for trial in Grand Rapids. After that the counting of the ballots was taken up. After the decision of the Supreme Court an investigation was had by the committee. Their report has been on the desks of Senators for weeks.

Mr. HITCHCOCK. Let me call the attention of the Senator to the fact that the committee and the managers in the Senate did not call it up until November 15.

Mr. TOWNSEND. That report has been on the desks of Senators for weeks.

Mr. HITCHCOCK. We, on this side of the Chamber, do not control the order of procedure.

Mr. TOWNSEND. I am not saying that you do; I am not claiming that you do, but you do control the determination of questions, and this I contend no minority has a right to do. I am asking for some rule whereby the majority can control the order of business of the Senate and its final determinations, as I

think the majority ought and by the country is expected to do. That is what I am contending for.

Mr. HITCHCOCK. The Senator has admitted, even with the tardy and long delay before, that the committee report was made in September, and yet it was not called up for action by the Senate until November 15.

Mr. TOWNSEND. Because we had the tax legislation before us, and other matters which seemed to be absolutely necessary for consideration. But the question is now up before us and has been debated for several days. I would like to proceed now to a conclusion and thus avoid delay and expense. However, I recognize the fact that the Senator from Ohio wishes to go to Haiti, and I will agree to the unanimous-consent agreement for a vote in January, so far as that is concerned, because, as I have said, I must agree in order to get a vote at any time, and it seems to me that this applies to all important questions. The minority prescribes the conditions and the majority must submit.

Mr. SPENCER and Mr. HARRISON addressed the Chair.

The VICE PRESIDENT. Does the Senator from Michigan yield; and if so, to whom?

Mr. TOWNSEND. I yield first to the Senator from Missouri.

Mr. SPENCER. I merely wish to call attention, through the courtesy of the Senator from Michigan, to the fact that the report was presented to the Senate on the 29th day of September, the last day but one of that month. The reason for the delay between September 29 and the date in November when, as the Senator from Nebraska rightly stated, it was taken up for consideration, was occasioned entirely by what seemed to be the exceeding importance of the revenue bill, which has occupied the time of the Senate.

Mr. WILLIAMS. Mr. President, may I ask the Senator from Michigan a question?

Mr. TOWNSEND. Certainly.

Mr. WILLIAMS. Did the Senator from Michigan while the Democrats were in the majority contend for this sovereign and sacred right of the majority to govern this body?

Mr. TOWNSEND. I have never denied it.

Mr. WILLIAMS. Did the Senator contend for it?

Mr. TOWNSEND. No; I did not contend for it.

Mr. WILLIAMS. Did the Senator offer a resolution for it?

Mr. TOWNSEND. No.

Mr. WILLIAMS. Did the Senator speak for it?

Mr. TOWNSEND. No; no such proposition was before us.

Mr. WILLIAMS. Then the Senator is a comparatively new convert, so far as activity is concerned, to this idea that the majority ought to govern.

Mr. TOWNSEND. I am not speaking for the Democratic Party—

Mr. WILLIAMS. I myself am an old convert to that idea.

Mr. TOWNSEND. Do not argue further, please. I yielded only for a question. I never attempted to speak for the majority when that majority was Democratic. I do now speak as a majority member, being a Republican, and ask and insist that my party take steps—

Mr. WILLIAMS. Mr. President—

Mr. TOWNSEND. Just a moment. I am addressing the Senate.

Mr. WILLIAMS. Yes; I know it.

Mr. TOWNSEND (continuing). In order that my party may control the legislation for which it is responsible.

Mr. WILLIAMS. I was not asking that question with a view of establishing partisan government in the Senate. I was asking it with a view of establishing majority government, whether it is partisan or not. Now, no matter what party is in power, Republican or Democratic, it has always seemed to me that a majority of the membership of the Senate ought to be able to take a vote, whether it was a majority composed of your party entirely, or a majority composed of my party entirely, or a majority composed of my party when my party was in the minority, plus a minority of your party, or a majority composed as now, I think, of the minority plus a minority of the present majority. In other words, majority rule in the Senate is one thing; partisan rule is another thing. The Senator never contended for that great and sacred principle hitherto.

Mr. HARRISON rose.

Mr. TOWNSEND. Does the Senator from Mississippi wish to interrupt me?

Mr. HARRISON. I wish to ask the Senator from Michigan if, on September 17, 1918, when the Democrats were in control of this body and a resolution to investigate the Newberry case was before the Senate, the Senator from Michigan did not then object to an investigation?

Mr. TOWNSEND. He did.



Mr. HARRISON. And was the cause of the delay, and this is the first time he has opened his mouth to try to expedite the matter.

Mr. TOWNSEND. The senior Senator from Michigan did strenuously object to a Democratic Senate investigating a Republican who had been elected to the succeeding Senate. I objected to an investigation by the Senate of the Sixty-fifth Congress of a Senator elected to the Sixty-sixth Congress. I insisted that the Sixty-sixth Congress was the judge of the qualification of its own members, and I have been ready to act upon this resolution at any time since the Committee on Privileges and Elections made its report.

Mr. WILLIAMS and Mr. POMERENE addressed the Chair.

The VICE PRESIDENT. The Senator from Mississippi.

Mr. WILLIAMS. Mr. President, I have listened with much interest, as I always do, to the plea of confession and avoidance just put in by the Senator from Michigan. I have also, as it seems to me, though I may be wrong, listened to the swan song of the Republican Party as it came from his lips. I hear him saying that we ought not to allow one-third of the Senate to block a vote. Yet it seems to me that I could easily select one-third of the States of this Union who not only compose a majority of the people of the Union but pretty nearly a two-thirds majority of the people of the Union. I therefore have always clung to the idea that a two-thirds vote was necessary for cloture in this body—not in the other body, but in this body—because two-thirds of the States as represented here always compose a majority of the population of the United States; and anything less than two-thirds of this body, each man acting as an ambassador from his State and representing his State, might not be a majority of the entire people of the United States. So much for that.

Now, Mr. President, I notice that the Senator referred to the Newberry case as "the so-called Newberry case." Now, was not that a funny thing to say? Was not that rather a curlicue thing to say? That matter involves a question of the use of nearly \$200,000 in a primary election. If it had occurred in Mississippi, where winning at a primary means winning the election, or in Alabama, or in Louisiana, or in Arkansas, I imagine you would not have confused your mind much about the difference between a primary and an election.

Not only is that true, but in three-fourths of the congressional districts of the Union the nomination means an election—I mean in three-fourths of the doubtful districts of the Union, comprising perhaps a majority in ordinary times. In those districts the nomination means the election. If we are going to establish the principle that while we can punish for corruption in a general election we can not punish for it in a primary, then, so far as most of the Cotton States are concerned, we have virtually said that no amount of corruption in the world has anything to do with the general election, because there is no general election there, inasmuch as there are no respectable white Republicans to amount to anything—oh, probably three or four or five hundred in the State of Mississippi and a few more in other States, and some of them very nice fellows, too, but generally radicals and fanatics upon political questions without the ordinary common hard sense that leads a man to know the difference between a nigger and a white man.

Mr. ROBINSON. Mr. President, will the Senator yield to me?

Mr. WILLIAMS. In just a moment I will yield. Down there, of course, everybody knows the difference. The niggers are Republicans and the white men are Democrats, and there are very few respectable, decent white men who belong to the Republican Party.

Mr. ROBINSON. Mr. President, will the Senator yield?

Mr. WILLIAMS. Just one moment and I will yield. If that be true, and if it be furthermore true that this body has no right to inquire into a primary election, then this body has no right to question my nomination in Mississippi, because in five or six terms in the House and two terms in the Senate I have never had any opposition at a general election.

I now yield to the Senator from Arkansas.

Mr. ROBINSON. Mr. President, when the Senator from Kansas [Mr. CURTIS] presented the resolution for adjournment, I understood the Senator from Michigan [Mr. TOWNSEND] to object to its present consideration and to suggest that under the rules of the Senate it must lie over for a day.

Mr. TOWNSEND. No; I did not do that. I objected to its consideration until I concluded my remarks. I now withdraw any objection to the consideration of the resolution if the Senate desires to vote, and I know that a great majority of the Senate wish to vote on the resolution. I shall have to be content to vote against it.

Mr. ROBINSON. I wish to point out the fact that the resolution, under the precedents of the Senate, does not have to lie over a day.

Mr. TOWNSEND. I do not ask that it shall.

Mr. ROBINSON. Under the precedents of the Senate a resolution of this character may be considered immediately.

Mr. CURTIS. Mr. President, will the Senator yield to me?

Mr. ROBINSON. I yield.

Mr. CURTIS. I had intended to make that point of order if the question was raised. I have looked up the precedents, and I know that what the Senator has said is correct. But I thought, inasmuch as the Senator from Michigan had made his speech, that it was well enough to let the Senator from Mississippi make his reply and then make the motion.

Mr. WILLIAMS. Mr. President, I beg the Senator's pardon. I did not hear him.

Mr. CURTIS. I stated that I had intended as soon as the Senator from Mississippi concluded his remarks to call up the resolution to adjourn.

Mr. WILLIAMS. I am perfectly willing to adjourn.

Mr. ROBINSON. Mr. President, with the permission of the Senator from Mississippi, who has the floor, I wish to reply to a statement made by the Senator from Michigan. I think his address, coming at this time and under the circumstances, constitutes a very remarkable proceeding. I am perfectly aware of the fact that that may be a consideration to which the Senator from Michigan is entirely indifferent.

The Senator from Michigan has sarcastically referred to the delay that it is expected will result in the determination of the Newberry case and to the fact that the Senator from Ohio [Mr. POMERENE] desires to go to Haiti. The plain implication of his remark was that important business of the Senate was to await the convenience and pleasure of the Senator from Ohio. The Senate understands and the country must understand that the Senator from Ohio is going to Haiti on very important business of the Senate—

Mr. WILLIAMS. Appointed and commanded by the Senate.

Mr. ROBINSON. As a result of a resolution passed by the Senate of the United States. Other Democratic Senators and other Senators who are Republicans, a majority of the committee being Republicans, are directed by the Senate to proceed to Haiti on the business of the Senate and on the business of the United States. The Senator from Michigan has waited a long time before pressing consideration of the Newberry case.

Mr. WILLIAMS. The "so-called" Newberry case.

Mr. ROBINSON. The Senator from Michigan has not been anxious until quite recently to have a vote on the Newberry case. The Senator from Ohio ought not to have to take the floor personally to respond to the sarcastic reference made to him and to his service in this case and in connection with the investigation of affairs in Haiti.

The Senator from Michigan began his address by declaring that the Republican Party in Congress had not accomplished anything. I am perfectly willing to agree with him on that proposition. I am in hearty accord with the Senator from Michigan when he says that the Republican Party have done so little—

Mr. TOWNSEND. The Senator from Michigan did not say that the Republican Party had not accomplished anything, but he did say that they could have accomplished more.

Mr. ROBINSON. The Senator from Michigan said that so little had been done that he felt that we ought to continue in session, that we ought not to have any vacation, and he sarcastically referred to the fact that the motive for the resolution now under consideration is to enable Senators to obtain mileage.

Mr. President, who do you reckon would be the first Senator to draw mileage when the necessary resolution providing for it is passed? Do you suppose that the Senator from Michigan expects to decline to draw his mileage? During recent years the sessions of Congress have become almost continuous performances, with no intermission between the acts.

I said awhile ago that I was in a frame of mind to agree with the Senator from Michigan when he confessed that his party had accomplished very little during the present session of Congress, but I do not agree with him that it would benefit the country if the Congress shall remain in session until the hour of the meeting of the next session of Congress.

Mr. WILLIAMS. Mr. President—

Mr. ROBINSON. Just a moment. The question of mileage is a question of appropriation. I respectfully suggest to my friend from Michigan that it is a very ill-considered allusion to suggest that Senators are willing to neglect the public business of the United States in order to increase their own compensa-

tion. I think the country would be better off, and that Congress would be better off, if we took a brief vacation. I think it would be well for Senators to go home and visit their people. I am not surprised that some Senators do not want to go home; but I believe if we occasionally get the viewpoint of the public and come back reinforced with the purpose to discharge our duties it will be much better.

The Senator from Michigan also said that some Senators have little regard for the Republican Party; some Senators, he said, who have no regard for the Republican Party have talked too much to suit him. I am not surprised at that statement either. When I consider the record that the Republican Party has made, I wonder how anybody could have regard for it. Take the present administration, take the acts of Congress during this session, and it is not amazing that the party is discredited even in the minds of some of its own members, some of its prominent representatives.

The Newberry case will be decided, and it will be decided with promptness. There is nothing in the circumstances surrounding this case, in my judgment, to warrant a Senator in reflecting upon another Senator who announces a purpose to go away in pursuit of the business of the Senate and who also desires to be present to vote on the Newberry case. It is a very extraordinary proceeding that the whole Senate shall be lectured by the Senator from Michigan because we are not willing to stay here and discuss his resolution on cloture.

Mr. CURTIS. Mr. President—

The VICE PRESIDENT. Does the Senator from Arkansas yield to the Senator from Kansas?

Mr. ROBINSON. I think the Senator from Mississippi [Mr. WILLIAMS] has the floor.

Mr. CURTIS. I was merely going to ask who had the floor.

Mr. ROBINSON. If the Senator from Mississippi wishes to resume the floor, I will desist.

Mr. WILLIAMS. No; go ahead until you are through.

Mr. ROBINSON. The Senator from Michigan knows, and everybody else knows, that no cloture resolution is going to be seriously considered in the early future by the Senate of the United States. There has been nothing in the proceedings of the Senate in connection with the Newberry case that justifies a reference to the cloture question at this time.

Mr. CURTIS. Mr. President—

The VICE PRESIDENT. Does the Senator from Arkansas yield to the Senator from Kansas?

Mr. ROBINSON. I take pleasure in yielding to the Senator from Kansas.

Mr. CURTIS. I merely wish to ask the Senator a question. I understood that the Senator from Mississippi had yielded to the Senator from Arkansas for a question.

Mr. ROBINSON. No; the Senator from Mississippi yielded to me to make a statement, and that is exactly what I am proceeding to do. I am not surprised that the Senator from Kansas does not feel an interest in the statement that I am making. I repeat, Mr. President, that there is nothing in the Newberry case or in the history of it, so far as it concerns the Senate, that justifies the Senator from Michigan in insisting that the Senate stay in session to consider that case.

Oh, we have had the cloture question raised in the Senate repeatedly during the last 20 years. Every Senator here knows the history of it; and we know that there is one thing Senators are not going to do—deprive themselves by their own act of the privilege of talking. What would happen to the Senate and to the country if the previous question were incorporated in the rules of the Senate? What would happen to my good friend the Senator from Michigan if there were denied him the privilege of unlimited debate, which means that in this body any Senator may take the floor at any time he can get it and talk as long as the Almighty will permit on any subject that he chooses and nobody can interfere with him? But beyond that is the fact that unlimited debate in the Senate has in many instances in the history of this country proven of inestimable value to the public and to the institutions of the Republic.

Mr. CURTIS. I rise to a point of order.

The VICE PRESIDENT. The Senator will state his point of order.

Mr. CURTIS. The Senator from Kansas offered a resolution providing for final adjournment.

Mr. ROBINSON. Mr. President, I have concluded all that I desire to say on this subject.

Mr. CURTIS. Then, Mr. President, I move the adoption of the resolution which I have presented.

Mr. WILLIAMS. I think I have the floor.

Mr. CURTIS. The Senator yielded, and I rose to a point of order.

Mr. WILLIAMS. But I still have the floor. I merely yielded temporarily to the Senator from Arkansas.

The VICE PRESIDENT. The Senator from Kansas will state his point of order.

Mr. CURTIS. The point of order is that the resolution I have offered is privileged and is in order at any time. The resolution was presented by me and was read by the Secretary.

Mr. WILLIAMS. Mr. President, I have been occupying the floor, and no man can take me off the floor for the next seven minutes during which I think I will occupy it. That is my answer to that. I will not yield to anybody else.

Mr. CURTIS. I insist on my point of order.

The VICE PRESIDENT. The Senator will state his point of order.

Mr. CURTIS. I offered the resolution which was read and which is privileged. It is in order at any time. It was in order when it was read and should have been put before the Senate at that time.

I call the attention of the Chair to the following precedent:

The Vice President (Mr. Hobart) laid before the Senate, for its consideration, a resolution of the House of Representatives providing for the final adjournment of the two Houses of Congress at 9 o'clock p. m. this day;

When,

Mr. Morgan objected to the consideration of the resolution and raised a point of order, namely, that objection having been made, the resolution, under clause 5, Rule XIV, must lie over one day for consideration.

The Vice President overruled the question of order and decided that the resolution which provided for an adjournment of Congress was a question of privilege, and that the provision of Rule XIV was not applicable thereto.

That precedent was adhered to at a later date when a similar resolution was submitted to the Senate.

Mr. WILLIAMS. Mr. President, a point of order. Have I the floor or have I not? I thought I had, and I have not yielded to the Senator from Kansas.

The VICE PRESIDENT. The Senator from Kansas is stating a point of order.

Mr. WILLIAMS. I understand that.

The VICE PRESIDENT. Of course he has a right to raise a point of order, even if the Senator from Mississippi has the floor, which the Chair is not now deciding.

Mr. WILLIAMS. Very well, then, go ahead.

Mr. CURTIS. I have finished my statement on the point of order.

The VICE PRESIDENT. The Chair understood the Senator from Kansas—

Mr. WILLIAMS. Mr. President, then I will debate the point of order after the Senator from Kansas sits down.

Mr. CURTIS. I make the point of order that it is not debatable.

The VICE PRESIDENT. The Chair understood when the Senator from Kansas offered the resolution that he asked unanimous consent for its immediate consideration. The Chair, therefore, put that request to the Senate. There was objection at that time, and the Chair stated that there was objection. The Chair is of the opinion that unanimous consent is necessary that the point of order now raised by the Senator from Kansas is well taken, and that the resolution is before the Senate, is privileged, and not debatable.

Mr. WILLIAMS. Does the Chair also rule that the point of order is not debatable?

The VICE PRESIDENT. The Chair has decided the point of order.

Mr. WILLIAMS. Does the Chair rule, in spite of the Chair's decision that the point of order is not debatable, that there is no comeback from any Senator on this floor?

The VICE PRESIDENT. The point of order is not debatable unless the Chair permits and requests and desires debate.

Mr. WILLIAMS. Then, Mr. President, I ask unanimous consent for five minutes to conclude my observations on this question.

The VICE PRESIDENT. Without objection, the Senator will proceed for five minutes.

Mr. WILLIAMS. Mr. President, I began my observations by saying that the Senator from Michigan [Mr. TOWNSEND] had entered a plea of confession and avoidance. I did not dwell upon that, because I thought he was lawyer enough, and I know the Senator from Arkansas [Mr. ROBINSON] was lawyer enough, to understand what I meant. The Senator from Michigan had confessed that the Republican Party had done nothing and he had charged us and the rules of the Senate in avoidance with the fault.



Mr. President, I want to go now to the point of which I was speaking when I surrendered the floor to my very dear friend, JOE ROBINSON, of Arkansas. I love JOE ROBINSON very much, and whenever I have a cake I am willing to give him at least half of it; but I hardly knew that JOE wanted three-fourths of it when he requested me to divide.

"The so-called Newberry case." That was the language of the Senator from Michigan. A Senator from his own State; a case affecting not only the honor of the States of the Union and of the American people but peculiarly affecting his own State; and he calls it "the so-called Newberry case"!

Mr. President, it may be "so called" as far as everybody in the world is concerned except the contestee, Mr. Newberry, but it will not be "so called" as far as he is concerned. Whether you vote by a party majority to keep him here or not, he has been disgraced and his political career has been closed. He will never dare run for another office, even in the State of Michigan; but if he does, the conscience of the State of Michigan will not imitate the quasi conscience of the United States Senate and send him back.

Mr. President, it does not require any technicalities; it does not require any lawyerlike ability. A plain, ordinary Mississippi red-neck; a plain, ordinary Georgia cracker; a plain, ordinary mechanic in Michigan, in Detroit, or anywhere else knows when a man spends nearly \$200,000 in a primary election case that it was not spent honestly, that it was not spent legitimately, that it could not have been spent legally.

Somebody the other day in a slurring way—the Senator from Missouri [Mr. SPENCER], I believe—said: "But in Mississippi a primary nomination amounts to an election." That is the very reason why I am insisting upon honesty in a primary. In some States and in some districts and in some of the mountain Republican districts of the South a primary nomination does amount to an election, and therefore a primary ought to be honest. You can meet the ordinary clothopper, without any great degree of legal learning, and tell him that a man spent \$200,000, or very nearly that amount, in a primary, and he knows—he needs no proof—that that amount of money was not needed for any honest and legitimate purpose.

Oh, Mr. President, but it is said the contestee did not know anything about it. Poor, little, innocent female child, about 10 or 11 or 12 years old, I reckon. He did not even know he was running. According to the testimony he hardly knew he was running. His brother knew he was running, but his brother did not know how much money it was taking to run him, even out of his own private bank account and the bank accounts of the balance of the family.

The VICE PRESIDENT. The time of the Senator from Mississippi has expired. The question is on agreeing to the concurrent resolution.

The concurrent resolution was agreed to.

#### MICHIGAN SENATORIAL ELECTION.

Mr. POMERENE. Mr. President, I present a memorandum for a unanimous-consent agreement respecting the Newberry case, and ask that it may be read to the Senate.

The VICE PRESIDENT. The Secretary will read the proposed unanimous-consent agreement.

The ASSISTANT SECRETARY. The Senator from Ohio asks unanimous consent that not later than the first calendar day after the Senate shall convene following January 1, 1922, the Senate will proceed with the consideration of Senate resolution 172, declaring Truman H. Newberry to be a duly elected Senator from the State of Michigan, etc., and upon any amendment or substitute that may then be pending or that may be offered thereto, and that it shall then be considered the unfinished business, and that not later than 1 o'clock p. m. on the third calendar day thereafter the Senate will proceed with such consideration to the exclusion of other business; and beginning with 1 o'clock on said third calendar day, and thereafter until the final vote, no Senator shall speak at any one time for a longer period than 30 minutes; provided, however, that any Senator shall have the right to speak upon said resolution, or amendments thereto, or substitute therefor, on any day after the reconvening of the Senate on December 5, subject to the above provisions.

Mr. WARREN. Mr. President, I do not rise to object to the conclusion sought, except that the Senator should make exception as to certain matters that must have earlier attention. For instance, there is a very considerable appropriation bill that has passed the House to-day, or will pass to-day, which will be too late in its completion by the Senate committee in time to have it presented to the Senate and passed at this session, but which will be prepared and ought to be taken up im-

mediately after we assemble in December, and certain other appropriation matters may seek early attention.

Mr. POMERENE. Mr. President, if the Senator will yield to me, there is nothing to prevent that at all. The resolution is only made the unfinished business beginning the first calendar day after we reconvene in January. The matters to which the Senator refers can be brought up in December. There will be nothing to interfere with that.

Mr. ROBINSON. Mr. President, if the Senator from Ohio will permit me—

Mr. POMERENE. I yield.

Mr. ROBINSON. The resolution, being one of the highest privilege, could be called up at any time by any Senator.

Mr. POMERENE. It could.

Mr. ROBINSON. And if any Senator chose to insist upon its consideration to the exclusion of appropriation bills, he would be able to do it anyway, without any unanimous-consent agreement.

Mr. POMERENE. Probably that is so; and this recognizes the right of a Senator to speak on the Newberry case.

Mr. ROBINSON. Mr. President, there can be no necessity for making the resolution the unfinished business, because any Senator at any time can bring it before the Senate by a proper motion, it being a matter of the highest privilege.

Mr. POMERENE. I think that is true, except that we were trying to arrive at a definite time which might be satisfactory to the Senate.

Mr. WARREN. I understand the Senator's proposition, but that does not carry with it that we must beforehand provide that it shall occupy, perhaps, months of debate.

Mr. POMERENE. Oh, no; there is no such intention.

Mr. WARREN. I do not, however, object to the proposition.

Mr. NORRIS. Mr. President, in the first place, it is an impossibility to make anything the unfinished business by unanimous consent, but that is a technical objection which I do not care to make.

My objection to this proposition is, as I stated once before, to putting it off so long, and in the meantime making it possible to bring it up and put it off every day from now until January. Instead of expediting this matter, I believe it will have the contrary effect to enter into a unanimous-consent agreement that will make it possible for any Senator to bring up the resolution at any time between now and January and then lay it aside and take up something else. It seems to me it is not an intelligent way to consider this question.

I should be very glad indeed to see an agreement made by which the time for which any Senator could speak should be limited. Personally, I do not want to delay the matter. I think this proposed agreement has a tendency to delay it. It ought to be disposed of long before next January, and for that reason, Mr. President, I object.

Mr. SPENCER. Mr. President, before the Senator makes his objection, will he consider, perhaps, this point in the case? I agree with him that the resolution ought to be speedily determined, and yet two things are undoubtedly true. One of them, as the Senator from Arkansas [Mr. ROBINSON] has so clearly stated, is that whether the Senator likes it or not, the question is one of such high privilege that any Senator can bring it up at any time. That is because of its high privilege, and nothing that we can do can prevent that right. The time named in January is long. It is too long under any ordinary condition of affairs; but I call the Senator's attention to the fact that the leader of the minority opinion and others will be out of the country on Government business until the latter part of December, and that is the reason that makes me quite willing to consent to this unanimous-consent agreement, to which otherwise I would not want to consent. We could bring it up in the first part of the next session and probably dispose of it then; but the Senator from Ohio [Mr. POMERENE], the Senator from Utah [Mr. KING], the Senator from Nevada [Mr. PITTMAN], and other Senators are to be away on Government business and will not be back until the latter part of December. Therefore the early part of January seems to be the earliest time at which the matter can be fairly set down by the consent of the Senate.

Mr. NORRIS. Mr. President, I do not want to interfere with the convenience of the Senators who want to go to Haiti, or with the convenience of any other Senator, if it will result in any inconvenience to them; but I am not going to consent to any unanimous-consent agreement that sets this resolution or any other resolution before the Senate in such a way that it can come in and go out for two or three months' time. If Senators want to lay aside the Newberry matter after it has been debated as long as it ought to have been debated, it seems to me, and go on to other business, and take it up at some future

time, of course, I am not in position to object to it; but here is a proposition that practically lays it before the Senate now, takes it out to-morrow, and brings it in the next day, depending on when any Senator wants to debate it, and we can not vote on it until next year.

I am objecting to fixing a time now. In the first place, I think the right way to reach this, though perhaps it could not be done now, because there may be some Senators who want to make a longer speech, would be to agree to take it up at some time next January, if Senators want to do that, and let us take up other business in the meantime, so that we can do something, and then limit the time for debate. I do not care particularly about having it taken up in December, when we reassemble, as it seems that many Senators who desire to be here when a vote is taken will be absent then, but we would be establishing a precedent by this unanimous-consent agreement, which it seems to me would make the Senate ridiculous for perhaps two months.

Mr. CUMMINS. Mr. President—

The VICE PRESIDENT. Does the Senator from Nebraska yield to the Senator from Iowa?

Mr. NORRIS. I yield.

Mr. CUMMINS. I am very deeply interested in the interpretation that is to be put upon this consent agreement, because it is my hope that on the first day of the next session the Senate will proceed to the consideration of what is known as the railroad bill, and when the agreement was first presented to me I objected to it because it attempted to make the Newberry case the unfinished business after the 6th of December. As I understand the agreement, however, the Newberry case will not come before the Senate for any possible action until the first calendar day upon which the Senate is in session after the 1st of January, and it then becomes the unfinished business, and must be continued to the exclusion of all other business until a vote is had.

The final proviso in the unanimous-consent agreement, as I look at it, is of no consequence at all, and therefore I did not object to it, because it is the privilege of any Senator, no matter what question may be pending, to address the Senate on any subject he may desire to speak upon. I think the agreement would be in better form if the proviso were eliminated; but I care nothing about it, because I know that if, for instance, the railroad bill is before the Senate any Senator can speak upon the Newberry case without violating any of our rules of order.

So I think it really means what the Senator from Nebraska wants the agreement to provide, namely, that this case shall come before the Senate immediately after the 1st of January and be continued to the exclusion of all other business until it is disposed of.

Mr. NORRIS. The Senator from Iowa, I think, is in error in this respect: If the railroad bill comes before the Senate, and some Senator wants to have the Newberry case brought up, under this unanimous-consent agreement he can have the railroad bill laid aside and the Newberry resolution laid before the Senate.

Mr. CUMMINS. He will have no right to have the railroad bill laid aside, under this agreement.

Mr. NORRIS. I understand he will; but he will have no right to have a vote. It looks foolish, it seems to me. Why make any different rule in regard to this resolution from what we make in regard to any other resolution? You can not make a proposition the unfinished business in this body by a unanimous-consent agreement. The status of a measure as the unfinished business comes about as a result of certain action of the Senate, and to state now that the Newberry resolution can come up at any time, that any Senator can have it laid before the Senate and debate it, but that we can not have a vote on it, it seems to me, will result only in waste of time.

Mr. CUMMINS. Let me suggest to the Senator from Nebraska that I agree with him in regard to the attempt to state a conclusion with regard to the unfinished business, but the agreement provides that at 1 o'clock on a certain day the Newberry resolution shall be laid before the Senate, and that then the Senate shall proceed with the consideration of that measure exclusively until a vote is had, and it is that part of the agreement which will make it the unfinished business.

Mr. ROBINSON. Mr. President—

Mr. NORRIS. I yield to the Senator from Arkansas.

Mr. ROBINSON. I suggest to the Senator from Ohio, who presented the request for unanimous consent, that he strike from the request that portion of it which makes the resolution the unfinished business. I have already presented to the Senate my views on the effect of it.

Mr. NORRIS. Let me suggest to the Senator from Ohio that he ask unanimous consent that at a certain time—I do not care

when he fixes it—the Senate will proceed to the consideration of the Newberry resolution, and that it will consider it, except when other business is taken up by unanimous consent, until it is finally concluded. I do not think the Senator ought to fix a time for debate unless he will include in it a limitation on the length of time Senators may speak. Let the agreement provide that at a certain time we will proceed to the consideration of the resolution, as we do with everything else, and within a day or so after the debate has proceeded we will reach some kind of an agreement as to a day for a vote. The Senate has often entered into an agreement that at a certain time we would proceed to vote, and within a couple of days of the time for the vote a few Senators, talking two or three hours apiece, consume all the time, and other Senators are deprived of any right to speak at all in a body that ordinarily has unlimited debate. I would be perfectly willing, so far as I am concerned, to have the speeches limited to 10 minutes, but I realize that that would be unfair to some Senators who have made preparations for extensive speeches. I suggest, therefore, that no limitation be fixed until the debate has proceeded.

Mr. WATSON of Indiana. Is the Senator objecting to the proposed unanimous-consent agreement in its present form?

Mr. NORRIS. I did object.

Mr. WATSON of Indiana. Will the Senator object to it if the latter portion of it be stricken out?

Mr. NORRIS. I do not know how it would read then.

Mr. WATSON of Indiana. Let us have it stated, in order that we may determine this question.

Mr. CURTIS. I ask unanimous consent that the matter may go over until to-morrow. The request can be changed in the meantime. I am sure that we would have some trouble in getting it in shape to-night, and we want to have an executive session.

Mr. POMERENE. I have no objection.

Mr. LENROOT. Let it go over.

Mr. POMERENE. Will the Senator permit me? I address myself particularly to the Senator from Nebraska [Mr. NORRIS]. I do not think that even he, though he has been diligent in his attendance on the Senate, is familiar with the efforts which have been made by Senators on one side and the other side to reach an agreement as to a time when this matter could come to a possible conclusion. The Senator from Missouri has written perhaps two agreements—

Mr. SPENCER. More than that.

Mr. POMERENE. He has written a number of agreements. I have tried to arrange two or three, and other Senators have tried to arrange others. There were different views which had to be met, and I had the agreement in a form which met the approval of all I was able to consult. I did not see the Senator from Nebraska this afternoon; otherwise I certainly would have obtained his views. There is not any desire to take any snap judgment or anything of that kind, but we hoped to arrive at an agreement which we thought would be mutually acceptable. However, I think it is well, perhaps, to let it go over until to-morrow morning.

#### EXECUTIVE SESSION.

Mr. CURTIS. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to, and the Senate proceeded to the consideration of executive business. After 50 minutes spent in executive session the doors were reopened.

#### RECESS.

Mr. CURTIS. I move that the Senate take a recess until to-morrow morning at 10 o'clock.

The motion was agreed to; and (at 5 o'clock and 55 minutes p. m.) the Senate took a recess until to-morrow, Wednesday, November 23, 1921, at 10 o'clock a. m.

#### CONFIRMATIONS.

*Executive nominations confirmed by the Senate November 22 (legislative day of November 16), 1921.*

##### COLLECTOR OF INTERNAL REVENUE.

Noah Crooks to be collector of internal revenue, sixth district of Missouri.

##### UNITED STATES ATTORNEYS.

Fred Cubberly to be United States attorney, northern district of Florida.

Irvin B. Tucker to be United States attorney, eastern district of North Carolina.

##### UNITED STATES MARSHAL.

I. K. Parshall to be United States marshal, western district of Missouri.



## POSTMASTERS.

## ARKANSAS.

Oscar L. West, Shirley.

## CONNECTICUT.

Joseph Brush, Greenwich.  
Robert Whittaker, Stamford.

## INDIANA.

Charles H. Ruple, Earl Park.  
Kent A. Brewer, Greenwood.  
William D. Crow, Petersburg.  
Albert W. Bitters, Rochester.  
William F. Kahler, Winamac.

## IOWA.

Freddie Baldwin, Chester.  
Miller C. Rhoads, Clarksville.  
Amel F. Wunn, Everly.  
James E. Carr, Farmington.  
H. H. Ahlft, Grandmound.  
Arthur M. Burton, Grinnell.  
Clyde E. Wheelock, Hartley.  
Irene Goodrich, Lehigh.  
Benjamin F. Shirk, Linn Grove.  
John P. McNeill, Melcher.  
Keith L. McClurkin, Morning Sun.  
Anna A. Gough, Palmer.  
Theodore E. Templeton, Paton.

## MICHIGAN.

Lillian J. Chandler, Benzonia.  
Carey E. Terry, Dryden.  
Leonard B. Carter, Fennville.  
Ettie M. Meyer, Fowler.  
Florence J. Truax, Ortonville.  
John F. Quick, Swartz Creek.

## MINNESOTA.

Laura O. Kuchta, Aurora.  
Anna E. Baker, Brownton.  
Alice G. Doherty, Byron.  
Osmon F. Way, Claremont.  
John C. Diekmann, Collegeville.  
George F. Ryan, De Graff.  
Lyall E. Williams, Dexter.  
Elmer C. Hutchinson, Eagle Bend.  
Daniel J. Sullivan, Ellendale.  
George H. Emmons, Emmons.  
Carleton H. Leighty, Glenville.  
Albert Myhre, Grand Meadow.  
Isaac C. Stensrud, Hartland.  
Charles Beecher, Henderson.  
Edith A. Marsden, Hendrum.  
Henry Hendrickson, Hoffman.  
Katherine C. McCaffrey, La Crescent.  
Robert B. Forrest, Lake Wilson.  
Joseph W. Douda, Lonsdale.  
Fred E. Joslyn, Mantorville.  
Louis A. Muckleberg, Millville.  
Maxwell W. Johnson, Milroy.  
Lillian E. Trevette, Newport.  
George W. Shipton, Ogilvie.  
Cora O. Smith, South Stillwater.  
George E. Brockman, Triumph.  
Laurence A. Weston, Waubun.  
Anton Levandosky, Williams.

## MISSOURI.

Raymond E. Miller, Carl Junction.  
Charles E. Leach, Deepwater.  
Peter S. Ravenstein, Hayti.  
John Kerr, Newburg.  
Selma Brashear, Parnell.

## NEW JERSEY.

Annie Hoskings, Bloomingdale.  
George Whetham, Haskell.  
Bertha A. Grabosky, Palisade.

## NEW YORK.

Edward J. McCourt, Arlington.  
Howard McClellan, Greenwich.  
Frank C. Proctor, Kings Park.  
John D. Stivers, Middletown.

## NORTH DAKOTA.

Norton T. Hendrickson, Hoople.  
Dorothea L. Haugen, Maddock.Albert J. Olson, Medina.  
D. G. McIntosh, St. Thomas.  
Abraham T. Anderson, Turtle Lake.

## OHIO.

Everett W. White, Albany.

## OKLAHOMA.

Gaylord S. Clute, Barnsdall (late Bigheart).  
Walter S. Miller, Copan.  
Arthur W. Crawford, Moreland.  
Roy E. Cline, Osage.

## PENNSYLVANIA.

George L. Van Alen, Northumberland.  
Charles W. Newman, Wyalusing.

## PORTO RICO.

Luis R. Garcia Casanova, Naguabo.

## SOUTH CAROLINA.

William R. Rozier, Bethune.

## SOUTH DAKOTA.

Ollie V. Loughlin, Colman.  
Clarence Mork, Pierpont.  
Oscar N. Hunt, Quinn.  
Elmer J. O'Connell, Ramona.  
Mary A. Pike, Tyndall.

## TENNESSEE.

Henry W. Addington, Bullsgap.  
Arthur Taylor, Lenoir City.  
John D. M. Marshall, Lookout Mountain.  
John W. Wiggs, Paris.  
James C. Key, Riceville.  
Paul E. Walker, Ridgely.  
Mettie M. Collins, Rutledge.  
James H. Christian, Smithville.

## REJECTION.

*Executive nomination rejected by the Senate November 22  
(legislative day of November 16), 1921.*

## RECORDER OF DEEDS FOR THE DISTRICT OF COLUMBIA.

Henry Lincoln Johnson to be recorder of deeds, District of Columbia.

## HOUSE OF REPRESENTATIVES.

TUESDAY, November 22, 1921.

The House met at 11 o'clock a. m.

The Chaplain, Rev. James Shera Montgomery, D. D., offered the following prayer:

Our Father in Heaven, when there is no eye to pity and no arm to save, then the Lord will take us up. Oh, it is Thy eternal love which is under the burden and the soul of things. We beseech Thee to forgive us our trespasses and unfold the best qualities of our manhood. In a very high sense make our lives intelligible, our labors divine, our sorrows sacramental, and our souls mighty. Oh, be melody for the dirge, sweetness for the cup, and strength for all human frailty. In the name of Jesus. Amen.

The Journal of the proceedings of yesterday was read and approved.

## DESIGNATION OF SPEAKER PRO TEMPORE.

The SPEAKER. The Chair designates the gentleman from Massachusetts, Mr. WALSH, to act as Speaker to-morrow, Wednesday, November 23, 1921, and the next two succeeding days, if there should be any in this session, and asks that the designation be approved by the House. Is there objection? [After a pause.] The Chair hears none, and the Clerk will notify the President and the Senate.

## BRIDGE ACROSS ROCK RIVER, ILL.

Mr. GRAHAM of Illinois. Mr. Speaker, I ask unanimous consent for the present consideration of the bill H. R. 8346, granting the consent of Congress to the board of supervisors of Whiteside County, Ill., to construct a bridge across Rock River. The SPEAKER pro tempore (Mr. WALSH). The gentleman from Illinois asks unanimous consent for the present consideration of the bill H. R. 8346, a bridge bill. Is there objection? Mr. GARRETT of Tennessee. Mr. Speaker, reserving the right to object, this bill has been reported from the committee?

Mr. GRAHAM of Illinois. Yes; it has been reported unanimously by the Interstate and Foreign Commerce Committee, and has the approval of the War Department.

The SPEAKER pro tempore. The Chair hears no objection, and the Clerk will report the bill.

The Clerk read as follows:

*Be it enacted, etc.*, That the consent of Congress is hereby granted to the board of supervisors of Whiteside County, in the State of Illinois, and their successors and assigns, to construct, maintain, and operate a bridge and approaches thereto across the Rock River at a point suitable to the interests of navigation, at or near the city of Sterling, in the county of Whiteside, in the State of Illinois, in accordance with the provisions of the act entitled "An act to regulate the construction of bridges over navigable waters," approved March 23, 1906.

Sec. 2. That the right to alter, amend, or repeal this act is hereby expressly reserved.

Mr. GRAHAM of Illinois. Mr. Speaker, this is an ordinary bridge bill. There is an existing bridge at this place over Rock River, a public highway bridge, a free bridge, and this is simply a permit for the reconstruction of that bridge.

The SPEAKER pro tempore. The question is upon the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

On motion of Mr. GRAHAM of Illinois, a motion to reconsider the vote by which the bill was passed was laid on the table.

#### BRIDGE ACROSS RED RIVER OF THE NORTH AT FARGO, N. DAK.

Mr. BURTNESS. Mr. Speaker, I ask unanimous consent for the present consideration of the bill (H. R. 8744) granting the consent of Congress to the State of North Dakota, the county of Cass and the city of Fargo, N. Dak., and the State of Minnesota, the county of Clay and the city of Moorhead, Minn., or any of them, and their successors and assigns, to construct, maintain, and operate a bridge and approaches thereto across the Red River of the North at a point suitable to the interests of navigation between the cities of Fargo, N. Dak., and Moorhead, Minn., which I send to the desk and ask to have read.

The Clerk reported the title of the bill.

The SPEAKER pro tempore. Is there objection to the present consideration of the bill?

Mr. GARRETT of Tennessee. Mr. Speaker, reserving the right to object, this bill is on the calendar?

Mr. BURTNESS. This bill is on the Calendar for Unanimous Consent, properly, and has been unanimously reported by the Committee on Interstate and Foreign Commerce, and has the approval of the War Department.

The SPEAKER pro tempore. Is there objection?

There was no objection.

The SPEAKER pro tempore. The Clerk will report the bill.

The Clerk read the bill, as follows:

*Be it enacted, etc.*, That the consent of Congress is hereby granted to the State of North Dakota, the county of Cass and the city of Fargo, N. Dak., and the State of Minnesota, the county of Clay and the city of Moorhead, Minn., or any of them, and their successors and assigns, to construct, maintain, and operate a bridge and approaches thereto across the Red River of the North at a point suitable to the interests of navigation between the cities of Fargo, N. Dak., and Moorhead, Minn., in accordance with the provisions of the act entitled "An act to regulate the construction of bridges over navigable waters," approved March 23, 1906.

Sec. 2. That the right to alter, amend, or repeal this act is hereby expressly reserved.

With the following committee amendment:

Amend the title so as to read:

"A bill granting the consent of Congress to the State of North Dakota, the county of Cass and the city of Fargo, N. Dak., and the State of Minnesota, the county of Clay and the city of Moorhead, Minn., or any of them, to construct a bridge across the Red River of the North between the cities of Fargo, N. Dak., and Moorhead, Minn."

Mr. BURTNESS. Mr. Speaker, an additional bridge is required at this point, due to the fact that one of the main transcontinental highways of the country passes over the river at this point.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

The title was amended so as to read: "A bill granting the consent of Congress to the State of North Dakota, the county of Cass and the city of Fargo, N. Dak., and the State of Minnesota, the county of Clay and the city of Moorhead, Minn., or any of them, to construct a bridge across the Red River of the North between the cities of Fargo, N. Dak., and Moorhead, Minn."

On motion of Mr. BURTNESS, a motion to reconsider the vote by which the bill was passed was laid on the table.

#### SETTLEMENT OF MINING CLAIMS.

Mr. RHODES. Mr. Speaker, I ask that Senate bill 843, to amend section 5 of the act approved March 2, 1919, entitled "An act to provide relief in cases of contracts connected with the

prosecution of the war, and for other purposes," as amended by the House, with a Senate amendment thereto, be taken from the Speaker's table, and move that the House concur in the Senate amendment to the House amendment.

The SPEAKER pro tempore. The gentleman from Missouri asks that the Senate bill 843 be laid before the House, and moves that the House concur in the amendment of the Senate to the House amendment.

Mr. STAFFORD. Mr. Speaker, under reservation of the point of order, I desire to have the Senate amendment to the House amendment read.

The SPEAKER pro tempore. The Chair was about to direct the reading of the Senate amendment.

The Clerk reported the Senate amendment to the House amendment.

Mr. RHODES. Mr. Speaker, I desire to say that the Senate amendment includes the language against which the gentleman from Wisconsin [Mr. STAFFORD] urged the point of order, which was sustained by the chairman of the committee [Mr. FESS], on Wednesday last. With the House concurring in the Senate amendment, it means the passage of the bill exactly in the form in which it passed the House with these words stricken out.

Mr. STAFFORD. Mr. Speaker, is the gentleman quite correct in his statement that the amendment conforms to the objection which I raised when the bill was under consideration? Does not this amendment have the effect of not having any limitation upon the authorization of the amount of money that may be paid for these claims, but enables the money to be appropriated ad libitum, according to the presentation of the claims?

Mr. RHODES. In response to the gentleman's question I wish to say that if this language goes out of the bill it means that the question of expenditure of money will be governed by the original act, which authorizes the Secretary of the Interior to make awards and pay the same out of the \$8,500,000 heretofore appropriated.

Mr. STAFFORD. Oh, no; with the adoption of this amendment there is no restriction as to the amount of the claims that may be determined and passed on by the Secretary of the Interior.

This amendment carries out just what I prophesied would be carried out, that if the \$18,000,000 of claims were presented and found to be valid the Congress would have to appropriate the money regardless of whether there was a balance in the \$8,500,000 fund or not.

Mr. WINGO. Will the gentleman yield?

Mr. RHODES. In just a moment. I think that statement might be true if the gentleman's assumption was correct, but to my mind it is a very remote possibility, and the fact is, when this language goes out, then the objections raised by the gentleman on last Wednesday, which he now enlarges upon, will have been met; and in the light of the gentleman's position, with which I did not agree, and in the light of the decisions of Chairman Fess, I think this language ought to go out. And then the law will simply stand for future administration as it has stood in the past as to the payment of awards. Awards will be paid out of the sums heretofore authorized.

Mr. STAFFORD. Oh, no; not out of the sums authorized.

Mr. RHODES. I beg the gentleman's pardon. I assert with a fair knowledge of the facts and the law that what I say is true, with all due regard to the gentleman's opinion, and insist he is not justified in making that statement, because the original law only authorizes a maximum expenditure of \$8,500,000. Now, I would like to know on what ground the gentleman stands here and insists that a sum in excess of that amount might be authorized?

Mr. STAFFORD. Will the gentleman permit?

Mr. RHODES. It can not be authorized under the terms of this act. It is not authorized under the terms of the original act, and could only be authorized by future action of Congress.

Mr. STAFFORD. The gentleman has directed the question to me—

Mr. RHODES (continuing). And must relate to the unexpended balance.

Mr. STAFFORD. The gentleman asked me a question. Will he give me an opportunity to reply just briefly?

Mr. RHODES. I certainly shall be glad to do so. Mr. Speaker, I will yield to the gentleman five minutes, if he desires.

Mr. STAFFORD. I will not need that much time, Mr. Speaker.

Mr. RHODES. But I do not want to yield the floor.

Mr. STAFFORD. Oh, no; I do not wish to take the control of the floor away from the gentleman.



Mr. Speaker, under the amendment that was adopted by the House we changed radically the basis for the determination of these claims. Under the original bill, as the hearings and the decision of the Solicitor of the Interior Department and the Attorney General show, it was necessary, in order to have these claims paid, that they should be something more than prospectors' claims, and that it had to be shown that it was a workable industrial proposition. If you would examine the report of the prospectors' claims that have been rejected, it will be seen that they amount to \$18,000,000 entire. Now, I have called the attention of the House to the fact that we are changing entirely the basis of calculation. We are opening up under this new amendment that was adopted by the House a policy to require every person who went out in the field and prospected, whether it was a commercial proposition or not—and I say that without fear of contradiction, notwithstanding the letter of the Secretary of the Interior as printed in the report—

Mr. COLTON. Does the gentleman understand that claims that are not already filed, that is, were not filed prior to June 2, 1919, could be considered?

Mr. STAFFORD. No; except to those claims amounting to nearly three-quarters of a million or more, offered by the gentleman from Minnesota [Mr. ANDERSON]. The document, which I have studied and which I presented, will show the amount that had been rejected. Now, you are opening it up anew.

I know when I am beaten. I made my fight, presented my case to the attention of the House, and I was beaten, and I am only calling attention in this eleventh hour, to what will be purposed in this amendment, the opening up of the Treasury to all these claims, which I regard as entirely specious and without merit under the original intentment of the law.

Mr. MONDELL. Will the gentleman yield me five minutes?

Mr. RHODES. I will.

Mr. STAFFORD. Mr. Chairman, I withdraw the reservation of the point of order.

Mr. MONDELL. Mr. Speaker, no man in this House does more good work than the gentleman from Wisconsin [Mr. STAFFORD], and I only wish there were more like him. Of course, men who are earnest, as he is, in their desire to guard the Treasury, sometimes are led to take extreme positions in their zeal, and I am afraid the gentleman in his commendable zeal in the public interest has in this case taken a position that is hardly tenable.

The bill as originally presented to the House merely broadened somewhat the class of claims that could be considered. As a matter of fact, it did not broaden, in my opinion, the original intent of the Congress. It broadened the intent of the Congress as that intent had been interpreted by the commission in the Secretary's office that had acted upon these claims and what the House did was to merely express clearly what I understood and what I think most of us understood was the intent of the Congress in passing the original bill. In doing that no additional funds were made available. The only funds that could be utilized were funds that had already been appropriated. Unhappily the bill as originally drawn contained a provision to the effect that there is "hereby appropriated" to pay the claims that might be adjudicated under the amended bill the sums necessary for that purpose out of the appropriation heretofore made—an altogether unnecessary provision. The gentleman from Wisconsin [Mr. STAFFORD], acting under the rules of the House and according to the rules of the House, very properly made a point of order that that was in effect an appropriation. To meet that point of order an amendment was offered and adopted simply authorizing an appropriation. Now, the fact is that no reference to appropriations was necessary or should have been in the bill at any time. What the Senate has done is to place the bill in the form in which it should have been originally, eliminating all references to an appropriation. There is no necessity for any such reference. I think we ought to adopt the Senate amendment.

Mr. DOWELL. Under the precedent that is now before the House can claims be allowed in excess of the appropriations that have already been made for that purpose?

Mr. MONDELL. Not at all. That could not have been done, either under the House bill or the House bill as amended by the Senate amendment.

The virtue of the Senate amendment is that it strikes out all reference to appropriations and leaves the bill what it was originally intended to be—a measure more clearly stating what was, in my opinion and in the opinion of most of those who have studied the matter, the original intent of the Congress touching these claims. There can not be a dollar paid or a dollar obligated beyond the sum already available, and in my opinion there will be a comparatively small number of claims added to those already presented in consequence of this amendment. I do not anticipate that the amendment of to-day will very largely in-

crease the Government expenditure. It will enable a number of claimants of comparatively small means who went to considerable expense, for them, in the endeavor to meet the demand and need of the Nation for those war metals to receive equitable treatment. Under the narrow construction formerly placed on the bill, those people, mostly people of very moderate means—prospectors and small individual operators—were entirely barred from any participation in the relief contemplated. This bill, it seems to me, performs a simple act of justice in behalf of these people—

The SPEAKER pro tempore. The time of the gentleman from Wyoming has expired.

Mr. RHODES. Mr. Speaker, I yield to the gentleman one minute more.

The SPEAKER pro tempore. The gentleman from Wyoming is recognized for one minute more.

Mr. MONDELL. This simply performs an act of justice in behalf of people of small or moderate means who have suffered losses in the production of war material and lays no additional obligation on the Treasury.

Mr. RHODES. Mr. Speaker, I yield five minutes to the gentleman from Arkansas [Mr. WINGO].

The SPEAKER pro tempore. The gentleman from Arkansas is recognized for five minutes.

Mr. WINGO. Mr. Speaker, I believe in view of some things that have been said that there should be a restatement or repetition of the purposes of Congress in enacting this law, and remind you of the two major purposes we had in mind.

Mr. CHALMERS. Before the gentleman goes into that I wish to say that the reason I think this is a bad bill and was objectionable is the fact that it reopens those 600 or more claims that have already been settled and rejected.

Mr. WINGO. Yes; some have based their objection on that fact, but most of the opposition has been based on a misunderstanding as to how much further we went. I have always prided myself on being frank with the House. What was the intention of the House when it provided for a settlement of these losses by an amendment to the informal war contracts bill that authorized the War Department to settle war contracts? Section 5 was inserted to authorize the Secretary of the Interior to settle the losses of people who had responded to requests of the four Government bureaus to produce four kinds of necessary war materials that could not be profitably produced in peace time in this country, but which we import. At that time we needed the tonnage and the ships to carry supplies and troops to Europe, and they could not be used as formerly to transport these metals from foreign countries, and we had to make it possible for men to meet the demands here at home in developing unprofitable deposits necessary to carry on the war. It was not a good business venture to undertake it.

Now, we authorized the Secretary to make an equitable settlement of these losses. Secretary Lane was a very busy man, and he appointed a commission to make the settlements. Complaints were made against the awards of the commission. The Committee on Mines and Mining went into this matter and fully inquired into it. If you will take the report of the late Representative Garland, who was then chairman of the committee and who has since died, you will find that the committee unanimously agreed that that commission, which was acting for the Secretary in the settlement of these claims, wholly misinterpreted the intent of Congress and misapplied the facts. Now, we reached the conclusion that the disposal of these claims by the commission would not settle the claims, because it was admitted that they had not been given in a great many instances due consideration. We knew that in a great many cases where they had been arbitrarily considered, as a practical fact real consideration had been denied. It was admitted that errors were made not only in miscalculations but mathematical errors. So the matter came before our committee, and there was first reported from the committee a bill to authorize a review by the Court of Claims. It was objected that that process was too long, considering the condition and situation of these claimants.

It was suggested that we authorize the Secretary of the Interior to review these rulings that had been made by the commissioner, or, in other words, grant a new trial. We found that a section of the bill as it came from the Senate granted a new trial on the proof already submitted. I objected to that because in many instances the proof on file consisted of only ex parte statements of claimants. I objected to this as it would be unfair to the Government, so we worded the House amendment so that it will be possible when the Secretary reopens a case to present proof on the part of the Government. We changed it in that respect, and we also changed the provisions with reference to the appropriation. That should never have been in the bill.

Mr. RHODES. Mr. Speaker, will the gentleman yield?

Mr. WINGO. Yes.

Mr. RHODES. Will my colleague state what was the intent and purpose of the committee in putting that in the bill?

Mr. WINGO. Does the gentleman mean the language about the appropriation?

Mr. RHODES. Yes.

Mr. WINGO. The gentleman will recall that I said it was wholly unnecessary, because Congress has already made available for payment of awards \$8,500,000. I have in my possession a statement which can be made available to gentlemen if they desire to see it—a statement showing the claims passed upon, which are the cream of the claims. They allowed an average of only 30 per cent. Those claims must have been filed within 90 days after the passage of the original act or else a formal notice of an individual to file must have been given within that time. If they should find even on these claims, which I think they will not, the same basis of losses that they have found on the cream of the claims—that is, the 30 per cent—you will still have between \$2,000,000 and \$3,000,000 to cover into the Treasury. The appropriation feature never should have been mentioned, because Congress has already made the appropriation. We appropriated \$8,500,000. That is the limit that can be paid out without additional appropriation.

Now, the main original purpose we had in mind was to grant a review or retrial of these claims where it is contended that they had not received proper consideration and a just and equitable settlement as provided by the original act. We wanted the future to be so clear that whenever these private claimants came to Congress and asked their Congressmen to file private claim bills, we could with justice say, "No; we gave you a fair day in court, and your claim was fully looked into and rejected." But the findings of that old commission—and the unanimous opinion of our committee was that that old commission had misinterpreted the intent of Congress—were such that we would not be in a position to say that if they attempted to bring up those claims in the future, and so we proposed in order to have an adjudication that will command respect that the new Secretary of the Interior, in whom we had full confidence as to his conservatism and sense of fairness, should reopen these claims and grant a retrial and a review and see if there was anything in the contention of these people that they had not received a proper adjustment of their claims.

Now, if any Member does not agree that was our main purpose, I would like to know it. No one challenges that fact.

The SPEAKER pro tempore. The time of the gentleman from Arkansas has again expired.

Mr. RHODES. Mr. Speaker, I yield to the gentleman two minutes more.

The SPEAKER pro tempore. The gentleman from Arkansas is recognized for two minutes more.

Mr. WINGO. Then, in addition to that, what did we do? We brought forward in the amendment that we made to section 5 not only the old provisions so as to insure a retrial as suggested, but we also extended it to some extent, and candor compels me to say that I was opposed to at least one of those extensions and thought we ought to be content to provide for retrial and new and additional awards to meet the erroneous ruling of the comptroller, and error on mail filings, and miscalculation, and mathematical errors, but I was overruled and the claims based on published demands were added.

Now the amount, with the claims that are already filed and to which this restricted act applies, can not be as much as some gentlemen seem to think. There is no ground for the fear a great many have had.

Next, it covers cases where there has been either a recognized miscalculation or where there was a mathematical error admitted. Then we come to another major purpose of the committee, which is accomplished by this bill, first to grant the right of review by the new Secretary of the Interior, so that men may have their day in court.

And second, it meets the ruling of the comptroller where he misinterpreted the plain intent of the original act which said "payment or payments," and where they issued a second check where they discovered an error, or where they made an additional award, and the comptroller ruled that they had no authority to do that.

So Congress has two major purposes; not to open up the floodgates, but first, where it is alleged and where the Secretary finds that there is good ground to believe that justice has been denied; second, it meets the erroneous ruling of the comptroller, and third, not to cover new cases that have been added, but where it has been broadened, and that does not go very far.

I will wind up with this statement, that if they go as far as they did before, and allow 30 per cent of the claims, there will then be at least \$2,000,000 covered back into the Treasury.

But, of course, we must do justice. It is conceded that where a miscalculation was made, as in one case where the commission tried to apply a 56 per cent arbitrary rule of stimulation, and by miscalculation applied this percentage, not to all items but to the items left after eliminating certain disputed items; and then I understand in one case, I do not know what case it was, a mathematical error was committed. The 56 per cent miscalculation was in the Pratt case.

Mr. CONNELL. Will the gentleman yield?

Mr. WINGO. I yield to the gentleman from Pennsylvania.

Mr. CONNELL. As I understand, this bill does not appropriate any new money?

Mr. WINGO. If we adopt the amendment of the Senate, it leaves this bill not making any reference whatever to appropriations. It just leaves the law as it is in that respect, as the unexpended balance is already available and another appropriation is not necessary.

Mr. CONNELL. And merely gives a review in court.

Mr. WINGO. Yes; it will grant a review by the present Secretary and compel the comptroller to pay additional awards that in some cases have already been made, and such awards as the Secretary may make on a review. I think Secretary Fall can be trusted to protect the Treasury under the restrictions that the original act and this act contain, and at the same time, by review or retrial, give claimants a "day in court," correct former erroneous rulings, miscalculations, and technical actions, and make a "just and equitable" settlement of net losses, as Congress originally intended.

Mr. RHODES. Mr. Speaker, on the pending motion I move the previous question.

Mr. CRAMTON. Will the gentleman withhold that for a moment?

Mr. RHODES. I withhold my motion and yield to the gentleman from Michigan [Mr. CRAMTON] three minutes.

Mr. CRAMTON. Mr. Speaker, like the gentleman from Wisconsin, I was and am opposed to this legislation; but, like him, I recognize that we have been defeated and that the legislation has passed and will pass with this amendment, and so I will not oppose the amendment. I believe, however, that we ought to know just what the amendment does. I want to read the language of the author of the amendment in another body, in which he states what its purpose is. Speaking of the language which was stricken out, he says:

If it should remain in the bill, it would have the effect of returning to the Treasury the appropriation which has already been made, requiring it to be again taken out by another appropriation. Then the whole matter of the allowance of these claims and the satisfaction of these meritorious services on the part of producers of these essential war minerals would have to be fought over again in the effort to pass through Congress another bill appropriating the money for their satisfaction, though the funds have already been appropriated as the law now stands.

So, striking out the language which Senator POINDEXTER erroneously understood to have been put in by opponents of the bill makes at least the existing appropriation available for this purpose.

Now, as to the other point: If the fears of some of us are realized—and I hope they will not be realized—if the claim allowed under this general review of the acts of the former Secretary by the present Secretary, and if they amount to more than the \$8,000,000 plus heretofore appropriated, of course they can not be paid until the further action of Congress. But if we should pay over \$8,000,000 of these claims now appropriated for and there remain \$2,000,000 or \$5,000,000 or \$8,000,000 more allowed, it will certainly be very difficult for Congress to refuse to make the further appropriation when the question comes before us.

Mr. RHODES. Mr. Speaker, I renew my motion for the previous question.

The SPEAKER pro tempore. The gentleman from Missouri moves the previous question on the motion to concur in the Senate amendment to the House amendment.

The previous question was ordered.

The SPEAKER pro tempore. The question now is on concurring in the Senate amendment to the House amendment to the Senate bill.

The Senate amendment was concurred in.

On motion of Mr. RHODES, a motion to reconsider the vote by which the House concurred in the Senate amendment was laid on the table.

#### PAYMENT OF NOVEMBER SALARIES.

Mr. MADDEN. Mr. Speaker, I ask unanimous consent for the present consideration of the joint resolution which I send to the Clerk's desk.

The SPEAKER pro tempore. The gentleman from Illinois asks unanimous consent for the present consideration of a joint resolution which the Clerk will report.



The Clerk read H. J. Res. 225, authorizing payment of the salaries of the officers and employees of Congress for November, 1921, on the 23d day of said month, as follows:

*Resolved, etc.,* That the Secretary of the Senate and Clerk of the House of Representatives are authorized and directed to pay to the officers and employees of the Senate and House of Representatives, borne on the annual and session rolls, including the Capitol police, their respective salaries for the full month of November, 1921, on the 23d day of said month. Such amount as may be necessary to pay the session employees from the date of the adjournment of the first session of the Sixty-seventh Congress until the beginning of the second session thereof, is appropriated out of any money in the Treasury not otherwise appropriated.

The SPEAKER pro tempore. Is there objection to the present consideration of the joint resolution?

Mr. GARRETT of Tennessee. Mr. Speaker, reserving the right to object, I think perhaps it might be wise for the gentleman to explain the provision with reference to the session employees.

Mr. MADDEN. Mr. Speaker, this resolution departs slightly from the ordinary resolution presented on occasions like this. Session employees are not usually paid during a recess or vacation or adjournment period, but it was thought that inasmuch as there are only 10 days between the time of the adjournment and the time of reconvening, it would not be quite fair to those employees to deprive them of their pay, and hence this resolution covers them.

The SPEAKER pro tempore. The Chair hears no objection, and the question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed.

#### FIRST DEFICIENCY APPROPRIATION BILL, 1922.

Mr. MADDEN. Mr. Speaker, I move that the House resolve itself into Committee of the Whole House on the state of the Union for the purpose of considering the bill (H. R. 9237) making appropriations for deficiencies.

The SPEAKER pro tempore. The gentleman from Illinois moves that the House resolve itself into Committee of the Whole House on the state of the Union for the purpose of considering H. R. 9237, of which the Clerk will read the title.

The Clerk read as follows:

A bill (H. R. 9237) making appropriations to supply deficiencies in appropriations for the fiscal year ending June 30, 1922, and prior fiscal years, supplemental appropriations for the fiscal year ending June 30, 1922, and subsequent fiscal years, and for other purposes.

Mr. MADDEN. And pending that, Mr. Speaker, I will ask the gentleman from Tennessee if we can not agree on time for general debate and the division of that time. I suggest that three hours will probably be as much time as we ought to consume, and I would prefer to have it less.

Mr. BYRNS of Tennessee. I will state to the gentleman that I have had several requests for time, but I am not at all certain that it will all be asked for when the time comes. I think, however, that an hour and a half would be as little time as we can get along with on this side, and it is really not enough if all the gentlemen that have asked for time claim it.

Mr. MADDEN. I am anxious that the bill should be passed to-day, and I would concede a greater time for general debate if we had more time. I hope that the gentleman will agree to three hours, one half to be controlled by the gentleman from Tennessee and the other half by myself.

Mr. BYRNS of Tennessee. I will make no objection to that.

The SPEAKER pro tempore. The gentleman from Illinois asks unanimous consent that the time for general debate be limited to three hours, one half to be controlled by the gentleman from Tennessee [Mr. BYRNS] and one half by himself. Is there objection?

There was no objection.

The motion of Mr. MADDEN was agreed to; accordingly, the House resolved itself into Committee of the Whole House on the state of the Union, with Mr. BURTON in the chair.

Mr. MADDEN. Mr. Chairman, I ask unanimous consent that the first reading of the bill be dispensed with.

The CHAIRMAN. The gentleman from Illinois asks unanimous consent to dispense with the first reading of the bill. Is there objection?

There was no objection.

Mr. MADDEN. Mr. Chairman and gentlemen of the House, in presenting this bill we have endeavored to the extent of our ability to present one for as small an amount as will permit the departments of the Government properly to function. The estimates presented by the budget officer to the President amounted to \$190,534,653.22. The recommendations of the committee aggregate \$103,698,221.77. The deductions amount to \$86,836,431.45. There have been deducted from the estimates for the Veterans' Bureau \$56,000,000 of the \$86,000,000; \$27,400,000

have been deducted from the estimate submitted by the Navy Department—the entire amount; \$3,436,431.35 have been deducted from the miscellaneous items recommended for the consideration of the committee.

In what I shall have to say I shall not undertake to treat of all the questions involved in the bill. I shall endeavor to confine what I have to say to three major subjects. One involves the appropriation suggested for the Post Office Department, another the Treasury Department, and the third the Veterans' Bureau.

The Post Office Department has been allowed by the Committee on Appropriations, which allowance is now up to you for consideration, \$6,525,000. We refused \$359,000 in one item which the Post Office Department urgently requested. That was for the increased demands for the operation of the air mail service. The present air mail service appropriation amounts to \$1,250,000 for the conduct of the air mail service between New York and San Francisco. The request for \$350,000 more was made and was refused. We refused it because we believe that we are paying out all the money that should be paid for this activity, as the mail carried by air pays no postage whatever.

Why do I say that? For this reason: At 8.45 every night a train leaves New York with all the mail intended for transportation to the West. No mail is sent by air from New York except mail that comes into the post office after 8.45 at night. At 7 o'clock every morning the air mail leaves New York with such mail for the West as came into the post office during the night.

It overtakes the train at Cleveland that left the night before. It places on the train at Cleveland the mail it brought from New York and takes an equal amount off the train at Cleveland and proceeds to Chicago. There it transfers the mail it took on at Cleveland and takes an equal amount of mail from that train to Omaha, and places that mail on the train at Omaha and takes an equal amount from that train and proceeds to Salt Lake City, where it does the same thing. It takes an equal amount from that train and carries it to San Francisco.

So we pay the railroad companies for the transportation of all the mail that is carried by airplane. We only advance about 16,000 letters for delivery at San Francisco. The cost of transporting the mail by air is admitted by the postal authorities to be \$5.35 a ton-mile. The cost of transporting mail by train averages a little less than 9 cents a ton-mile; but let us say it is 9 cents. Divide \$5.35 by 9 and you find that the cost of transporting the mail by air is sixty times more than by rail. There is very little advantage in the advancement of the mail and, as I have pointed out, we receive no compensation whatever for the mail we carry by air. The present cost of transporting mail by rail is \$96,000,000 a year. If we carried it all by air, it would cost sixty times \$96,000,000, or \$5,800,000,000. If we were to pay \$5,800,000,000 for the transportation of the mails of the United States, you will see how much cooperation you would have from the people. Those who are demanding air-mail service to-day under these circumstances would be the first to object. Therefore we did not allow the \$350,000 asked for. The question then was, What can they do without it? It is a commercial experiment, as the Post Office Department says. The work is being done for the purpose of giving encouragement to the commercial development of air service. The question is, Can we experiment sufficiently without operating every day? They say they can not operate a daily route unless they get this money. We believe that they can experiment just as successfully if they operate every other day as they can by operating every day; but it is up to the House to say whether they wish to put the \$350,000 into the bill or not.

Mr. SMITH of Michigan. Mr. Chairman, will the gentleman yield?

Mr. MADDEN. If the gentleman will refrain and the House will be kind enough to permit me to proceed without interruption, I think it would be better to have me make a consecutive statement—I think I shall make all of the points much more clear—and if at the end of 30 minutes, say, any gentleman in the House wishes to ask any questions, I shall be glad to answer them. At present I think it will make for better order and more intelligent consideration of the problems presented, and a better presentation to the House of the questions involved, if I be permitted to proceed without interruption.

We have included in the bill an item of \$1,200,000, on account of the Postal Service, to pay losses for insured and registered mail. That may seem a large amount; but the receipts from this source are \$16,000,000 a year and the cost, including the \$1,200,000, will be but \$5,200,000, so this is a profitable enterprise.

We have an item of \$999,000 in this section of the bill for deficiencies in special-delivery service in 1921. That indicates

that there were \$999,000 worth of work done in special-delivery letter cases more than the appropriation provided for, and the audit only disclosed this condition a year after the activity ceased.

The Treasury Department came before your committee with a request for \$2,630,000 to employ additional men to audit and investigate tax returns. They told the committee that with \$2,630,000 they could employ a force of experts in the office here and in the field to audit the corporation returns, which have not been audited since 1917, and which should be audited in order to get whatever money may be due from them.

They say that some subsidiary corporations have schedules so large that it takes a wagon to carry them, and that no auditor could audit more than 15 of these claims in a year. They say that from the audit already made under the appropriation given them of \$8,000,000 last year they have been able to collect as the result of the work of the auditors in the office here, in back taxes, \$113,600,000 a year. They have been able to collect from the work of the field men that they were authorized to employ \$244,000,000 a year in back taxes, making \$357,600,000 a year; and they say that if we give them the means by which they can employ additional auditors to audit these corporation schedules, they would be able to bring to the Treasury \$200,000,000 additional a year. In the consideration of the request they made for \$2,630,000 the committee found that they were asking for more than the committee believed would do the work, and we have reduced the sum which they asked by \$838,000 and recommend an appropriation for this activity of \$1,792,000.

In the collection of \$10,000,000,000 of taxes many mistakes must be made, many mistakes have been made. Some have been made against the men who pay the taxes and some in their favor, but out of all of the mistakes it is found that there is due a very large amount of money that ought to be refunded to the taxpayers. The Treasury Department has no money with which to make these refunds. Much embarrassment has existed all over the country among citizens because of their inability to collect the overpayments which they made. The committee, therefore, brings to you for your consideration a proposal to appropriate \$23,057,000 for the payment of refunds of illegally collected taxes. I think the people of the United States will be very glad to know that this appropriation is made, because demand after demand from every quarter of the Nation is constantly coming for these refunds, and inquiries are being made every day as to why it takes so long for the Government to pay back money which it has collected illegally. Therefore, we come to you with this recommendation.

The important matter in connection with which we come is the Veterans' Bureau. That is the one subject which every man and woman in America is especially interested. The men who fought to preserve America's freedom who were wounded in the service of their country or contracted disease as a result of that service are the special charges of the Nation. They are entitled to every consideration which a grateful Nation can bestow. They are entitled to it because of the patriotic service which they rendered and sacrifices which they made. I do not believe there is a man anywhere in America who would not make any sacrifice to see that these men, as the wards of the Nation, are properly provided for. For one I want these men to know that my heart goes out to them, and to the extent that I can see that justice is done them I shall devote my life and make any sacrifice, and I believe that is the attitude of every Member of the House and every Member of the Senate. [Applause.]

In saying this in advance of what I am going to say in criticism, I think it is only fair to say also that while I am about to criticize the administration of the vocational training section particularly and the hospital section of the Veterans' Bureau, I want it understood that this was a very large undertaking. It came to those who were placed in charge as a new responsibility; they had no experience; they could not foresee what they might be called upon to do. They had no preparation made to meet these emergencies. They made many mistakes. They perhaps could not avoid making these mistakes, but they have been in the service long enough now to have gained experience by practice, and the one thing that we ought to learn to do is to manage every section of this great business enterprise with economy, with fairness to the men, with justice to the Treasury and to the taxpayers. [Applause.]

We have to-day 90,000 men in training. Four hundred and forty thousand men have been registered as eligible for training. That does not mean that they have been passed by the doctors as eligible, but that they have made application. These men will not be able to go into training at a very early date. Two hundred and eighty-five thousand of the 440,000 have really

been passed upon as eligible. One hundred and twenty-eight thousand men at one time and another since the war closed have been put into vocational training, but only 6,000 of the 128,000 have come out. Nobody knows what became of the rest, except that 3,000 died, and 17,000 were found unfit for the training into which they went. The trouble with the management was that a man would go into training, say, as a blacksmith, or as a doctor, or as a lawyer. After he was in for a short time he would be transferred to something else and something else, and as many as 10 transfers of occupational training have been made, so that men did not know where they were, what they were, or where they were going, whether they were going to do one thing or another, and a very large amount of money has been wasted in endeavoring to find out what kind of training should be granted.

We have 99,000 men in training. I said 90,000, meaning 90,000 men in training who are being paid while being trained. The other 9,000 are not in the class that is entitled to compensation while training is being given.

The average cost per man per month who is in training is \$126, and \$157,000,000 so far has been expended for training purposes, and \$121,000,000 of this has been paid to the men in allowances, and \$36,000,000 paid for overhead, which is outrageous. Out of every \$99 paid to a man in training it costs \$10.68 for administration. That seems outrageous. The operation is very simple. And \$16.32 is allowed only for teaching, equipment, and all other expenses. Now, if it costs \$10.68 to make an allowance of \$99, where the operation of making the allowance is very simple, there must be something wrong with the management. They have expert bureau psychiatrists, expert dentists, expert oculists, expert everything, with no note taken of the cost.

This was told me by one of the officials. It is not in the record of the hearings. This official was connected with the bureau. A man who was unfortunate enough to have lost his leg during the war and was now able to walk around on an artificial leg, and, not having experience as to how to wear one, not as much experience as I have had, was unable to tell what to do when the strap broke on his leg. So he went to one of these headquarters to get a strap. They said, "Well, you must have your eyes examined." He said, "There is nothing the matter with my eyes." "But you have got to go through this routine of getting your eyes examined. That is part of the work." There was nothing the matter with his eyes; he said, "What I want is a strap for my artificial leg." "But your eyes must be examined." He asked, "What has that to do with a strap?" He said, "When I got through with the eye examination, they said that I must go into the dentist's in order to have my teeth examined. I told them my teeth were perfect, but that I wanted this strap for my artificial leg." They made him take the examination for his teeth in the dental clinic. When he was through with that they sent him to a place where he could get the strap, a very simple process. But in the meantime he had gone through these two examinations. What was the result of the examination? There was nothing the matter with the man's eyes, nothing the matter with his teeth, but there must be somebody paid to make the examinations. The oculist was there to make an examination at so much an examination. He must be paid. There must be a fee found for him. So we find that in this particular case, which is typical of many, in order to get a strap that poor unfortunate soldier needed for his artificial leg, he had to go through two examinations in order that some experts might be able to get a fee. You can not beat that for extravagance. And it is this kind of thing we want to stop.

There is nobody in the bureau who can tell you what anything costs. I do not blame them so very much for not being able to tell you definitely now, because they have only had the bureau in their control for about 10 weeks. But we have made deductions in the recommendations which they made for the conduct of this bureau of \$56,000,000. We have taken \$37,000,000 off the vocational training recommendations; \$18,000,000 off the hospitalization recommendations. We do not do that because we think that is all they need; we do not know what they need; but we do it because we have made up our minds to stop the wastefulness, if you will agree to it, and it is all subject to your agreement, because we are only the instrumentality through which you obtain information on this subject. We have made up our minds to force them to systematize this business and put it on a business basis, and we have said to them that when this money is about to be exhausted they can come back, but when they come back they must have facts. [Applause.] We want to put this business on a respectable basis. If it goes on the way it has gone on it will cost a billion dollars a year after another year. It will become a scandal, and it will



not be respectable for a soldier who defended his country's liberty to draw money from the fund. Now, we want the soldier to realize he is not getting charity; that he is not under any obligation. We want him to be able to walk among his fellows with whom he served in the war and not have them look sidewise at him. We want him to realize that we believe in him and that we are going to provide for him, and we are going to protect him against any jugglery of any fund the country appropriates for his care. And it is because of our desire to do this that we have said that this institution must be put upon a business basis.

It can not go on, gentlemen, and be respectable if you are going to spend \$10 to pay a man \$99. No business in the world would permit that. Why should the Government? And, particularly, why should this sacred fund be used for any such purpose? The man who would overcharge his Government for any service rendered to a soldier who met with difficulty upon the battle field is worse than any profiteer that made overcharges during the war, and we want to search them out and put them where they belong. [Applause.] We want no profiteer in this business. And as far as I can help to prevent any overcharge by any man who is permitted to exercise any function connected with the administration of this sacred fund, I propose to devote my time to it.

Now, I am not in favor of restricting the soldier's rights. I want to see him get every dollar he is entitled to get under the law, but I want the dollars that are appropriated out of the Treasury for him to go to him, and not to go to any profiteer.

Mr. FESS. Will the gentleman yield there?

Mr. MADDEN. Yes.

Mr. FESS. I am considerably impressed with what the gentleman has stated. I think there is a good deal of advantage taken. I have thought all the time the administration was rather loose, especially while it was under the Federal board. Very largely, I think, because of such terrific criticism on the part of Congress they were not giving what the soldier wanted. I am impressed that the growth of this fund, unless Congress takes charge of it, somewhere will increase, because everybody that is dissatisfied and wants something else, if he does not get it, is likely to criticize the administration for not giving a transfer from one kind of work the boy is doing to another because he was admittedly unfit to do that work and it would cost additional money. Do the gentlemen of the committee see where this responsibility lies?

Mr. MADDEN. I think we do. We are endeavoring to correct it. I do not blame the director, because he has not been in charge long enough to enable him to visualize the situation. He realizes the extravagant waste. He says he is going to try to eliminate it. We are going to try to show him how to do it, and we are going to cooperate with him in doing it. We have asked that an arbitrary sum, less than is recommended, be appropriated because of our determination to bring him back to us with a plan in a very short time.

Mr. FESS. Will the gentleman yield further?

Mr. MADDEN. Yes.

Mr. FESS. I notice that 440,000 have made application.

Mr. MADDEN. Yes. They made application mainly because they were urged to do it.

Mr. FESS. The bill under which applications are made provides that only when the soldier returns incapacitated to do his work or to take up some other work is he eligible to education. Is it possible that 440,000 of our soldiers returned incapable of resuming their work?

Mr. MADDEN. Under the law the director says they are required to take anybody's application that served in the war, but that 60 or 70 per cent of the applications now are being rejected. But they have 440,000 applications, and 285,000 of those applications have been passed upon as to the eligibility of the men. One hundred and twenty-eight thousand men at one time or another have been in some sort of training. But the prices paid for machinery and equipment and for the rents and leases and all that sort of thing have been exorbitant, and bills have been rendered by institutions to the War Risk Bureau and paid for services that they never rendered to such an extent that the whole thing is in a state of chaos, and the fund is in a state of—well, of decay. May I say that? [Applause.]

Mr. FESS. Mr. Chairman, will the gentleman yield for another question?

Mr. MADDEN. Yes.

Mr. FESS. The existing institutions were not leased but employed to do work instead of establishing Government schools. I frankly say that I am somewhat distressed over the suggestion that we are going to establish Government schools in the various cantonments in which we are going to do all

the work that existing institutions might do if they made a reasonable charge. I condemn just as much as my friend does any unreasonable charge. I think it is criminal and ought not to be allowed for a minute. But I am wondering where we are going to drift in expense if we undertake to establish Government schools for these boys.

Mr. MADDEN. I am going to speak on that question. I will not try to do it just now. But I want to say right here that some of the extravagant things about which I would complain are these: For example, we find that dancing lessons were paid for at the rate of \$10 a lesson. Now, a man who is able to take dancing lessons is not very badly wounded one would think. The singing lessons were paid for at the rate of \$10 a lesson, and auto driving at the rate of \$3.75 a lesson, and all such rot as that. That is not the kind of training to qualify anybody for the discharge of proper functions. But even if it were the rate charged and paid is outrageous.

Mr. SWEET. Mr. Chairman, will the gentleman yield?

Mr. SUMMERS of Washington. Mr. Chairman, will the gentleman yield just for a very short question?

The CHAIRMAN. Does the gentleman yield; and if so, to whom?

Mr. MADDEN. I will yield in a very little while. I will first yield to the gentleman from Iowa.

Mr. SWEET. Is it the intention of the gentleman to discuss the question of hospitalization later on?

Mr. MADDEN. Yes.

Mr. SWEET. Then, I will not ask my question now.

Mr. SUMMERS of Washington. Were these lessons for the benefit of individuals or classes?

Mr. MADDEN. Individuals.

Mr. SUMMERS of Washington. Ten dollars a lesson for individuals?

Mr. MADDEN. Yes; for individuals. There has been purchased equipment for all kinds of institutions, and bills have been paid for services which never have been rendered by those institutions in many cases, and there is plenty of room for the broom of the new Director of the Veterans' Bureau to operate successfully. He has a big job on his hands—a job bigger than any one man really ought to be charged with. Just think! He has a fund here under his jurisdiction of \$500,000,000 a year. That is as much as the Government of the United States cost only a few years ago. But no one man was allowed to administer that fund.

Now we are decentralizing the work. We have got 14 divisional headquarters. I asked the Director of the Veterans' Bureau how many men he would be likely to have in one of these headquarters. He said anywhere from 500 to 1,000 each. The average would probably be 800, but more likely a thousand.

Then as to the rent of these headquarters. Why, I find that they are paying as much as \$266,000 a year for one divisional headquarters, and \$190,000 for another, and \$150,000 is the common charge. That is pretty expensive.

Mr. BEGG. Mr. Chairman, will the gentleman permit just one question? If he would rather not, I will wait.

Mr. MADDEN. I should rather the gentleman would wait. I think it is much better in the long run, because I think I will meet all those questions.

Now, I do not know how much it will cost to furnish them. There are 140 suboffices. They expect to have 20 men on the average at each suboffice. It is said that the cost of furnishing these suboffices will be \$12,000 apiece. Why, \$500, it seems to me, would be a reasonable charge for furnishing an office where only 20 men are employed. But allow \$1,000, and I think you would have an exorbitant figure. But \$12,000! I think it is outrageous.

Are we going to permit this sort of thing to continue? Is there any responsibility to be assumed by the Congress of the United States, or are we going to let them run on as they have been running? Are we going to try to systematize this work for this great patriotic service, so that the men at the top will not waste the money that we are appropriating for the unfortunate men at the bottom? Can we do anything? I think we can. What is the best way to do it? The best way to do it is to make them come here every once in a while, and not to appropriate money for too long a period at a time. [Applause.] Make them show their hand; make them give a reckoning. We have nothing to do with the administration of the service. We can only appropriate, but we can compel them to report to us in detail what they do. That is what we propose now.

Will you help us? I know you will, because you realize that we have no purpose in the world except, first, to see that these men who are entitled to it get the service, and next, to see that the service is not granted to them at a criminal cost.

We have no disposition whatever to subtract from anything that a man is entitled to get, but we have every disposition and determination to see that not a single dollar is paid for overhead that ought not to be paid. [Applause.]

On October 27, 1921, we had 7,815 unoccupied beds in Government hospitals and we had 19,584 occupied beds.

The cost per patient in the Public Health hospitals on its face has been \$4.64; but, as a matter of fact, it has run up to about \$7 per day per man. We are getting contract hospital service for \$3.68 per day per man. The Navy hospital service we get for \$3 per day for war veterans, and in the Army hospital service the cost is \$3.50, but it is only fair to say in this connection that this includes no overhead charge, and if the overhead were included the Army cost would be \$4.24 and the Navy cost would be \$4.38. But the National Home for Disabled Volunteer Soldiers conducted by the board of managers thereof is the ideally conducted institution. [Applause.] It is the best conducted Government institution we have, economical, decent, clean, and the cost there per patient is \$2.20 per day.

Now, why can they not do that everywhere in Government institutions? But the Board of Managers for the National Home for Disabled Volunteer Soldiers say that they paid to the head doctor to conduct one of these homes, before the War Risk Bureau was organized, \$3,000 a year. In the Public Health Service they pay \$6,000 a year for doing the same work, and that forced them to pay more than they wanted to pay and more than they would have had to pay. So the cost has been going up everywhere because of the extravagant waste of public money placed in the charge of these people. The appropriations for the Public Health Service for hospital service to war veterans are made to the Veterans' Bureau, and are allotted by the Veterans' Bureau to the Public Health Service and expended by the Public Health Service; and the presumption is that the Public Health Service is required to make a report once a week or once a month as to the state of the allotment and as to costs; but Col. Forbes tells us that he has not been able to get them to make such reports. He has been urging them, telling them that such reports were demanded, but he has not been able to get them, and they have been expending the money so extravagantly that it is a crime. We propose to have a system instituted to compel these people who have control of the Public Health Service to report, as frequently as the Director of the Veterans' Bureau wishes them to report, every detail of expenditure connected with the administration of the Veterans' Bureau fund, and to economize in the expenditure of the money allotted to them in every needful way. Does that answer the question of the gentleman from Iowa?

Mr. SWEET. Yes. I am wondering whether or not Col. Forbes made any statement before your committee in regard to hospitalization, as to whether the demands were increasing or not.

Mr. MADDEN. He said that they have 30,000 men in hospitals and that they will not have more than 5,000 more men in the hospitals when they reach the peak. We have 7,815 unoccupied beds now in the various Government hospitals.

Mr. SWEET. In other words the testimony of Col. Forbes before your committee shows that they have adequate facilities at the present time to take care of all those demanding hospitalization?

Mr. MADDEN. Yes.

Mr. SWEET. And therefore we are not confronted with the question of constructing any more hospitals for the purpose of taking care of these men?

Mr. MADDEN. The hospitals that are now being constructed will relieve some of the contract hospitals in which the men are now placed.

Mr. SWEET. According to the testimony of Col. Forbes, as I understand, the peak of the demand for hospitalization has about been reached?

Mr. MADDEN. He states that there will probably be 5,000 more in hospitals than there now are.

Mr. SWEET. At the present time how many are in contract hospitals?

Mr. MADDEN. It is estimated that there will be an average of 9,162 patients in contract hospitals throughout the year.

Mr. LINEBERGER. I think the gentleman's query was answered by the chairman. The observation I wish to make is that the 7,000 beds now available over and above those necessary for taking care of the men now in the hospitals will take care of the peak load, which is estimated to be 5,000 more than the 30,000 now in the hospitals; so there is evidently no need for further construction of hospitals.

Mr. MADDEN. No. I think I may say that I have information to the effect that the bill now pending in the Committee on

Public Buildings and Grounds will not be necessary in order to meet the needs of the service men.

Mr. SWEET. That is the question I had in mind.

Mr. ANDREWS of Nebraska. Will the gentleman from Illinois yield?

Mr. MADDEN. Certainly.

Mr. ANDREWS of Nebraska. Is it not true that the \$18,600,000 appropriated in the last Congress as allocated by the Treasury Department will provide for 5,000 beds?

Mr. MADDEN. Yes. I will say that in the allocation of that fund, and the location of the hospitals, and the allocation of the amount necessary for each hospital there is a surplus of \$1,350,000 that can be turned back into the Treasury.

Mr. ROSSDALE. Will the gentleman yield?

Mr. MADDEN. I yield to the gentleman from New York.

Mr. ROSSDALE. Has the gentleman any record of how many soldiers have applied for and claimed hospitalization and have been denied it?

Mr. MADDEN. I can not tell the gentleman that offhand. We are told that every man who makes application for training or for compensation is examined, no matter whether he shows any indication of having been wounded or not. If the examination does not disclose definitely the character of his ailment, he is put into a hospital for three or four weeks under observation. During that time it is determined whether or not he is able to conduct his life work without support from the Government. If not, he is either hospitalized or put into training, or he may be put into both.

Mr. ROSSDALE. How about the man who is denied hospitalization?

Mr. MADDEN. Nobody is denied.

Mr. ROSSDALE. I have a case of that kind, and there must be thousands of others.

Mr. MADDEN. Do not let us go into details. Those are details that we could not settle here.

Mr. SNELL. Will the gentleman yield?

Mr. MADDEN. I yield to the gentleman from New York.

Mr. SNELL. Are the boys in these contract hospitals as well cared for and do they get as good treatment as in the Government hospitals?

Mr. MADDEN. Undoubtedly.

Mr. SNELL. As I understood from the gentleman's statement the cost is a great deal less in the contract hospitals.

Mr. MADDEN. It is \$3.68 in the contract hospitals and an average of \$4.64 in the Public Health Service hospitals, \$3 in the Navy and \$3.50 in the Army, and \$2.20 in the National Homes for Disabled Volunteer Soldiers.

Mr. SNELL. That is why it is just as well to continue them in the contract hospitals until the peak load is over.

Mr. MADDEN. We have plenty of places into which we can transfer anyone who needs to be transferred.

Mr. SNELL. With buildings you have built and are building at the present time?

Mr. MADDEN. Some of the contract places are not very good, and we ought to take the men away as soon as we can.

Mr. SNELL. And so provision is made to take care of everything?

Mr. MADDEN. So we are advised.

Mr. NEWTON of Minnesota. Will the gentleman yield?

Mr. MADDEN. Yes.

Mr. NEWTON of Minnesota. It is my recollection, although I have not the report before me, of reading a report from some especial committee in the Senate three or four weeks ago to the effect that there was need for an additional appropriation for additional hospitals. It was my impression that that was erroneous and not based on facts.

Mr. MADDEN. The information we have leads to the conclusion that the \$18,000,000 appropriation for the construction of hospitals will more than meet the present needs and the future needs and leave a surplus. So that the bill pending before the Committee on Public Buildings and Grounds will not be necessary; there will be no need at any time for it. The evidence shows that we need provision for not more than 35,000 men, and we already have it.

Mr. ANDREWS of Nebraska. If the gentleman will yield, I wish to say that the Committee on Public Buildings and Grounds were gathering the information and having it in hand ready to take action whenever the evidence from any competent authority showed that we would have occasion to use it in that direction. We are holding it in reserve because of the facts as stated by the gentleman from Illinois.

Mr. MADDEN. Now, I wish gentlemen would pay some attention to what I am going to say, not that I am asking you to agree to it, but I want to call it to your attention. To-day



vocational training is being given in every available educational institution in the United States and in many factories of various kinds.

It frequently happens that in placement training, which is training in a trade, that the person who takes the training receives compensation both from the employer and from the Government, while the Government pays the man who owns the shop for the training. There ought to be some change in that policy, because it does not seem fair that we should pay somebody to train the man while we are paying the man that is being trained. Sometimes the earning power of these men run as high as \$400 a month with triple pay. There ought to be some remedy. I do not mean to say that we ought to take everything away from a man, but it ought to be adjusted along equitable lines so that the Government and the man both will get justice.

Forty-one per cent of the men who are taking training are taking placement training. Placement training means learning a trade. During the training period we furnish them with all kinds of equipment; we do that in any training they take. For example, if a man is going to be a barber, they furnish him with a kit of barber tools. When he gets through, if he ever does—there are only 6,000 out of the whole lot that have got through—they furnish him with a kit of tools to open up his shop. If a man is taking training to be a doctor, they furnish him with medical books during the training and then furnish him with a medical library after he gets through. They do the same thing for a man who is training to be a lawyer. That does not seem to me fair to the man or the Government. To furnish him with the books during his training I think is fair, but to furnish him with books for equipment I do not think is fair.

Suppose he were to be a builder; he would require boilers, engines, and various things of that kind, and we might have to invest a couple of hundred thousand dollars to qualify him for his trade.

Now, I am not saying anything against that which may be finally decided to be just, but we ought to take an inventory of ourselves, and let us have the men with us when we take the inventory. I think they would advise that we are wrong. We have not asked them yet.

If you hand a man too many things you disqualify him for useful service to himself. There is only one way to make a man, and that is to help the man to do something for himself and to depend on himself. [Applause.]

Mr. FESS. Will the gentleman yield?

Mr. MADDEN. I will.

Mr. FESS. The gentleman has touched one very delicate feature of this readjustment, namely, where a man is placed during his training and is being paid by the company for which he works. I was told only a day or so ago by a firm employing one of our men that when he offered him pay the man said he could not take anything because if he did he would lose his allotment from the Government. This man did not believe he should take the service for nothing, and so he told me he was going to let him go on and pay him a lump sum when he got through.

Mr. MADDEN. I think Col. Forbes is going to take that up.

Mr. BEGG. Will the gentleman yield?

Mr. MADDEN. Yes.

Mr. BEGG. It strikes me that the way to eliminate this abuse of extravagant overhead is to give each man entitled to it a lump sum of \$4,000. We could save many billions of dollars in that way. I am talking about the rehabilitation.

Mr. MADDEN. Now, I come to the question of the advisability or the wisdom of whether or not we should adopt a policy of establishing universities for training in the abandoned Army cantonments. There seems to be a disposition in the mind of the Director of the Veterans' Bureau to take over all the abandoned cantonments and to build bungalows, establish schools and churches, theaters, and what not, where the wounded men can go and live among themselves; to rehabilitate them under conditions which he thinks would be ideal and with which I do not agree at all. [Applause.] But I believe the way to rehabilitate a wounded man who feels that he is down and out, who feels that he has no friends anywhere, that nobody has any use for him, is to put him among men who are sunshine producers; to put him among well men, men that can laugh, and men who live normal lives. [Applause.]

But what have we? Men who were just as normal as anyone else before they made the sacrifice we now find have been made abnormal through that sacrifice, and if we adopt the plan of putting them in colleges of this kind it may possibly result in the same condition that confronts us with respect to the lepers. They are very discontented. No one wants to see them. We want to make these men, if we make them anything, future good citizens of the country. If we are going to spend

hundreds of millions or billions of dollars to rehabilitate them, let us get the best results.

There is another side to the thing besides the humanitarian side, as I see it. Of course, it is the selfish side, the money side, but that can not be overlooked, because, after all, it is the money side that we are dealing with here. Back home you know the people whom we represent pay these bills, and, of course, the only way they can pay them is for us to tax them. Of course, we may have reached the limit beyond which we ought not to tax them even for a purpose such as this. We spent several hundred million dollars to build these camps. Col. Forbes said that he could rehabilitate Camp Sherman, at Chillicothe, Ohio, to accommodate the present condition of these men for \$20,000. He is a builder, it is said, and, of course, knows what he is talking about; but I have had some years of experience as a builder myself, although I do not travel upon it, and I do not believe that you can rehabilitate Camp Sherman for \$20,000,000, and if you undertook to include all of the six camps it is proposed to change over it will cost \$300,000,000 before we are through, and we will never be through, and we will never satisfy the men.

There are three problems to be thought of in respect to this. First, we must think about the problem of the Treasury and next about what is going to happen to the men if you put all of the diseased men together. That is the most important problem. The next is what will be the moral effect of this morose condition among the men on the communities in which they are assembled? We have a lot of things to think about. We are dealing with important problems. They are the problems of the lives of men who saved the Nation, and who are going to rule the Nation in the years to come. We will be here for only a short time. The official life of a Member of Congress is not very long, and our places will soon be taken by some one else, but while we are here let us do the thing we would do if there was no one interested in the thing except our own families. [Applause.] We ought to be as much interested in these men as we would be in our own children, for they are our own children, because they come from every home in the land.

Mr. BANKHEAD. Mr. Chairman, will the gentleman yield?

Mr. MADDEN. Yes.

Mr. BANKHEAD. Would this proposed estimate of great centers of education in these abandoned cantonments require additional substantive legislation to accomplish the purpose, or has the bureau the authority under existing law to go ahead and do it?

Mr. MADDEN. I raised that question when the proposition was approached before our committee. I can say to the gentleman that the committee, fearful that there might be some law somewhere that we were not able to discover, inserted a provision in the bill pending before you which provides that no part of this fund shall be expended for construction in camps except for minor repairs.

Mr. KELLEY of Michigan. Mr. Chairman, will the gentleman yield?

Mr. MADDEN. Yes.

Mr. KELLEY of Michigan. Col. Forbes claims authority under existing law, and not only that, but has proceeded to put Camp Sherman into condition for that purpose.

Mr. SWEET. Under what provision of law does he claim that? Under the general provision as to hospitalization?

Mr. MADDEN. He did not make any specific claim. He simply said that he thought he had the power under the law. We do not think he has, but in order to be sure that he does not have under this appropriation, we have placed the limitation in the appropriation to prevent its expenditure for that purpose.

Mr. SWEET. I think that is wise. I know of no provision of law which would give him such authority.

Mr. MADDEN. Gentlemen, I think I have said all that I ought to say. The matter is in your hands. We are giving you the information that we have obtained. The bill is up to you for action. I am very much obliged to you for the consideration you have given me during this talk. [Applause.]

#### MESSAGE FROM THE SENATE.

The committee informally rose; and the Speaker having taken the chair, a message from the Senate by Mr. Crockett, one of its clerks, announced that the Senate had passed without amendment the bill (H. R. 8347) to authorize the New York Central Railroad Co. to construct a bridge across the Grand Calumet River within the corporate limits of the town of Gary, Ind.

The message also announced that the Senate had passed with amendments the bill (H. R. 6053) to amend section 955 of the Revised Statutes by extending the jurisdiction of courts in cases of revivor, in which the concurrence of the House of Representatives was requested.

## DEFICIENCY APPROPRIATION BILL.

The committee resumed its session.

Mr. BYRNS of Tennessee. Mr. Chairman, in the campaign of 1920, the Republican Party made very positive promises to the American people. They were solemnly assured that the election of a Republican President and a Republican majority in both Houses of Congress would bring immediate prosperity to the entire country; that business would revive, industry flourish, and there would be a good job at a good wage for every man who might want work. It was declared that while all this was in process of accomplishment, the profiteer would be suppressed and the cost of living reduced. From every stump it was proclaimed that extravagance in governmental expenditures would stop, and that our national expenditures would be cut down and, as a result, taxes would be reduced and the people relieved of much of the tax burden under which they were laboring as a result of the war. Confidently relying on these promises, the people elected the Republican candidate for President and a Republican Congress by an overwhelming majority. For more than eight months the Republican Party has had absolute and undisputed control of every branch of our Government, and it can be said without fear of successful contradiction that none of these pre-election promises have been redeemed. As a result of this failure of Congress and the administration to make good their promises, and to take the steps necessary to relieve the present depressed business conditions, there is greater disappointment and dissatisfaction than has possibly ever before existed in the entire history of our country. The large Republican majority has proven wholly inefficient in affording the relief which the people expected, while the Republican administration has shown an equal inability to lead the party out of the maze of conflicting interests, cross currents of factional differences, and inability to reconcile the demands of the big interests and great wealth which financed its campaign and are now demanding their reward, with the interests of the plain people for whom some of the more liberal of the party stand. Conditions, sir, have not improved as they should have done. Business is still depressed, and industry has not revived since the war to the extent confidently hoped for, while the number of unemployed is increasing and, according to the United States Employment Service, will be larger than ever during the coming winter months.

Congress was called into extra session more than six months ago for the purpose of passing necessary reconstruction legislation and revising and reducing the tax burden. It has wholly failed up to this time to meet the situation, and during all of this time business has been left uncertain as to the amount of taxes to be imposed upon it, and this has added to the confusion and prevented a return to normalcy which the President declared in the last campaign he would surely bring about if elected. Now, after more than six months of active session, a tax bill is about to be passed, which reduces the tax on the larger corporations and incomes which are most able to pay, but which gives no relief or reduction to the taxpayers of more moderate means. It will simply serve to shift part of the burden from the shoulders of the rich to the backs of those less able to pay.

The Republican Party, Mr. Chairman, has had control of Congress practically ever since the signing of the armistice, which was more than three years ago, but there has been no legislation passed which has served to put the profiteer out of business and materially reduce the cost of living to the consumer. No legislation has been passed for the farmer which has served to stimulate the prices which he obtains for his products. The so-called farmers' emergency tariff act was passed with the assertion that it would stimulate the price of farm products, but you can not fool the farmer into believing that this tariff has helped him. In the first place he knows how foolish it is to impose a tariff on products, a large surplus of which is shipped each year to foreign countries. And he knows that, notwithstanding its passage six months ago, the prices of his products have steadily declined, and that he is now receiving far less than the actual cost of production. He knows, also, and the consuming masses know, that the cost of living has by no means been reduced to a proportionate extent, if, indeed, there has been any real material reduction. Labor is dissatisfied and millions are out of employment. Capital is complaining because of the failure to pass important and necessary reconstruction legislation. There has never been a time when Congress so signally failed to measure up to the requirements of the hour in the passage of important, wholesome, and beneficial legislation, and to comply with its solemn pledges to the people, as in the present Congress. [Applause.]

Do you wonder, Mr. Chairman, that there is such great unrest and dissatisfaction? Talk about a return to normalcy! The

farmers know it has not meant a fair, reasonable, and living price for the products of their labor. The consuming public knows that it has not meant a decrease in the cost of those necessities of life which they must have in order to live. They know it has not meant a return to anything like the former cost of government.

There was appropriated for the fiscal year 1916, including regular deficiency, miscellaneous, permanent, and indefinite appropriations, the sum of \$1,114,490,704.09. This and the preceding Congress, which was also Republican in majority, have appropriated for like purposes for the fiscal year 1922 the sum of \$4,088,480,431.23, which includes the amount carried or recommended in the pending bill; or, if you deduct the interest on the war debt of \$922,650,000, which was not a charge on the Government in 1916, it will amount to \$3,165,830,431.23, or nearly three times the amount in 1916.

I have wondered whether or not my friend, the gentleman from Texas [Mr. GARNER], had these figures in mind when he made the statement yesterday that the tax bill which is now in process of passage through Congress will fail to produce sufficient revenue to run the Government to the amount of six or seven hundred million dollars, unless there should be a radical reduction in armament, or whether he had in mind the lower figures which were presented to the Ways and Means Committee in the preparation of that bill. If he had the figures presented to that committee in mind, it is quite evident, from the appropriations actually made by this Congress, that he will have to revise and greatly increase his estimate of the deficit. And let me remind you that this does not include other deficiency bills, carrying many millions of dollars, which we are told must be passed at the next session. And let me say also that this does not represent all that has been authorized to be expended during this fiscal year, for there have been reappropriated out of balances left over from the fiscal year 1921, together with certain further indefinite appropriations, the sum of \$256,458,671.03. If these figures are added the amount will run up to more than three times those of 1916, exclusive of the interest on the public debt, which I have omitted in order to be entirely fair, or four times that of 1916 if the interest on the public debt is added.

These figures, Mr. Chairman, are staggering when it is remembered that it has been more than three years since the armistice was signed, and that our Government ought to be getting back at least in some degree to the level of prewar expenditures.

As the Secretary of the Treasury has well said, "the Nation can not continue to spend at this shocking rate." This is the time for the most rigid economy. The country is clamoring for relief from the existing heavy burdens of taxation and that demand can not be met by continuing to make appropriations without regard to the burdens already placed on the people. Congress will have to stop creating new positions at high salaries and unnecessary new commissions and activities. The appropriations committee, the chairman of which is a successful and splendid business man of great executive ability and sincerely anxious to hold down and reduce expenditures, can not cut expenses if Congress continues to authorize additional expenditures. This is no time for extravagance or useless and wasteful expenditure. It is very easy, sir, to carry pledges of economy in party platforms; it is very easy to proclaim the importance of economy from the stump, but it is sometimes both difficult and embarrassing to practice it, but let me remind my colleagues that an overburdened tax-paying public is watching Government expenditures as it never watched before and they will hold Members to the strictest account. I repeat, Mr. Chairman, is it any wonder in view of the record that the people are not only intensely disappointed but dissatisfied with this Congress on account of its failure to reduce Government expenditures?

But, Mr. Chairman, the obligation does not rest upon Congress alone. Unless the administrative branch of the Government practices economy, there can be no real economy, for Congress must base its appropriations for existing activities largely upon recommendations submitted for the needs of the various services. And, let me say that this economy must be real. There must be something more than widely published interviews and statements of what is going to be saved, specially prepared for the public. The people have been fed up on that kind of propaganda during the last six months. What the people demand is evidence that these statements are going to be made good. And let me suggest that this can best be shown at the end of the fiscal year, rather than by loud boasts at the beginning of the fiscal year.

The Director of the Budget told the Committee on Ways and Means while it was preparing the revenue bill that he was going to save \$350,000,000 out of the regular appropriations for this fiscal year. No member of that committee was able to tell



just from what sources that saving was to come, for they were not furnished, so far as the Congress knows or the public knows, with a bill of particulars. We were given nothing more specific than that this sum was to come from the following departments and independent establishments:

War Department	50,000,000
Navy Department	100,000,000
Shipping Board	100,000,000
Department of Agriculture	25,000,000
Railroads	50,000,000
Miscellaneous	25,000,000

It is rather singular that despite this claim of intended savings Congress was called upon in August to augment the Shipping Board appropriations by the sum of \$48,500,000 in a deficiency bill, and that if it had followed the advice of the Director of the Budget there would have been appropriated \$125,000,000, for that was the amount of his estimate. Is it not also singular, in view of that declaration of saving, which was sent broadcast over the country, that Congress is now called upon, before five months of the fiscal year has passed, to appropriate \$103,698,221.77, with the promise of more to come? And do not forget that some of this appropriation is for the very departments in which it was said that these savings were to be effected. Ah, Mr. Chairman, if these savings are really expected to be made, why make new appropriations? Why not divert the money so saved to the purposes set forth in this bill? Why not have covered this money back into the Treasury, so that it could not be spent during the fiscal year? Why not have passed the bill which I introduced directing that this be done?

How did the Director of the Budget arrive at this alleged saving? He has never told Congress. I suspect, Mr. Chairman, that he arrived at it in part by anticipating what some of the bureaus will probably cover back into the Treasury at the end of the fiscal year, as is a matter of common custom. For there has never been a year that some of the bureaus did not for one reason or another fail to spend all the money appropriated for it, and yet past administrations have never taken credit for this. Why, in the past 20 years there has been covered back into the Treasury at the end of the fiscal year amounts ranging from over \$9,000,000 when our expenditures were much less than \$1,000,000,000 per annum, to over \$7,000,000,000 in 1919, under a Democratic administration, the greater part of which were war appropriations. We are told, Mr. Chairman, in the hearings that the Director of the Budget ordered that an arbitrary sum be set aside in various departments and bureaus. For instance, there was appropriated for the Bureau of Public Health for the fiscal year 1922 slightly over \$4,000,000 for medical, surgical, and hospital services and supplies. The Director of the Budget ordered that 10 per cent of this sum, or \$400,000, be set aside, with the statement that it would remain in the Treasury and still be available if needed during the fiscal year. Before five months of the year has passed we are told that one-half of this sum, or \$200,000, is to be spent, and I dare say that the remainder of the sum so set aside will be spent before the end of the fiscal year, and yet the Director of the Budget has taken credit over the country for this as one of his savings. And those of us who are familiar with the tendency of departments and bureaus to spend all the money placed in their hands will not be surprised if other departments and bureaus spend all the money which has been similarly set aside before the expiration of the fiscal year, with the exception of the War and Navy Departments.

Hundreds of millions of dollars should be saved as a result of a reduction of armament, which it is hoped and believed will be brought about by the conference now sitting in Washington, which was called at the instance of Congress and on demand of the people. And let me say that I hope that under the wise and statesmanlike leadership of our very able and distinguished Secretary of State there will be something more than an agreement to reduce armament, important and necessary as that is. It is time that the billions of dollars which the nations are spending on armament should be diverted to useful channels. But we all know that a reduction of armament will not necessarily serve to prevent future wars. I hope, therefore, that as a result of this conference there will also be an agreement among the nations assembled to preserve the future peace of the world, such as was contemplated by the League of Nations. [Applause on the Democratic side.]

I repeat, Mr. Chairman, there must be the utmost economy in appropriations and expenditures in the future. There must be a reduction and a return more nearly to prewar expenditures in the interest of an overburdened tax-paying public. If Congress fails to do this, it will not meet the insistent demands of the people, and we, as Members of Congress, will prove recreant to the trust imposed in us. [Applause.]

As the gentleman from Illinois has stated, the pending deficiency appropriation bill carries \$103,698,221.77. It is based on

estimates which amount to \$190,534,653.22. It is not my purpose to discuss the various details of the bill.

Mr. STEVENSON. Mr. Chairman, will the gentleman yield?

Mr. BYRNS of Tennessee. Yes.

Mr. STEVENSON. These estimates are supervised by the Bureau of the Budget, are they not?

Mr. BYRNS of Tennessee. Yes.

Mr. STEVENSON. Then the Bureau of the Budget, that is so economical, has asked for \$86,000,000 more than the committee thinks it is entitled to at this time?

Mr. BYRNS of Tennessee. I will explain to the gentleman how the most of that reduction occurs. I wish to repeat here that the gentleman from Illinois [Mr. MADDEN], the distinguished chairman of the Committee on Appropriations, is sincerely in favor of economy, and he is bringing to his work as chairman of the committee the benefit of his splendid business training and unusual ability. There will be economy in this Congress if Congress will follow his lead on the question and subject of appropriation. The greater part of this reduction from the estimates is represented by the reductions in the estimates submitted for the Veterans' Bureau, which were so fully and clearly explained by the gentleman from Illinois.

In addition to that there were \$27,000,000 asked for by the Navy Department, but the request was withdrawn by that department in view of matters transpiring here in Washington at this time and the uncertainty whether all or any part of it would be later on needed.

Now, the reductions in the estimates submitted for the Veterans' Bureau and which were unanimous on the part of the committee were not made because any member of that committee is not anxious and willing to appropriate every single dollar that is necessary for the aid and the comfort of every disabled soldier. I take it that there is not a Member of this Congress on either side of the Chamber who is not anxious to see every dollar appropriated that is necessary for the aid and comfort of the disabled soldier; but, as the gentleman from Illinois [Mr. MADDEN] stated, in the hearings it developed that there was a total lack of information on the part of those appearing as to just how this money was expended in so far as the administrative expenses were concerned and little intention to curtail this administrative expense, judging by the statements made as to future expenses. Why, it developed, as has already been told you, that the administrative expenses amount to over 10½ per cent, or more than \$10 out of every \$100 which is appropriated for the soldier. The director stated that in his opinion 7 per cent was not an undue amount. That might be true if the appropriation was a small one, but when you stop to consider that the bureau is spending now something over \$480,000,000 a year, I submit that 7 per cent of that huge amount taken for administrative expenses in the payment of salaries and to employees who did not serve in the war and for whose benefit the appropriation was not made, is exorbitant, and the chairman of the committee very properly said to the director and to those appearing that Congress wanted and demanded more specific information as to just how this money is expended. And therefore the committee has recommended to Congress the appropriation at this time of \$40,000,000 for vocational training and \$25,000,000 for hospitalization of soldiers, in addition to the money already appropriated.

We know that that is not going to be sufficient for the balance of the fiscal year. We know that later on it will be necessary to appropriate more money, but that money is appropriated now in order that this work will not be stopped or be affected in any way, and when the bureau comes back to the committee later on for the purpose of getting additional appropriations it is hoped and expected that Congress will be able to get more information as to just the nature of these administrative expenses.

Why, it developed in the hearings—to show you the extravagance of this training so far as administration is concerned—that physicians are being paid a minimum of \$5 for the examination of a soldier. In other words, a soldier of the late war enters the office of a physician and is examined, and that physician is paid \$5 for the slightest examination and possibly as much as \$50 for one which is extraordinary or by a specialist. He walks out of the office, and then a soldier of the Civil War or the Spanish-American War enters for the purpose of being medically examined in support of his claim for pension, and the doctor is paid only \$3 for that examination.

Mr. MADDEN. And it was only \$2 up to the period of the war.

Mr. BYRNS of Tennessee. Yes. There is no excuse for that sort of thing.

Now, I hope that the present director, who took charge of the entire work of compensation, hospitalization, and training under the reorganization which went into effect on August 9,

will correct that sort of abuse prior to the time the bureau comes back for an additional appropriation.

Mr. LARSEN of Georgia. Will the gentleman yield?

Mr. BYRNS of Tennessee. I will.

Mr. LARSEN of Georgia. The gentleman spoke of the fee that was allowed to the examining physician. Is it not also true that the applicant, or the soldiers themselves, are sent to great distances, from 50 to 100 miles, to these doctors, when they might get some physician close by to make the examination?

Mr. BYRNS of Tennessee. I think that is true.

Mr. LARSEN of Georgia. Therefore the Government is paying out a large amount for railroad fare.

Mr. BYRNS of Tennessee. That is true. Of course, I think it is necessary for the bureau to have certain physicians specially designated, upon whom they can rely for these examinations. I take it that it would be impracticable to have a physician located in every small town in the entire country. Therefore, a certain amount of transportation and travel will always be necessary.

Mr. LARSEN of Georgia. But is it not a fact that there are competent physicians in almost every county where a man can go to the county seat and save all this unnecessary railroad fare, instead of crossing three or four counties to get examined?

Mr. BYRNS of Tennessee. Of course, that is true. There were plenty of competent physicians employed during the war for the purpose of examining the men who went into the war and acting for the draft boards. The good doctors do not all live in the cities and larger towns.

Now, we are to have a decentralization under the Sweet bill. Fourteen regional offices have been ordered by act of Congress, to be established over the country, with a maximum of 140 sub-offices, 124 of which have been already established. Of course, the director of the bureau has no other alternative but to carry out the law as written by Congress, although the number of sub-offices is left to his discretion. But, gentlemen, speaking for myself alone, I believe that that particular feature of that law is going to prove very unsatisfactory. I know that it will necessarily increase the administrative expenses of this great and necessary work. Why, as the chairman of the committee has stated, it will be necessary to pay great amounts for rent in the establishment of these offices. There will be 500 or 600 employees in these regional offices, and in some cases probably a thousand or more. In addition to that, there will be a large force required for the sub-offices.

In addition to that, as the chairman has stated, it has been stated that \$12,000 will be necessary to furnish and equip each of these various sub-offices over the country, an amount wholly out of all reason and entirely unjustifiable.

Mr. BOX. Does the gentleman mean to state that there would be 500 to 1,000 employees in each regional office?

Mr. BYRNS of Tennessee. In each office. They will range from 500 to 1,000, or possibly more. I know I have had this experience myself even in this short length of time. A soldier may write here and request you to secure information concerning his claim, which has been pending for some time in the bureau. You call at the bureau for the purpose of looking into the record and learning just why the claim has not been acted upon, and you are told, as to my section, that the records and papers have been sent down to Atlanta and that they will take the matter up with the Atlanta office by correspondence and will advise you as soon as they receive a reply. I know this is true, for I have had that experience several times in the last few weeks. After the lapse of two or three weeks you will get a reply that the claim is being considered or that certain additional evidence is needed. All of this involves delay, during which the soldier is suffering from lack of attention.

Mr. PARRISH. Can the gentleman tell us in any concrete way what the estimated expense for the Veterans' Bureau will be for the next fiscal year—the total expense?

Mr. BYRNS of Tennessee. I think it will amount to something like \$480,000,000.

Mr. MADDEN. The present expenditures?

Mr. PARRISH. For this present fiscal year.

Mr. MADDEN. Four hundred and eighty-nine million dollars.

Mr. GARNER. What will be the probable future expense? It will be more?

Mr. MADDEN. Yes; it will grow.

Mr. BYRNS of Tennessee. And this decentralization, as I have shown, will necessarily increase the administrative expense—just how much, no one can tell until this installation has been completed and all the employees put in charge.

Mr. BANKHEAD. Mr. Chairman, will the gentleman yield?

Mr. BYRNS of Tennessee. I yield.

Mr. BANKHEAD. Is it the gentleman's opinion, from any evidence that may have been offered before the committee, that this policy of so-called decentralization so far has worked for expedition and economy in the handling of these claims, or is it going in the long run to result in duplication and unnecessary expense?

Mr. BYRNS of Tennessee. According to the testimony it has not worked for either economy or expedition. My own experience has been that conditions in the bureau have certainly not improved over the conditions that existed previously, and I am very charitable when I make that statement. Frankly, there have been, in my judgment, more mistakes and more delay in many respects. I understand that all the records pertaining to the disabled soldiers who are drawing pay or who have applied for compensation and training are going to be sent from the city of Washington to the regional office which has jurisdiction of claims in that particular locality. It has been stated through the newspapers—and I have not seen it denied—that no duplicate copy of these records is going to be kept here in Washington. The original records should have been kept here and photographic copies sent to the regional offices. Gentlemen can well see that if these records are sent broadcast over the country to these various offices, many of them are likely to be lost, some of them may be destroyed by fire, and considerable confusion may result in the future on account of that.

Now, so far as economy is concerned, everyone must admit that it is going to greatly increase the administrative expense of the operation of that bureau, enormous as it now is, because you can not establish 14 regional offices throughout the country and establish 140 sub-offices without fully manning them, and without involving an expense of leasing, furnishing, and equipping those offices.

Mr. ANDREWS of Nebraska. Mr. Chairman, will the gentleman yield?

Mr. BYRNS of Tennessee. Yes.

Mr. ANDREWS of Nebraska. Would not that method be likely to result in the destruction of the permanent evidence upon which a soldier's claim might be based in future years, and if lost he has lost the evidence on which he would assert his rights?

Mr. BYRNS of Tennessee. Certainly, and I would say to the gentleman that I think that is the most serious objection to the dissemination or scattering of these original records over the country. I think it is much more serious than the amount of money which may be involved in the extra cost of administration.

Mr. BRIGGS. Mr. Chairman, will the gentleman yield for a question?

Mr. BYRNS of Tennessee. Yes.

Mr. BRIGGS. After this decentralization process is it the intention of the bureau here to keep a corps of employees, a large number of them, and operate here practically as usual, while having also the great number of employees at the district offices, where the claims are finally to be disposed of? I noticed in a newspaper recently a statement that there was nothing unusual about the matter, the statement issuing from the War Risk Bureau, that they expected to keep the force of employees here and also the district offices. There were also expressions indicating that the employees here were going to be dispensed with and distributed throughout the country in the Veterans' Bureau district offices where they might want to go in accordance with their preferences, so far as they could be carried out. Has the gentleman any information on that?

Mr. BYRNS of Tennessee. The committee has no special information as to what will be the personnel in Washington after this decentralization goes fully into effect. As I stated awhile ago, the director and those appearing for the bureau were unable to give definite and full information to the committee at the hearings as to the character and nature of their future administrative expenses. But it is hoped, and the director has promised, that he will have full and complete information when he next appears before the committee.

Mr. BRIGGS. Does the gentleman think it would be necessary to equip this bureau here with anything like the same number that it now has and at the same time go through the decentralization process and allow these claims to be adjudicated in the various districts? In other words, should not the decentralization result in the distribution of the forces here in the bureau?

Mr. BYRNS of Tennessee. I should think that would be inevitable, but the gentleman will realize, of course, that there will always be a necessity for quite a number of employees here, because this is the main headquarters, and many letters will be sent and many inquiries will be made to the bureau here



which will, as I have stated, have to be passed along to the various suboffices throughout the country. In the bureau here in Washington there are 5,546 employees at the present time, with a force of 10,622 in the field, or a total of 16,168. But as I gather from the hearings, that force is going to be considerably augmented when all these offices are fully established throughout the country.

Mr. BRIGGS. What increase is that in the number over last year?

Mr. BYRNS of Tennessee. I think it is a decrease, so far as the personnel here in Washington is concerned. Just how it compares with last year's field force, I am not at this moment able to say.

Mr. BRIGGS. I mean the total.

Mr. BYRNS of Tennessee. I am sorry, but I can not give the gentleman those figures. There has been a decrease in the office force here in Washington.

Mr. BRIGGS. Were there not about 6,500 in the bureau last year?

Mr. BYRNS of Tennessee. That is my impression; something in that neighborhood.

Mr. MOORE of Virginia. Mr. Chairman, will the gentleman yield?

Mr. BYRNS of Tennessee. Yes.

Mr. MOORE of Virginia. Does the gentleman get any definite view from the hearings as to why the administration of the law is so unsatisfactory by the bureau at this time, involving so many delays and so many mistakes and so much confusion in the handling of claims? I am speaking now from my own experience.

Mr. BYRNS of Tennessee. I have had an experience similar to that of the gentleman, but I must confess that I have never been able to secure any information satisfactory to me as to just why there should be such confusion and delay. I know that it is provoking and has provoked very great criticism among the soldiers and the public generally throughout the country, because these soldiers, of course, are entitled to have their claims acted upon quickly. I want to say that this has not been due to the action of Congress, because in every appropriation bill Congress has freely appropriated whatever amount the Bureau of War Risk said was necessary. Congress has freely made the appropriation of the amount asked for in order that these disabled soldiers may be given every possible attention and their claims quickly passed upon. Just why there is such great delay in the bureau and why it is continuing up to this time, I do not know, except that it is the fault of the administration.

Mr. DAVIS of Tennessee. Will the gentleman yield?

Mr. BYRNS of Tennessee. I yield to my colleague.

Mr. DAVIS of Tennessee. While nearly all of us, including the gentleman from Tennessee [Mr. BYRNS] and myself, voted for that so-called decentralization bill and for the establishment of division offices throughout the country, it has been my observation that that has simply distributed the responsibility and resulted in still further passing the buck, and that it is more difficult to get speedy and effective action now than it was before.

Mr. BYRNS of Tennessee. I think the gentleman is clearly correct. He voices what I believe to be the experience of every Member of Congress who has had constituents with claims pending before the bureau since the decentralization went into effect.

Now, gentlemen, something has been said with reference to the hospitalization of soldiers. As I have stated, the committee have recommended an appropriation at this time of \$25,000,000. The bureau estimated for something over \$43,000,000. The committee in reducing this estimate had no intention or idea of depriving any soldier of hospitalization, and the amount recommended by the committee will be ample to carry the work for some time to come and to provide for hospitalization for every soldier entitled to it, and until more definite information can be secured as to the manner of expenditure in the bureau. The whole idea of the committee has been to appropriate every dollar necessary to carry on this work; but we are anxious to secure information to be submitted to Congress, which will enable Congress to cut down some of these high administrative expenses and cut out some of these unnecessary salaries that are now being paid.

Mr. ANDREWS of Nebraska. Will the gentleman yield?

Mr. BYRNS of Tennessee. I yield to the gentleman from Nebraska.

Mr. ANDREWS of Nebraska. In studying this question has the gentleman discovered any immediate pressing need for enlarged appropriations for hospital buildings at this time?

Mr. BYRNS of Tennessee. I will say to the gentleman that I have not, because Col. Forbes stated that there are now in hospitals 30,000 men in round numbers and that the peak will be 35,000. In other words, according to Col. Forbes, after what he stated was a most careful comparison and investigation, there will never at any time in the future be needed more than 5,000 additional beds. Now, it developed in the hearing that there are to-day 7,815 vacant beds which can be used for the hospitalization of soldiers.

Mr. ANDREWS of Nebraska. I desire this information in order that the Committee on Public Buildings and Grounds may have before it the judgment of this committee after its investigation of that very important matter.

Mr. BYRNS of Tennessee. I know that it is stated by the bureau that many of these patients are in contract hospitals, in private institutions, and the bureau is very anxious to gather all the patients into Government institutions.

Mr. ANDREWS of Nebraska. Especially those who may be in places where the treatment is not as good as we desire it to be.

Mr. BYRNS of Tennessee. Oh, yes, indeed, and, of course, that ought to be done in cases of that kind. But I submit that if they will never at any time need more than 5,000 additional beds and there are now vacant beds to the number of 7,815 it would seem that there is no pressing necessity at this particular time for additional hospital legislation.

Mr. ANDREWS of Nebraska. Especially in view of the 5,000 beds to be provided by the buildings now in course of construction.

Mr. BYRNS of Tennessee. Yes. I am glad the gentleman suggested that, for I had in mind the additional beds which will be provided by the \$18,600,000 recently appropriated, all of which has been allocated except \$1,300,000. In the great Speedway Hospital which cost so much money, a modern, up-to-date hospital erected in Chicago, with a capacity of 1,000 beds, it appears that there are only 472 patients at the present time, and that actually one-third of the space of that hospital is now being used for the housing of employees of the hospital. It would seem to me that the best interests of the soldiers and a proper administration of the bureau would be attained by devoting that space, amounting to 337 rooms, to the hospitalization of soldiers rather than to the housing of employees, and to require those employees to secure quarters outside of the hospital.

Mr. STEVENSON. Is it possible that it takes 337 rooms to house the employees of one hospital?

Mr. BYRNS of Tennessee. That is the statement that was made at the hearings, but that is not all the story—

Mr. DAVIS of Tennessee. Did it appear how many of the employees of that hospital resided outside of the hospital, in addition to the number residing in the hospital?

Mr. BYRNS of Tennessee. My recollection is that it was stated that there are about 125 employees housed on the outside in addition to those being taken care of in the hospital. Whether each of those 337 rooms is occupied by a single person, or just how many rooms are set apart for each particular employee, I do not know. I do not know whether each employee has one room or a suite of rooms.

Mr. BOX. How many patients are served by a hospital that has 337 rooms for its employees?

Mr. BYRNS of Tennessee. The records show that at the Speedway Hospital, which, as I have stated, has 472 patients, there are over 500 employees, or more than one to each patient. Of course, the gentleman will understand that that includes all kinds of employees necessary in a big hospital, but it would seem to be unreasonable.

Mr. CHINDBLOM. Does the gentleman mean that all of them live at the hospital?

Mr. BYRNS of Tennessee. No; I have just stated that my recollection is that 125 of them are quartered on the outside, but that one-third of the space in that hospital, which ought to be used solely for the hospitalization of soldiers, is being used in the quartering of employees of the hospital.

Mr. CHINDBLOM. I think that is substantially correct. Originally the hospital was intended to contain seven units for the care of soldiers, and two of those units were taken for the care of the hospital personnel. That was done upon the very insistent and urgent request of the Public Health Service. I think the Committee on Public Buildings and Grounds at that time took an adverse view and were very anxious that the whole of the hospital facilities should be used for soldiers, but the Public Health Service said they ought to have this space for the hospital personnel.

Mr. BYRNS of Tennessee. My own judgment is that when there has been such a great demand on the part of many for additional hospital facilities and when the complaint is made that many of the hospitals are not modern and up to date that this great modern hospital in Chicago ought to be devoted entirely to the soldiers rather than to the civilians who are drawing money out of the Public Treasury and who are employed in its operation; that these civilians rather than the soldiers should be located on the outside.

Mr. CHINDBLOM. That is my own view, and the records of the Committee on Public Buildings and Grounds will show that the committee is unanimous in that view. However, I want to say that my information is that there are now about 650 soldiers at that hospital.

Mr. BYRNS of Tennessee. That may be; the number may have been increased. The statement was made less than two weeks ago that there are only 472. I think the entire hospital ought to be devoted to the care and treatment of the ex-soldiers. I hope the bureau will speedily fill it up and put the employees on the outside and require them to get quarters in the neighborhood.

Mr. McDUFFIE. Will the gentleman yield?

Mr. BYRNS of Tennessee. I will.

Mr. McDUFFIE. Taking into account the amount appropriated in this bill how much is the total amount expended this year for the care of ex-service men?

Mr. BYRNS of Tennessee. It has been stated that the total amount for all services will be \$489,000,000. I should say that no one expects that the amount in this bill plus what has already been appropriated will be sufficient to carry on this work during the remainder of the fiscal year. There will undoubtedly be needed an appropriation of a very large sum in addition in order to properly train and hospitalize the soldiers. I am sure that every Member of Congress wants to provide every dollar needed to train the disabled soldiers. There are 128,000 who have entered training and only 6,000 have completed the training. There are something like 31,000 now on the qualified and eligible list and more are being added as the result of examinations. Now, at the present rate of putting these men in training—a rate of 4,000 a month—gentlemen will see that the last man on the present list will not be put into training for eight months. He ought not to be required to wait such an unreasonable time. I am sure that if the Congress can be satisfied that the money is being expended for the soldier and not to pay high salaries and overhead administration expenses, it will be willing to make any appropriation necessary to give these men speedy training. It is a duty that Congress owes to the disabled soldier, and besides the economic interest of the country demands that he be trained and put into the productive walks of life as quickly as possible.

Mr. McDUFFIE. How much will the Government spend this year for the care of the soldiers?

Mr. BYRNS of Tennessee. It is impossible for me to answer that question because, as I say, there will have to be additional appropriations. It is expected that the director will later on give an accurate survey of expenses. I can only say that present expenditure has been at the rate of \$489,000,000.

Mr. DAVIS of Tennessee. Will the gentleman yield?

Mr. BYRNS of Tennessee. Certainly.

Mr. DAVIS of Tennessee. It was stated in the press that Col. Forbes had returned from a tour of inspection throughout the country, particularly in the West and the Middle West, and had given out a statement to the effect that the present system for vocational training was very unsatisfactory, and he soon would make a definite recommendation in regard to vocational training. Did he give the committee any indication as to what his ideas were?

Mr. BYRNS of Tennessee. The director stated that it was his intention, if permitted to do so, to organize four to six training centers in the various Army cantonments. The gentleman from Illinois [Mr. MADDEN] went fully into that matter, and I want to say that I fully agree with him in what he had to say about the establishment of these centers. None of them have been established except at Camp Sherman, where some work has been done and which will be in a condition to take 500 men by December 1, with a maximum capacity, if the work is completed, of 3,000 men; but there has been nothing further done and the committee has recommended to Congress a provision in this bill which will serve to prevent the establishment of any great centers of training in Army camps, because the committee is convinced that it should not be done for several reasons. In the first place, it is going to cost many, many thousands of dollars to reconstruct and rearrange the various camps and cantonments and provide necessary equipment. In addition to

that, I take it that the disabled soldier will be much less satisfied if he is trained in one of these camps than he would be if he was trained in some suitable private institution at a reasonable charge, where he would be associated with other men acquiring a similar training, but not suffering from the disabilities from which he is suffering.

Mr. BOX. Will the gentleman yield?

Mr. BYRNS of Tennessee. Yes.

Mr. BOX. Has the gentleman been able to make an estimate of what it costs to train a soldier a year?

Mr. BYRNS of Tennessee. Yes; it is not my estimate, but it was stated to the committee that it cost on an average \$126 a month. That includes the compensation and overhead expenses, cost of tuition, and all the various items that go into the training of the soldier. It is, roughly, \$1,500 a year for each soldier.

Mr. LEA of California. Will the gentleman yield?

Mr. BOX. Has the gentleman been able to make an estimate of what it costs to train a soldier a year?

Mr. LEA of California. Has the gentleman stated the length of time it will be necessary to train a soldier?

Mr. BYRNS of Tennessee. My recollection is about two and a half years. There are a little over 40 per cent of those who have applied who asked for training in mechanical trades and occupations of that kind. Thirty per cent applied for various forms of academic or professional training, and, as the gentleman knows, that term is usually four years, but the average is about two and a half years.

Mr. DUNBAR. Will the gentleman yield?

Mr. BYRNS of Tennessee. I will.

Mr. DUNBAR. How long a period does the law provide that an ex-service man can apply for training?

Mr. BYRNS of Tennessee. There is no limit on the time for application.

Mr. DUNBAR. Then, 10 years from now, unless the law is changed, if a man found that he was suffering from the effects of his service in the war, he could apply for vocational training?

Mr. BYRNS of Tennessee. Yes; and I must say that I think he should be given the training if it is shown that his trouble is due to his military service.

Mr. DUNBAR. There is no doubt that many soldiers in the service suffered a shock to their nervous and physical systems which will not be in evidence until years have gone by. What is the gentleman's idea as to what will be the probable cost of vocational training in years to come?

Mr. BYRNS of Tennessee. Of course, at the present rate of the expenditure, it is going to be very heavy; but I take it there is no man living who can even form the slightest idea as to what it will cost ultimately.

Mr. DUNBAR. Then, this cost of vocational training is going to be a big item which will prevent us from returning to a condition of normalcy which the gentleman mentioned awhile ago?

Mr. BYRNS of Tennessee. This cost is going to amount to a very great deal during the years to come. It is one of those things which was brought about by the war and which the public is very glad to bear, provided the money appropriated is applied for the benefit of the soldier and not some official or officeholder.

Mr. LARSEN of Georgia. Mr. Chairman, will the gentleman yield?

Mr. BYRNS of Tennessee. Yes.

Mr. LARSEN of Georgia. While we are on the item of training, it has been suggested that the soldiers are provided in many cases, or in all cases where they have an academic and professional training, with the equipment such as tools or libraries. I would like to know what information the gentleman has on that point? For instance, take the man who reads law. It is said that he is given a set of law books, and the man who studies medicine is fitted out with certain instruments, and that the barber is fitted out with his tools and a chair, and so forth?

Mr. BYRNS of Tennessee. I understand that has been the policy of the bureau in the past. So far as I am concerned, I can not understand why it is the duty of the Government which has trained the soldier as a lawyer to then provide him with a full law library, which of course the gentleman knows is expensive. I am happy to say that the present director states that that policy will not be followed hereafter.

Mr. LARSEN of Georgia. The gentleman I believe has been on the Committee on Appropriations for a number of years. Has the committee made any such appropriation with that object in view heretofore?

Mr. BYRNS of Tennessee. No.



Mr. LARSEN of Georgia. Has the Congress passed any law which in the gentleman's opinion and judgment specifically provided for that?

Mr. BYRNS of Tennessee. I think so, or at least it has been so construed. The fact of the business is that the so-called Sweet law is very broad in its scope, as the gentleman knows, and it is insisted by officials of the bureau, and I think they are confirmed in that by the Comptroller General of the Treasury, that they have the right if they see fit to provide suitable tools and equipment, not only during the course of training but after the training has been completed, to equip the trainee to whatever extent they think is reasonable to carry on his trade or profession.

Mr. LARSEN of Georgia. The Sweet bill, as I understand, was a part of the Republican administration for economy.

Mr. BYRNS of Tennessee. Yes; but I think the most of us voted for it.

Mr. LARSEN of Georgia. If I understand, it was not mandatory, but simply a provision which they have the right to carry out, and in the exercise of that brand of Republican economy they have gone to that extent.

Mr. BYRNS of Tennessee. I think that is true, but it is only fair to say that that has been the course pursued by the past, as well as the present, administration of the bureau. The present director stated that in so far as law libraries are concerned he is going to cut them out in the future. Just what position he will take with reference to furnishing tools to those trained for the mechanical trades I do not know.

Mr. LARSEN of Georgia. What about doctors?

Mr. BYRNS of Tennessee. I think the statement with reference to lawyers would apply to doctors and all the professions.

Mr. DUNBAR. Mr. Chairman, I am interested in learning that vocational training will prepare an ex-service man for being a lawyer. What physical or mental defect would cause an ex-service man to want to learn to be a lawyer?

Mr. STEVENSON. It might be a moral defect.

Mr. LONDON. Moral obliquity, I suppose.

Mr. DUNBAR. I can hardly understand a condition in which an ex-service man would find himself as a result of having been in the service that would make him peculiarly fitted to be a lawyer.

Mr. BYRNS of Tennessee. Congress intended by the passage of the legislation, I think, to permit the disabled soldier to choose his profession or trade, provided, in the opinion of those in charge of the administration of the law, he was fitted or could be properly trained for the profession or trade selected by him. I do not think there was any intention to dictate to the soldier as to what he should do under these limitations.

Mr. DUNBAR. Does vocational training also afford an opportunity for an ex-service man to become a minister of the gospel?

Mr. BYRNS of Tennessee. Yes.

Mr. DUNBAR. And will it give him a theological education?

Mr. BYRNS of Tennessee. Yes; provided, of course, it is found that he has the proper groundwork, and has received training in the past, which convinces those having charge of the bureau of the fact that he is fundamentally fitted to take that training.

Mr. FESS. Mr. Chairman, will the gentleman yield?

Mr. BYRNS of Tennessee. Yes.

Mr. FESS. There was no idea originally to extend the training to professional education, but we found that many of the boys had gone to the law school for probably about two years and had been taken out and had gone into the service and been wounded. It was thought that they ought to be given the privilege of finishing their work. Personally I was opposed to including any professional training at all, but those conditions arose. I might say now that I can not understand how under the law it can be construed that after education he is to be given an equipment like a law library. I can understand that the books he was given to study from while he was in school he might be allowed to retain, but to give him anything like a library to work on, in that or anything else, or to give him tools with which to carry on a trade after he comes out, I know I never thought was within the construction of the law as we passed it.

Mr. BYRNS of Tennessee. I confess to the gentleman I was very much surprised to learn that practice had been followed.

Mr. FESS. We all thought, and I feel sure the gentleman himself did, that we ought not to cut out these suboffices to too great a degree.

We are told that if you had 140 which were already provided in some other work, that it would be cleaned up within a very short time; that we would mop up the whole work and the

suboffices would be discontinued within a short time. That was the representation made to Congress. I am amazed to hear that these subdivisions have been equipped with \$12,000 worth of office furniture.

Mr. BYRNS of Tennessee. They have not been equipped, I will say to the gentleman, but that is the estimate submitted to the committee as to what will be necessary to equip them.

Mr. FESS. I think that is an outrage.

Mr. BYRNS of Tennessee. I think so myself.

Mr. GOODYKOONTZ. Will the gentleman yield?

Mr. BYRNS of Tennessee. Just a question, and then I will conclude.

Mr. GOODYKOONTZ. The gentleman from Indiana has raised a point as to what physical disqualification would entitle or justify a soldier to seek a professional education in the law. Now, it would seem to me if a soldier had the fundamental education, an academical education, sufficient to justify his entry into the law, the fact that he may have lost a limb would be sufficient justification for a soldier to take up that profession.

Mr. BYRNS of Tennessee. I think that is the theory upon which Congress acted, just as the gentleman from Ohio has stated, who had such an important part to do with the framing of that legislation.

Mr. ANDREWS of Nebraska. Is there not some way to hold the head of these administrative officers responsible for the expenditure of money in buying libraries and trade equipments?

Mr. BYRNS of Tennessee. Of course, they are responsible, but if they are acting within the law—

Mr. ANDREWS of Nebraska. Is there not some way in which they could be restrained?

Mr. BYRNS of Tennessee. They could be restrained if Congress were to take action. But it is an administrative matter, and those in charge of the bureau have held that they have the right under the law to provide this equipment.

Mr. ANDREWS of Nebraska. Does the committee concur in their view of that right?

Mr. BYRNS of Tennessee. I am frank to say to the gentleman, no, so far as I am concerned, because I agree with the gentleman from Ohio [Mr. Fess] that Congress never expected that law libraries should be furnished lawyers.

Mr. ANDREWS of Nebraska. From the discussion we have had here, it is a flagrant abuse of power.

Mr. BANKHEAD. I will ask the gentleman this question: If that is the view of the committee, why could we not write in the appropriation bill a limitation on the bureau to do that thing?

Mr. BYRNS of Tennessee. The trouble about that as I see it is that it will be rather difficult to draw the line as to just what the bureau should furnish a man in training. In other words, a man who is taking law, for instance, needs certain textbooks required in the training. Just to what extent are you going to limit the amount of law books that should be furnished or the tools that may be furnished to a man taking instruction in one of the mechanical trades? I think after all it has to be left to the discretion of those in charge of administering the law, who understand that Congress does not commend that kind of expenditure.

Mr. BANKHEAD. I do not think you can stop it without putting a proper limitation in the law itself.

Mr. BYRNS of Tennessee. The present director says he is going to stop it, and I hope he will.

Mr. BANKHEAD. It is said that they have been furnishing libraries and tools and equipment to a man who has finished his training, but certainly that was not in the contemplation of the framers of the law. I had charge of the bill in its original form, and a proposition of that kind would have astounded the Committee on Education when they had the bill under consideration.

Mr. BYRNS of Tennessee. I am sure of that.

Mr. BANKHEAD. It seems to me that so far as furnishing these men with training equipment, libraries, and so forth, after they have finished training a limitation of some sort ought to be written into the law.

Mr. BYRNS of Tennessee. I agree with the gentleman. Mr. Chairman, I have consumed more time than I had intended, and I reserve the balance of my time. [Applause.]

Mr. MADDEN. Mr. Chairman, I yield to the gentleman from Michigan [Mr. CRAMTON] for 10 minutes.

Mr. CRAMTON. Mr. Chairman, while the body of the unknown soldier lay in the Rotunda of this Capitol November 10, a committee representing the American Legion of the State of Michigan came to place beside it a wreath of flowers. There beside the casket a brief service was held in the presence of these representatives of the Legion, the Senators and Representatives of Michigan, and others.

Our colleague, Hon. JOSEPH W. FORDNEY, dean of the Michigan delegation in Congress, spoke as follows:

Let this be a tribute of the American Legion of the State of Michigan to the Nation's unknown dead. It carries with it the love, the gratitude, and the admiration of our people. The heroes we pay homage to this day have given the great sacrifice. The story of their individual deeds of valor is a closed book. Their lifeless bodies, however, evidence their love of their country. We cherish their memory. It is indeed fitting that we should gather here to-day in their honor.

Capt. Paul A. Martin, commander of the American Legion of Michigan, gave the following brief and eloquent address:

Soldier of the Republic, a Nation and a world bow in solemn reverence at your bier.

Home from the far-flung battle fields of France, out of a lonely and a nameless grave, you have come home, here to find a resting place in the land for which you paid the last full measure of devotion.

No State can claim you as its very own, for you are now of the Nation.

No name is yours, for the only name you bear is that of the legions who, like you, faced the great adventure with a smile, and, smiling, died.

The Nation that pays you tribute to-day is a grateful Nation. It and its people are not unmindful of the fact that but for you and your sacrifice it might have perished. For when a nation reaches such a state of decadence that the men who live for it are not willing, if need be, to die for it, then that nation is no longer fit to live and its doom is sealed.

America lives to-day because its sons have died to save it. It exists to-day because myriads of others, like you, soldier of the Republic, were willing to die that the ideals upon which your Nation was founded might not perish from the earth. It lives to-day because out of the greed and selfishness and distrust of mankind and of nations there have risen those divine elements of patriotism, of unselfishness, and of blind devotion to duty, which since the beginning of time have caused men and women to place country first, even to the sacrifice of life itself.

The Nation and the world mourn your passing. A hundred million hearts are pouring out their gratitude to you to-day, and at your tomb for time eternal millions will come to pay tribute, a tribute that comes only to the truly great, a tribute that comes only to the men who, without thought of personal gain or glory, sacrifice their all that their country may live.

Mr. Chairman, I yield back the balance of my time.

#### MESSAGE FROM THE SENATE.

The committee informally rose; and Mr. WALSH having taken the chair as Speaker pro tempore, a message from the Senate, by Mr. Craven, its Chief Clerk, announced that the Senate had passed without amendment the bill (H. R. 7428) to amend section 1 of an act entitled "An act to incorporate Gonzaga College in the city of Washington and District of Columbia."

#### DEFICIENCY APPROPRIATION BILL.

The committee resumed its session.

Mr. MADDEN. Mr. Chairman, I yield five minutes to the gentleman from West Virginia [Mr. GOODYKOONTZ].

Mr. GOODYKOONTZ. Mr. Chairman and gentlemen of the committee, the matter to which I desire to address myself in the time allotted to me is not strictly germane to the bill.

Mr. MADDEN. It is not necessary. This is general debate.

Mr. GOODYKOONTZ. I accepted an invitation to make an address before the American Legion post, at Welch, McDowell County, in West Virginia, on Armistice Day. Having taken some pains in the preparation of the address, and feeling that its subject matter was of some public interest, I asked unanimous consent of the House that the address might be printed in the RECORD as an extension of remarks, which request the House graciously granted unto me. The next day I found the address in the RECORD, and saw that it was printed with very small type; so small, in fact, that it would almost require a magnifying glass to decipher it. I was puzzled to know why this had taken place. On previous occasions I had inserted in the RECORD, and friends of mine had inserted in the RECORD, as many as three addresses of similar character, made by me on public occasions, and in each of these instances the addresses, respectively, had been printed in the regular type.

Now, this address was inserted in the RECORD of November 14, 1921—last Monday. On the margin of the paper I had specially noted in writing the request that the printer should print the document in the regular size type.

At my hotel about 10 o'clock of that day I was called up by some one at the Printing Office and advised that Mr. Carter, the Public Printer, had directed that this speech be printed in smaller type. Whether his instructions were in general or applied specially to this case was not made clear to me. Probably you are already advised that the larger type is known as 8-point, formerly brevier, and that the smaller type is known as 6-point, or nonpareil.

In the examination of the RECORD of November 14 I find side by side with the address that I had asked to be inserted an extension of remarks by the gentleman from Ohio [Mr. COLE], which is printed in the larger type. I can see no justification for a rule of the Public Printer that would discriminate as to the size of type to be used in printing the two speeches. On another page in this RECORD I find a request by our distin-

guished floor leader, the gentleman from Wyoming [Mr. MONDELL], asking permission to insert in the RECORD the addresses of our great President and the distinguished Secretary of State, which was granted, and these were printed in the usual size type.

The conclusion, Mr. Chairman, to which I have arrived is, that had I not voted against the Blanton resolution perhaps my speech would have been printed in the ordinary type, just as had been done in the case of a Memorial Day speech in the national cemetery at Grafton, W. Va., June 3, 1919, and an address on Abraham Lincoln at Harpers Ferry on February 15, 1920.

I now call upon the Joint Printing Committee of the House and Senate to know whether or not any Member of this House, it matters not what his mental caliber may be, whether he is a star of the first magnitude or of some lesser magnitude, may have the Public Printer or anyone else determine whether or not his speech shall go into the RECORD as brevier or nonpareil; whether it shall go in in such form as may be legible and can be read, or shall be published in print almost as difficult to decipher as the ancient cuneiform characters or other Egyptian hieroglyphics, that have to be exposed by the magnifying glass and interpreted by the use of the Rosetta stone? If this speech be of any value at all, it is entitled to be printed in such form as that it may be legible, and if it were not of any value some Member of the House, of patriotic instincts, who wanted to save useless expenditure of public funds should have interposed an objection.

This is all I have to say, gentlemen. I thank you very much. [Applause.]

The CHAIRMAN (Mr. BURTON). The time of the gentleman from West Virginia has expired.

Mr. GOODYKOONTZ. Mr. Chairman, I ask unanimous consent that the speech I referred to may be printed in the ordinary type.

The CHAIRMAN. On what page?

Mr. GOODYKOONTZ. It is found in the Appendix to the CONGRESSIONAL RECORD.

The CHAIRMAN. The gentleman from West Virginia asks unanimous consent that his remarks appearing in the RECORD on November 14 may be reprinted, to appear in the ordinary type. Is there objection?

Mr. WALSH. Mr. Chairman, reserving the right to object, I have no objection. I think the gentleman appears to have presented a reasonable complaint, but I am wondering whether the Committee of the Whole can order that to be done. It is not dealing with the matter under consideration. I wonder if it ought not to be an order of the House.

The CHAIRMAN. In the opinion of the Chair leave to print on a matter extraneous to that under discussion should not be brought up in the Committee of the Whole, but in the House. The opinion of the Chair is that the better course would be to make the request in the House.

Mr. LONDON. Mr. Chairman, may I suggest that this is part of the general debate, and to general debate anything and everything is relevant, and therefore the committee may act in the matter.

The CHAIRMAN. Yes; but this was on a subject different from that under discussion to-day, although it is true that in the discussion of this subject the gentleman from West Virginia made a speech.

Mr. BYRNS of Tennessee. Mr. Chairman, I yield 10 minutes to the gentleman from South Carolina [Mr. BYRNES].

The CHAIRMAN. The gentleman from South Carolina is recognized for 10 minutes.

Mr. BYRNES of South Carolina. Mr. Chairman and gentlemen of the House, I desire to make a few remarks with reference to deficiency appropriations. The late Senator from Rhode Island, Mr. Aldrich, once startled the country by a statement to the effect that the Government could be run at an expense not exceeding \$300,000,000 a year. In view of that statement it is remarkable that in peace time, within five months after the beginning of this fiscal year, the President has submitted to us estimates for deficiency appropriations amounting to \$315,000,000, a sum in excess of that which the late Senator from Rhode Island believed should be the total expenditures of this Government.

Now there is no justification for a deficiency—

Mr. ANDREWS of Nebraska. Mr. Chairman, will the gentleman yield?

Mr. BYRNES of South Carolina. I am sorry I can not. I have but 10 minutes.

I say, there is no justification for a deficiency unless, first, Congress failed to provide sufficient funds to carry on the activities of the Government; or, second, after the passage of the



annual appropriation bills it had authorized new activities. In either case it is impossible for us to satisfactorily explain the necessity for the President submitting deficiency estimates for the first five months of the fiscal year amounting to \$315,000,000.

I sometimes think of what would have happened six months ago if these estimates had been submitted. The gentleman from Wyoming [Mr. MONDELL], I know, would have come in here and stated, "A few months ago an estimate was submitted by the Democratic administration for \$125,000,000; we appropriated only \$50,000,000, and therefore we have saved the taxpayers \$75,000,000. And now the Executive of this willfully extravagant Democratic administration asks for \$190,000,000, and we have recommended only \$103,000,000, thereby saving to the taxpayers \$87,000,000."

It is wonderful how times have changed. We no longer hear this argument of saving money by cutting down estimates. Now, the Director of the Budget, Gen. Dawes, is proceeding to save along new lines. He saves his in the newspapers instead of in the House. [Laughter.] It is an idle day when he can not save a few millions there. But he has not only deceived the people but apparently he has misled our good President, who has no opportunity to examine into these things, into believing that millions will be saved this year. Therefore when the President submitted this estimate for \$190,000,000, he submitted a statement which I assume was prepared by Mr. Dawes, in which he did not call attention to the fact that they were going to touch the taxpayers for \$190,000,000, but only called attention to the wonderful savings that were being made while asking us for \$190,000,000. Of course, I propose to remind you from time to time about the savings of this Budget Bureau.

The leader of the House, jealous of Mr. Dawes, told us they were going to save \$350,000,000 just a month or two ago, and now they come and ask for \$190,000,000. What is the use in having a Budget Bureau? I understood they were going to help us save money. A few months ago they asked for the Shipping Board \$75,000,000 more than we gave them, and the Shipping Board is doing well without that \$75,000,000.

Now the Budget Bureau, with the approval of the President, asks for \$90,000,000 more than this committee recommends; and in the interest of the taxpayers we should abolish it and allow the chairman of the Committee on Appropriations, who seems sincerely anxious to cut down appropriations, to act as the budget officer of this Government.

But I want to comment for a minute upon the saving you were going to make; because the gentleman from Wyoming [Mr. MONDELL] said you were going to make those savings, and when he says so you have to believe it. He told the President you were going to save \$350,000,000 out of the appropriations for this year. He said that you were going to save \$100,000,000 in the Navy. But the Navy asked for \$27,000,000 in the way of a deficiency. Then they withdrew the estimate and said they would try and see if they could not reduce it by the time the regular session met in December.

The gentleman from Wyoming stated he was going to save \$25,000,000 out of the appropriations for the Agricultural Department when the total appropriation was only \$36,000,000. When I called attention to that, the gentleman from Illinois [Mr. MADDEN] stated that it was to be saved out of the road fund; but you know—and the country ought to know that instead of saving money out of the road fund since that time we have appropriated \$100,000,000 to be spent in cooperation with the States in building public roads. So that instead of saving \$25,000,000, we have appropriated an additional \$100,000,000 since that time. Now as business men, how can we reconcile those statements? The gentleman from Wyoming said that in the Navy Department we would save \$100,000,000. The total amount appropriated on the building contracts was only \$90,000,000, and if this conference on the limitation of armament is a success and we cancel the contracts, we all know that we have got to pay damages in addition to the amounts already spent, and there is not a chance on earth of saving \$100,000,000 in the Navy appropriations. On the contrary the department asked for \$27,000,000 deficiency appropriations.

I call attention to this because I make the prediction now that we will have at least two or three more deficiency bills, and unless there is a great change in the executive departments the deficiency bills of this Congress are going to amount to almost as much as any Congress prior to 1908 ever spent for all governmental purposes.

This is the first time I have had occasion to say something about the War Veterans' Bureau, and I want to say a few words about it. Everybody else wants to say something about it. There can be nothing partisan in it. It has been wretchedly administered from the day it was organized. The only thing

I have to say about it is that it goes from bad to worse. I base that statement on my own experience. I have come to the conclusion that while we complain rightfully about the extravagances of that bureau, at the same time the boys whom we have tried to help are not being helped as they should be. I can not defend that bureau to the soldiers of my district when they come and tell me that they are unable even to receive an answer to a communication.

When I went home in September I had one boy make such a statement to me. I wrote the bureau on September 28 inquiring as to the status of a soldier's claim for compensation, and I never received an acknowledgment of my letter until yesterday morning, after having a talk over the phone with the director on Saturday. I had written two or three times, and finally wrote to the Assistant Secretary of the Treasury, asking him if he could advise me how I could receive an acknowledgment of a communication trying to ascertain the status of the claim of a boy for compensation. Every time I have to write a letter to that bureau or you have to write a letter to that bureau it is a condemnation of the bureau, because a soldier boy ought to be able to secure action upon his requests without enlisting the aid of a United States Congressman. When these gentlemen say it costs \$10 to spend \$99 it is not accurate, for in addition to that \$10 which is spent by the Government you and I know that many of these boys go and employ lawyers in order to try to get action upon their claims, and then your time and the time of your secretary is demanded in order to secure consideration for the ex-service men. If we had an accurate estimate of the amount of money that is actually being spent, not only by the Government, but by all parties to the transaction, it would be found that it costs almost a dollar for every dollar spent. I have no criticism to make of the good gentleman who is now in charge of it. I never saw him; but if he is going to accomplish anything he ought to have a shake-up of the bureau and discharge the people who have been there who have demonstrated their incapacity and have developed a faculty for losing papers—that is unparalleled in human history. If we should ever find all the papers that have been lost by the War Risk Bureau, no building in the city of Washington would be big enough to hold them. [Laughter.] You can ask about any case, and they will tell you they have lost the papers. I had a chap who had a letter addressed to him by the bureau authorizing him to go to a dental clinic in Philadelphia in September for treatment. He had left Philadelphia and had moved to South Carolina. He wanted to have his authorization transferred there. Up to this date he can not secure a transfer. The only way he could go to the Philadelphia dental clinic would be to get on a train and go back to Philadelphia at great expense. A few days ago my secretary visited the bureau and presented the officials with an authorization to a clinic in Philadelphia, and asked them to transfer it to a clinic near the home of the boy, and was informed "We must have the papers." I could have told them before they started to look that they never would find them, because that has been my experience. After some time the official stated the papers could not be found. When I asked them on the face of that letter to grant the transfer, they said they could not do it; that they must have the original papers. If the original authorization was justified, why not transfer it? The result is that these boys have come to the conclusion that they can not get an answer to a communication or action upon a claim unless they get the help of a Congressman, and if that is true and you can get something done for a boy that he can not get done for himself, it is unfair and unjust to the boy who does not come to a Congressman. [Applause.]

Mr. FIELDS. Mr. Chairman, I ask unanimous consent that the gentleman from West Virginia [Mr. GOODYKOONTZ] be permitted to extend his remarks made a few minutes ago by reinserting in the Record his remarks made on November 14, and that these remarks be reprinted in regular eight-point Record type.

The CHAIRMAN. The request is made on behalf of the gentleman from West Virginia [Mr. GOODYKOONTZ] that he be authorized to insert in the Record as an extension of his remarks made to-day the remarks made by him on November 14, and that the same be printed in regular Record type. Is there objection to the request?

There was no objection.

MESSAGE FROM THE PRESIDENT OF THE UNITED STATES.

The committee informally rose; and Mr. WALSH having taken the chair as Speaker pro tempore, sundry messages in writing, from the President of the United States, by Mr. Latta, one of his secretaries, who also informed the House of Representatives that the President had approved and signed bills of the following titles:

On October 5, 1921:

H. R. 7578. An act providing for "Visit the Dunes, Michigan City," canceling stamp to be used by Michigan City, Ind., post office; and

H. R. 8365. An act to permit the use in the post office at Cincinnati, Ohio, of a special canceling stamp bearing the words "Public Health Exposition, Cincinnati, Ohio, October 15 to 22, 1921."

On October 15, 1921:

H. R. 6809. An act to extend the time for the construction of a bridge across the Rio Grande within or near the city limits of El Paso, Tex.; and

H. R. 8209. An act to extend the time for the construction of a bridge across the Cumberland River in Montgomery County, Tenn.

On October 17, 1921:

H. R. 8297. An act authorizing the Secretary of the Treasury to convey certain lands to the State of Missouri for enlargement of the State capitol grounds of that State.

On November 2, 1921:

H. R. 7848. An act authorizing appropriations and expenditures for the administration of Indian affairs, and for other purposes.

On November 4, 1921, the President approved joint resolution as follows:

H. J. Res. 215. Joint resolution to declare November 11, 1921, a legal public holiday.

On November 14, 1921, the President approved bills as follows:

H. R. 6152. An act to authorize the construction of drawless bridges across a certain portion of the Charles River, in the State of Massachusetts; and

H. R. 8477. An act to extend the time for the construction of a bridge across the Choctawhatchee River near Caryville, Fla.

On November 16, 1921:

H. R. 8643. An act to extend the tariff act approved May 27, 1921.

On November 17, 1921:

H. J. Res. 151. Joint resolution to provide that deferred grazing fees received prior to December 31, 1921, shall be considered as receipts of the fiscal year 1921; and

H. R. 8298. An act to amend section 1044 of the Revised Statutes of the United States relating to limitations in criminal cases.

On November 18, 1921:

H. R. 8442. An act to amend an act entitled "An act to authorize the President of the United States to locate, construct, and operate railroads in the Territory of Alaska, and for other purposes," approved March 12, 1914, as amended.

On November 19, 1921:

H. R. 2232. An act in reference to a national military park on the plains of Chalmette, below the city of New Orleans; and

H. R. 7108. An act authorizing a per capita payment to the Chippewa Indians of Minnesota from their tribal funds held in trust by the United States.

#### DEFICIENCY APPROPRIATION BILL.

The committee resumed its session.

Mr. CRAMTON. Mr. Chairman, I yield five minutes to the gentleman from Nebraska [Mr. ANDREWS].

Mr. ANDREWS of Nebraska. Mr. Chairman, I want to direct the attention of Members to page 24 of the bill, lines 11 and 12. Read lines 7 to 12, they are as follows:

For refunding taxes illegally collected under the provisions of sections 3220 and 3689, Revised Statutes, as amended by the act of February 24, 1919, for claims accruing as follows:

Prior to July 1, 1920, \$12,422,000;

During the fiscal year 1921, \$10,635,000.

Note, if you please, the reference to the act of February 24, 1919. The date is significant, and in the extension of my remarks I shall go more into detail with regard to that point. That is the basis on which a change was made in refunding taxes illegally collected; that is, internal-revenue tax. Prior to that time they were refunded out of the permanent indefinite appropriations. Here is the change to annual appropriations.

I chanced to meet this item about two years ago when I was tracing out a delayed refund of taxes illegally collected. Upon a discussion with the Division of Bookkeeping and Warrants I called attention to the possibility of duplication by the proposed method. Again, when the legislative bill was under consideration in the last session of Congress I called attention to the same point of possible duplication in connection with the payment of these taxes. What now has been the result? Have these duplications occurred? To that I answer yes. In what amounts? For the month of September last they aggregated

something like \$30,000 and from month to month like duplications have appeared.

I hold in my hand copies of official letters citing these cases, and in one instance I am informed there were on the desk in the Treasury Department on one day warrants amounting to \$100,000 issued in duplicate payments. If I had the time I would like to spread these facts before each Member of the House, but time will not permit. Here is a proposition that is not covered by the hearings. I read with care the statements of the Commissioner of Internal Revenue, Mr. Blair, and his deputy, Mr. West, and not one word was uttered in regard to this matter of duplications. Do they intend to conceal them? Let the books be opened. Turn on the light.

Now, there is the point where inefficiency appears in respect to this new method of procedure. Now, let me emphasize this point. No doubt every Member of the House has been appealed to from time to time to expedite the refund of taxes paid in excess. These letters show that the bureau takes from one to four years to pass upon a refund of money paid in excess. To my mind that is an imposition upon the taxpayers of the country. If there is any one class of settlements that ought to be promptly made and the money returned promptly it is the payment of money that the people have put on deposit in the Treasury Department in excess of the amount they legally owe the Government. But there seems to have been a practice running through an extended period of years, not simply under one administration or the administration of one political party but through all of them where that evil has been continued.

Line 11 of this bill reads as follows: "Prior to July 1, 1920, \$12,422,000." What does this really mean? It means that the bureau is now holding in its possession \$12,422,000 of excess payments which were made by taxpayers over 18 months ago. It means that the Bureau of Internal Revenue has allowed those claims to rest in the pigeon holes and elsewhere during that period of time. Does that not prove carelessness and maladministration on the part of the Bureau of Internal Revenue? What stronger evidence do we need upon that point?

Consider for a moment the gross impositions that are thus forced upon the taxpayers of the country by such dilatory methods. Congress made appropriations for the employment of clerks to transact that business promptly. Your mail and mine reveal the hardships that many taxpayers are compelled to endure through such negligence and maladministration.

Should the Committee on Appropriations not take hold of the persons responsible for such delays and duplications and shake them out of their boots and out of their places in the department? Moreover, is it not the duty of Commissioner Blair to lead the way in the matter of house cleaning, especially with respect to taxes illegally collected? Has he the courage to go forward and discharge his duty in this respect or have the old-timers hypnotized him into their ways of thinking and acting?

The number of claims for taxes illegally collected approximates 75,000 a year. Thus far the commissioner has declined to give the exact number of such claims received and settled annually. It should be observed that the duplications to which I have referred include only the warrants that are voluntarily returned by those to whom they were issued. The taxpayers returning such warrants have suggested that they were duplicate payments and they did not consider themselves entitled to their retention. They were honest enough to help the Government save some money that the Bureau of Internal Revenue was spreading broadcast without warrant of law. But how many have cashed their duplicate warrants without ever mentioning the matter to the department? How can we ever obtain the real facts in relation to this matter? Only by making a careful review of the refund claims passed upon under the provisions of the act of February 4, 1919. Could such duplication have been avoided?

Certainly. How? By checking every refund claim back against the assessment list where each item of debit and credit would be posted, as it were, in regular form.

Thus it may be noted in passing that nothing but inefficiency, negligence, and maladministration can be regarded as responsible for these mistakes. Who are the people that committed them? It is the duty of the Commissioner of Internal Revenue to find out and administer proper discipline. Has he the courage to do so? Or have the old-timers who perpetrated these wrongs hypnotized him to their method of thinking and acting?

It is sometimes whispered gently that we should not mention these things at this time because the Republicans have just taken control. To my mind that is a valid reason for immediate action. Concealment at this time should not be a part of the Republican policy. A prompt disclosure of actual facts alone



can justify Republican officials. It is the imperative duty of the Republican leaders of this House and of the administrative branches of the public service to open the books immediately, turn on the light, and clean house.

Perhaps it will be said that the Bureau of Internal Revenue does not have adequate clerical force. What are the facts? Official reports indicate that on July 1, 1913, the number of employees in the Internal Revenue Bureau in Washington was 277; on July 1, 1921, the number was 7,096. The pay roll on July 1, 1913, aggregated \$357,239, and on July 1, 1921, it totaled \$11,582,550. The number paid from lump-sum appropriations on July 1, 1913, none; on July 1, 1921, it was 6,571. On July 1, 1913, the number receiving salaries of \$2,000 and over was 17, while on July 1, 1921, it was 1,789.

Please note the fact that these figures relate to the Bureau of Internal Revenue in Washington alone.

At a later date I shall present some figures and facts relating to the personnel and salaries in this branch of the public service. Those facts and figures will prove that McAdoo outdid his railroad business when he boosted salaries in the Internal Revenue Bureau. While the great bulk of the clerks in the executive branches of the service received an increase during the war period of only \$240 per year, many of the favored ones in the Bureau of Internal Revenue had their salaries more than doubled, thus making that bureau the great disorganizing agency in the executive departments of the Government in Washington.

Repeat the demand again and again—

Open the books, turn on the light, clean house.

Does Commissioner Blair have the courage to lead the way in this house-cleaning business or will he urge increased salaries as a reward for negligence and maladministration? Let the future answer.

The CHAIRMAN. The time of the gentleman from Nebraska has expired.

[Mr. ANDREWS of Nebraska had leave to extend his remarks.]

Mr. BYRNS of Tennessee. Mr. Chairman, I yield 10 minutes to the gentleman from South Carolina [Mr. STEVENSON].

Mr. STEVENSON. Mr. Chairman, I desire before discussing anything relating to the bill to discuss one or two other matters that I think the attention of the House should be directed to. All of you, I think, are receiving a great many letters with regard to the continuation of the publication of certain Government publications, especially the Labor Review. I want to state the situation as to that. We placed a provision in an appropriation bill last spring which provided that no publication should be continued after the 1st day of the coming December except such as was specifically authorized by law. There are about 120 Government publications being issued here. I understand something like 25 are authorized by law by special statute, and about 90 or 95 will be cut off the 1st day of December unless Congress takes some action. Amongst them is the Labor Review, which I think every Member of Congress has heard about. Under proceedings taken by the Printing Committee we have already cut off 111 publications, affecting a saving of between one and two million dollars a year. The Senate has passed a resolution providing for the continuation of these publications under certain conditions. The House Committee on Printing reported that bill amended so as to provide that the publications should be continued until the 1st day of next March, and in the meanwhile we propose to hold hearings to determine whether or not these publications or each of them shall be continued and which shall not. By that time we shall be able to decide which shall be continued and have them authorized by law.

Now, that resolution has been reported and is on the calendar and has been on the calendar since the 19th of this month. Without action these publications will automatically stop on the 1st day of December, and a great deal of inconvenience is going to be suffered as a result of it. I am a minority member of the Committee on Printing, but I voted with the majority to report the bill, and I hope to see some provision made for calling it up and passing it before Congress adjourns to-morrow night.

There is another bill of vast importance to the people of this country which was reported to this House by unanimous vote by the Banking and Currency Committee on the 26th day of October and authority given to the chairman of the Banking and Currency Committee to ask for a rule to have it passed if necessary. Up to the 31st day of October a loan from a national bank secured by United States Liberty bonds could exceed 10 per cent of the capital and surplus of the bank. In other words, the 10 per cent limit would not apply to a loan secured by Liberty bonds. The period expired on the 31st of October.

The Senate has passed a bill extending it for 12 months. The House committee has unanimously reported that bill and authorized the chairman to apply for a rule to have it passed so as to extend that time to the 31st day of October, 1922. It has been on the calendar since the 26th of October, and we of the Banking and Currency Committee are anxious to know what has become of the chairman and why the matter has not been called up and passed.

Liberty bonds are now going up toward par. They have gone up from 87 to 95 during the last two or three months. There are millions and millions of them that are up under these excess loans. Men have been struggling to carry them, paying the interest, trying to hold them until they reach par. These loans are now being called, and in the next 60 days every loan will be called, and will be called because there has been no action taken here for more than two weeks, nearly four weeks, on this proposition. I want to place on record my protest against the negligence of the managers who leave that bill hanging over until the men who are striving to hold their securities until they reach par have lost them. They paid for them at par, because in order to have excess loans the bonds had to be bought at par, and they are the people who took them when the country was under stress. I say it is an outrage not to extend this time until they reach par, and by your inaction cause them to be sacrificed by being called.

There is one other thing I want to discuss for a moment. Congress passed a bill extending the emergency tariff the other day. We were appealed to from the South to vote for it because it put a tariff on Egyptian cotton. I want to call attention to a few figures to show the fraud of that whole proposition. Twelve months ago there was no tariff on Egyptian cotton at all, and there were imported into this country in the month of October, 1920, when there was no tariff, 12 bales of 500 pounds each. In this good year of 1921, with a tariff of 7 cents a pound upon Egyptian cotton, there were imported during the month of October 18,972 bales. It does not look as if a tariff like that is a benefit here, in so far as preventing competition with us is concerned. It is a matter of 12 bales in one year as against 18,972 in another year, in the same month. No, Mr. Chairman, the tariff had nothing to do with it. It is a question of the condition of trade that has had to do with it. We compete with the world in making and selling and buying cotton. Then there is one other thing that has caused it. Some of the bigger factories in my district spin Egyptian solely. They import thousands of bales and they pay 7 cents a pound tax upon it. Take a bale of cotton that has a tax of 7 cents a pound and it means \$35 tax. They spin this cotton into goods and then export the goods, and when they export the goods they get 99 per cent of the tax back, and they are out only 1 per cent.

Thirty-five dollars on a bale means 35 cents of it that is really paid in tariff tax when they get through with it. That is the whole thing in a nutshell. Therefore you see it has had absolutely no effect and never has had.

Mr. SMITH of Michigan. Mr. Chairman, will the gentleman yield?

Mr. STEVENSON. Yes.

Mr. SMITH of Michigan. Does the gentleman think that placing a tariff upon this cotton has stimulated importations?

Mr. STEVENSON. No; I say that it did not either stimulate or restrict them. I direct attention to these figures to show that it did not do either, but that the drawback feature of the tariff allows a man who spins the cotton to manufacture to import it at his will, and then when he spins it to export it and draw back 99 per cent of the tax that he has paid. It merely means that he has loaned the Government \$35 a bale for about 60 days.

Mr. CLOUSE. Mr. Chairman, will the gentleman yield?

Mr. STEVENSON. Yes.

Mr. CLOUSE. Are we not operating under the Underwood tariff law at present?

Mr. STEVENSON. No; so far as Egyptian cotton is concerned we are operating under the emergency tariff law which was passed by the gentleman's party last December, putting a 7 cents a pound tax on cotton, and under it in October of this year we imported 18,972 bales as against 12 bales imported during the same month last year.

Mr. CROWTHER. Is the gentleman sure that the drawback is allowed on manufactured products, the finished product, from the raw material?

Mr. STEVENSON. To be sure I am. That has been written into every tariff law since the Walker tariff in 1848. And it is testimony to the fact that the tariff is written for the manufacturer and not for the farmer or the producer of the raw material.

The CHAIRMAN. The time of the gentleman from South Carolina has expired.

Mr. BYRNS of Tennessee. I yield three minutes to the gentleman from New York [Mr. LONDON].

Mr. MADDEN. Mr. Chairman, I yield two minutes to the gentleman from New York [Mr. LONDON].

Mr. LONDON. Mr. Chairman, I intend to again present the question of political amnesty. I have not enough time granted me to take it up properly. I ask unanimous consent to extend my remarks in the RECORD by incorporating therein a memorial submitted to the President of the United States a few days ago by a number of prominent citizens, and two additional memorials submitted to him by veterans of the World War.

The CHAIRMAN. The gentleman from New York asks unanimous consent to extend his remarks in the RECORD by the insertion of certain memorials presented to the President of the United States. Is there objection?

Mr. WALSH. Reserving the right to object, we do not usually print memorials in the RECORD. If they are presented to the Congress, they are dropped in the basket. If they are presented to the President of the United States, we very seldom put them in the RECORD, and I do not think the gentleman ought to ask us to depart from the usual procedure.

Mr. LONDON. I appreciate the force of the gentleman's objection, but petitions bearing more than a million names have been signed and Congress has not had any notice of it. One of these memorials is signed by 20 of the most prominent writers and publishers, including among them William Allen White—

Mr. WALSH. Yes; I have seen reference to it in the newspapers, but notwithstanding the prominence of these gentlemen, I doubt if we should print them.

The CHAIRMAN. Is there objection?

Mr. WALSH. I object.

Mr. LONDON. Mr. Chairman, the first memorial reads as follows:

Sir: We appear before you to ask for immediate pardon of all persons convicted under the espionage act and other war laws.

According to our information there are confined in various Federal prisons 147 men serving sentences, some of which run as high as 20 years. All of these men were convicted of practically the same supposed offense, namely, of written or spoken opposition to the war or of using language construed by the courts to be in opposition to the war.

None of these men were convicted of offenses involving moral turpitude in its generally accepted sense. None of them were guilty of overt acts against the law. Not one was shown to have the remotest connection with enemy governments or agents. The only charge against them was the mere expression of opinion or the espousal of an unpopular political or industrial philosophy. Many of them are men of the highest character whose lives have been devoted to self-sacrificing efforts for the betterment of humanity.

Freedom of expression is fundamental to the institutions of American liberty. Whatever may have been demanded by the exigencies of war, hostilities, in fact, ceased three years ago. Treaties with our recent enemies have been ratified, and peace has been formally proclaimed by you. There no longer exists the slightest justification for the continued incarceration of these men.

#### AMNESTY IS ONLY WAY.

Only in the United States are such political prisoners still confined. Great Britain, France, Italy, Belgium, and Canada have released political offenders of this character. Adherence to our democratic traditions and ideals demands that we follow the example of our recent allies. The continued imprisonment of these men is a grave reflection upon our cherished freedom of expression and a reproach to our sense of justice, particularly since we long ago liberated active enemy agents, such as Von Rintelen and others who bombed ships and committed crimes of the most serious nature.

Only an act of general amnesty can approximate justice in these cases. All of them are substantially the same. The policy of reviewing individual cases opens the way for discrimination, prejudice, and the exercise of personal judgment by subordinate officers of the Government and for that reason is unsound and fundamentally unjust.

We note a tendency to distinguish Eugene V. Debs among these cases because of his prominence, his extraordinary character, and the large following he has throughout the country. Executive clemency for Mr. Debs without at the same time extending it to others convicted of similar offenses would be as distasteful to him as it would be unfair to the others. Mr. Debs has repeatedly made this clear. He wants no pardon that is not extended equally to others in the same position.

Those who believe that a general amnesty is an act of simple justice long overdue have waited patiently through the successive stages of the actual termination of hostilities, the passage of the congressional resolution ending the war, the ratification of the peace treaties, and your own formal proclamation of peace.

The CHAIRMAN. The time of the gentleman has expired.

Mr. LONDON. Mr. Chairman, may I ask unanimous consent to insert in the RECORD the balance of this memorial that I have just read—of this one memorial?

Mr. ROSSDALE. Mr. Chairman, I object to that.

Mr. MADDEN. Mr. Chairman, I yield five minutes to the gentleman from Ohio [Mr. CHALMERS].

Mr. CHALMERS. Mr. Chairman, the gentleman from South Carolina [Mr. STEVENSON] has referred to some of the troubles of the majority side of this House. I want to say to the gentleman that, in my opinion, many of those troubles are inherited

from the former Democratic misrule. We are reaping a whirlwind. And the same statement in a measure is true of the bureau being discussed at this time, the Veterans' Bureau. In my opinion a brainy, big-hearted, efficient man, Col. Forbes, is in charge of that bureau now, and if you will hold up his hands and back him up and give him support, as I know the chairman of this committee will, he will bring order out of that chaos down there and will eliminate the troubles of the bureau. He is working long hours, night and day—I fear at the expense of his health—to bring this to pass.

I want to say, Mr. Chairman, that I have not had the experience with that bureau such as some of the gentlemen have referred to here to-day. The gentleman from South Carolina [Mr. BYRNS] said that he waited months for an answer to a letter and that he wrote to the bureau time after time. Now, that is not my experience. That may be the exception to the rule, and the exception, you know, very often proves the rule. I have had very prompt, intelligent responses from the bureau.

I want to give what is another exception, perhaps, but it illustrates some of the services I have received from the Veterans' Bureau. The case of a young man from my district was filed in my office. I received this case on Thursday morning, and on Saturday afternoon at 4.30 he had been adjudged a permanent total case and had been awarded \$100 per month from date of discharge and insurance in the sum of \$57.50 per month payable from date disability was incurred, which was several months prior to discharge.

This may be an exception to the rule. But the rule, I think, and the intent and the idea of the management of the Veterans' Bureau to-day is to give service. I know Col. Forbes well enough to know that he is working almost night and day to bring order in that bureau and give the country the best service possible.

Mr. STEPHENS. I was going to ask if the colonel attends to this particular business himself? Is it not your opinion that there is a good deal of inefficiency in the men who are employed to investigate these particular cases?

Mr. CHALMERS. That may be.

Mr. STEPHENS. I have had two particular cases that showed absolute inefficiency, but I do not hold it against the head of the bureau.

Mr. CHALMERS. I do not doubt there will be exceptional cases, but—

Mr. DAVIS of Tennessee. I want to ask you if you have not received letters from lots of ex-service men in your district advising you that they have been unable to get a reply from the bureau?

Mr. CHALMERS. Not a very large number of such letters. I have received a few. I want to say in regard to the large number of papers that may be lost in the bureau, referred to by the gentleman from South Carolina, that I believe the percentage is very small and that when you consider the tens of millions of letters, reports, affidavits, and other papers on file in the Veterans' Bureau that you will find the number of pieces of mail that are lost is very low in comparison with the total.

I am just stating my own experience with the Veterans' Bureau, and I think I am describing the experiences of many of my colleagues. [Applause.]

Mr. MADDEN. Mr. Chairman, I ask that we proceed with the reading of the bill.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

Legislative. House of Representatives.

Mr. MADDEN. Mr. Chairman, I desire to offer an amendment.

The CHAIRMAN. The Clerk will report the amendment offered by the gentleman from Illinois.

The Clerk read as follows:

Amendment offered by Mr. MADDEN: On page 2, after line 2, insert: "To pay the widow of Samuel W. Taylor, late a Representative from the State of Arkansas, \$7,500, to be disbursed by the Sergeant at Arms of the House."

The CHAIRMAN. The question is on agreeing to the amendment.

The amendment was agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

For payment to C. B. Kennamer for expenses incurred as contestant in the contested-election case of Kennamer v. Rainey, audited and recommended by the Committee on Elections No. 3, \$2,000.

Mr. MADDEN. Mr. Chairman, I desire to offer an amendment at the end of that paragraph.

The CHAIRMAN. The gentleman from Illinois offers an amendment, which the Clerk will report.



The Clerk read as follows:

Amendment offered by Mr. MADDEN: On page 2, after line 6, insert: "For miscellaneous items and expenses of special and select committees, exclusive of salaries and labor unless specifically ordered by the House of Representatives, fiscal year 1921, \$7,254.81."

Mr. MADDEN. Mr. Chairman, I desire to say in this connection that this amendment was authorized to be offered by the committee, but it came in too late for the committee to insert it in the bill. It refers to telegraph and telephone bills rendered in 1921 which had not been audited in time to be inserted in the bill or to be paid during the year in which they were contracted.

The CHAIRMAN. The question is on agreeing to the amendment.

Mr. LONDON. Mr. Chairman, I rise in opposition to the amendment, so as to place myself on firm parliamentary ground. I am opposed to paying the various congressional committees because they overlooked one of the most important questions pending before the committee.

This question has been well presented to the President of the United States in a memorial to which I made reference, and which I was not in a position to finish reading before. I continue reading the memorial:

We come to you confident that you will appreciate the fairness and wisdom of declaring an immediate general amnesty.

TIME IS OPPORTUNE.

It is particularly appropriate that you grant amnesty at this time. The passions of war have passed. The nations of the world are gathered in conference in the hope of ending war forever.

Mr. ROSSDALE. Mr. Chairman, I make the point of order that the discussion of the gentleman is not germane to the amendment.

The CHAIRMAN. The Chair will state that a liberal rule has usually been observed in that regard. Unless the privilege is abused the Chair does not feel like ruling.

Mr. ROSSDALE. It is clearly not germane to the amendment.

Mr. LONDON. I read further:

These men in whose behalf we speak voiced in time of war sentiments which now are freely expressed. The truest traditions of our country call for their immediate release. We urge amnesty not only in behalf of these individuals but in vindication of an everlasting principle.

Respectfully, yours,

William Allen White, Emporia, Kans.; Rev. Dr. John Ryan, Catholic University, Washington, D. C.; Fred Hewitt, International Association of Machinists; William F. Cochran, Baltimore; Rev. Mercer Green Johnston, Baltimore; George M. Lamonte, New Jersey; Rev. Beverly Dangerfield Tucker, Jr., Virginia; Oswald Garrison Villard, New York; John S. Codman, Boston; Gen. W. H. Baxby, Washington, D. C.; Albert De Silver, New York; Miss Julia Lathrop, Washington, D. C.; Miss Elizabeth Gilman, Baltimore; Mrs. Mercer G. Johnston, Baltimore; Mrs. Francis Lillie, Chicago; Mrs. Emily Chadbourne, New York; Mrs. Walter Weyl, Chicago; Mrs. Laura Williams, Washington, D. C.; Mrs. Marguerite Tucker, San Francisco; Mrs. Charles Edward Russell, Washington, D. C.

That completes the memorial submitted by the authors and publishers. Two additional memorials have been submitted, to which I made reference. One was by the World War Veterans, an organization of 400,000 men, and a separate memorial by four men who have received the congressional medal of honor. Their names are Clayton K. Stark, of Lampson, Wis.; John J. Kelly, of Chicago, Ill.; George H. Mallon, of Minneapolis, Minn.; and Berger Loman, of Chicago, Ill.

I do not think I shall have time to read the other two memorials in full. On reflection, inasmuch as the various committees for which appropriations are asked have performed their work in good faith and are entitled to some compensation, I withdraw my opposition to the amendment.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Illinois [Mr. MADDEN].

The amendment was agreed to.

The CHAIRMAN. The Clerk will proceed with the reading of the bill for amendment.

The Clerk read as follows:

For remodeling and reequipment of the restaurant of the House, including reimbursement of the appropriation "Capitol Building and repairs, 1922," for expenditures on this account, \$20,591.94.

Mr. SNELL. Mr. Chairman, I want to say that I most heartily approve this appropriation for the remodeling of the Capitol restaurant. I suppose it applies to the one here and the one in the House Office Building. I want to ask the chairman of the committee if he can assure us that at an early date we can really have a clean, up-to-date, respectable eating place for the convenience of the Members of the House and their friends?

Mr. MADDEN. We have the word of the chairman of the Committee on Accounts and that of the architect of the Capitol

that the work will soon be completed, and that the cost would not be anything like what it will if it were not for the fact that it was found necessary to reconstruct the sewerage system. In about three or four weeks the Members of the House may hope to have an entirely new equipment, new linen, new silver, better service, better food, and cleaner conditions than they ever had before.

Mr. SNELL. I want to compliment the committee in having this done. I think it will meet with the unanimous approval of the Members of the House, because everyone, I know, is in favor of having a clean and respectable place there.

Mr. PARKS of Arkansas. Mr. Chairman, I move to amend by striking out lines 11, 12, 13, and 14 on page 2.

The CHAIRMAN. The gentleman from Arkansas offers an amendment, which the Clerk will report.

Mr. MADDEN. Mr. Chairman, I make the point of order on that.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. PARKS of Arkansas: "Page 2, strike out all of lines 11 to 14, inclusive."

Mr. PARKS of Arkansas. Mr. Chairman, I desire to say to the committee that if I am correctly informed, this \$20,591.94 is in addition to \$30,000 that has already been spent on the kitchen in this building, and yet nothing has been spent on the kitchen and dining room in the House Office Building, and more money will be provided for the dining room over there. When it was originally brought in here, I understood the estimate had been made by the engineers and the architect who have had charge of it that \$30,000 would not only repair or patch up this kitchen, but it would equip the dining room for the House in the Capitol and also the one in the House Office Building. We have spent \$30,000 in order to provide a place for 435 men to eat. The committee has come in with an item of more than \$24,000 to further beautify and furnish a dining room in this building for the accommodation of the Members of the House. At the same time there has been brought in from the Committee on Accounts an additional resolution to appropriate \$25,000 to equip another dining room for the exclusive use of the Members of this House; and if \$30,000 will not provide a comfortable, decent, clean, sanitary, and pleasant place for the Members of this House to get their lunch once a day, it seems to me that in the interest of economy and common sense we ought to shut up that dining room and eat in the dining room over in the House Office Building or over in the Senate or somewhere else. I do not believe the House ought to continue an expenditure until, with the appropriations now in contemplation, we will have spent the enormous sum of \$75,000 to provide a place for the Members of the House of Representatives to eat their lunch once a day. I do not believe that it is justified or that it ought to be done. It may be a small matter, but I can not give my consent to such extravagance, and I hope the amendment I offer will be adopted.

Mr. MADDEN. I wish to say in this connection that this item is in addition to the appropriation already made of \$30,000. In justification of the present recommendation I wish also to say that \$5,000 was spent for overtime work due to the necessity of working nights and Sundays on the restaurant and kitchen and other parts of the work. It was necessary to expend \$3,000 on account of the condition of the sewerage, which made the place insanitary. Thirty-six hundred dollars was expended on account of chairs that were not contemplated in the original estimate, and \$3,800 on account of wainscoting proposed to be put into the tiling in the kitchen, so as to make it strictly clean and sanitary. If there ever was an expenditure that is justified, my judgment is that this is.

The CHAIRMAN. The question is on the amendment proposed by the gentleman from Arkansas [Mr. PARKS].

The question was taken; and on a division (demanded by Mr. PARKS of Arkansas) there were—ayes 16, noes 59.

Accordingly the amendment was rejected.

Mr. MADDEN. Mr. Chairman, I ask unanimous consent that the Clerk be permitted to change the totals and make the necessary corrections in the aggregate of the amount finally agreed upon—all the totals in the bill.

The CHAIRMAN. The request is made by the chairman of the Committee on Appropriations that the Clerk be given general authority to correct the figures of the bill made necessary by the insertion of amendments. Is there objection?

There was no objection.

The Clerk read as follows:

BOARD OF MEDIATION AND CONCILIATION.

For all necessary expenses in connection with closing up the business of the United States Board of Mediation and Conciliation, including payment of salaries of the Commission of Mediation and Concilia-

tion, the Assistant Commissioner of Mediation and Conciliation, and employees of the board, and all other outstanding indebtedness incurred by the board during the fiscal year 1922; and the inventory of the property and records of the board and their delivery to the proper department of the Government, \$6,650.

Mr. WATSON. I wish to ask the chairman of the Committee on Appropriations what is the value of the furniture to be inventoried?

Mr. MADDEN. I do not know. It consists of the furniture in the office and the records of the previous administrations. This Board of Mediation and Conciliation have been in office since 1913. When they came into office all the records of the Commissioner of Labor prior to that time were turned over to them under the Erdmann Act. Since they have been in office they have acted in a great many cases and adjusted a great many labor troubles. They have there many valuable records which ought to be maintained and preserved in an orderly fashion. The commissioner and his assistants have been occupying their offices under the law since the beginning of last July without any pay. No appropriation for their services was made in the last annual appropriation bill. Since that time the chairman of the commission has been paying the clerical force out of his own pocket. This proposes to let that board go out of office in an orderly, respectable way by paying them what is coming to them and then closing up shop. We are here preventing the continuation of an expenditure which we think to be no longer necessary.

Mr. WATSON. Of course, I recognize the importance of keeping the records, but I want to know the value of the furniture.

Mr. MADDEN. I do not think the furniture is of much value. It consists of a few chairs and desks.

Mr. WATSON. An official appeared before a committee in executive session and stated that there was \$750,000 worth of furniture—

Mr. MADDEN. Where?

Mr. WATSON. Stored in the various warehouses in Washington. During the Democratic administration there were 50 temporary commissions formed. This is the beginning of closing them.

Mr. MADDEN. This is not a temporary commission.

Mr. WATSON. It is one that is to be closed up, and you must dispose of the furniture. When you close the other 50 temporary bureaus and commissions there will be thousands of dollars worth of furniture. I remember that for every bureau that was established we appropriated a large sum for the furniture. What is to become of the \$750,000 worth of furniture and the other furniture that is going to be stored?

Mr. MADDEN. It is all put under control of the General Supply Committee, which has an inventory of it, and which from time to time sells it to any department that may need it. We have already provided in every law regarding the expenditure of money from the Public Treasury that every branch of the Government service requiring supplies within the control of this supply committee shall obtain those supplies from that committee instead of going outside.

Mr. WATSON. Then every time a commission is established and an appropriation is made for the purpose of buying furniture that appropriation must be used for the buying of this furniture that is in storage?

Mr. MADDEN. Yes.

Mr. WATSON. That was not the statement made by the official, because he said he was obliged to buy new furniture. I wondered why he should be obliged to buy other furniture when there is \$750,000 worth of furniture in storage.

Mr. MADDEN. He made a mistake.

Mr. WATSON. I think it is right that the taxpayers should know what becomes of the furniture in storage.

Mr. MADDEN. It is all being provided for in that way.

Mr. HAYDEN. Will the gentleman from Illinois yield?

Mr. MADDEN. I yield to the gentleman from Arizona.

Mr. HAYDEN. What particular bureau or board is going to take up the work of this Board of Mediation and Conciliation?

Mr. MADDEN. The Railway Labor Board. This Board of Mediation and Conciliation was exclusively a railway proposition.

Mr. HAYDEN. I understood that the Board of Mediation and Conciliation settled labor questions outside of the railroads.

Mr. MADDEN. The gentleman is, no doubt, thinking of the conciliators in the Department of Labor. This was an independent board created by law in 1913, and had to do only with the conciliation of railroad labor problems. The other thing has nothing to do with this item at all.

The CHAIRMAN. The pro forma amendment is withdrawn, and the Clerk will read.

The Clerk read as follows:

#### INTERSTATE COMMERCE COMMISSION.

For all other authorized expenditures necessary in the execution of laws to regulate commerce, and to take care of additional duties placed upon the commission by the transportation act, 1920, \$300,000.

Mr. BANKHEAD. Mr. Chairman, I would like some explanation by the chairman of the committee as to the additional duties placed on the commission by the transportation act that requires an additional appropriation of \$300,000.

Mr. MADDEN. The allocation of equipment under the railroad act, the loans that they were authorized to make, the renting of equipment, and that part of the act which guaranteed the income for six months, and all the elements that entered into the railroad act.

Mr. BANKHEAD. Then it is for clerical and professional services?

Mr. MADDEN. It is on account of the additional duties imposed upon the commission by the railroad act—the duties I have enumerated. The Interstate Commerce Commission was authorized to buy equipment.

Mr. BANKHEAD. What sort of equipment?

Mr. MADDEN. Railroad equipment—rolling stock—and lease this equipment to the weaker roads; to allocate equipment to the roads where the need of equipment might exist, and to do various other things; to loan money to roads under certain conditions, and also the installation of train-control devices.

Mr. BANKHEAD. Do I understand that the Interstate Commerce Commission has authority to buy equipment for railroads?

Mr. MADDEN. Yes; where the weaker railroads are unable to buy the equipment themselves, the Interstate Commerce Commission buys it and leases it to those roads. It has authority to loan them money and authority to fix the rate of interest and decide whether it is proper to make the loans and whether the security is sufficient.

Mr. SANDERS of Indiana. Will the gentleman yield?

Mr. BANKHEAD. Yes.

Mr. SANDERS of Indiana. They also have the important duty of passing upon security of all kinds. They must approve every stock and bond issue.

Mr. STEVENSON. According to my recollection, the transportation act provides that this is to be paid for out of the equipment fund.

Mr. MADDEN. Yes; but that involves a certain amount of work.

Mr. STEVENSON. That is the increased clerical service.

Mr. MADDEN. Yes; the administration service that is imposed upon them.

Mr. BEGG. Will the gentleman yield?

Mr. MADDEN. Yes.

Mr. BEGG. The gentleman used the term "guarantee to the railroads." I am under the impression that the guaranty—

Mr. MADDEN. I referred to the six-month guaranty.

Mr. BEGG. I think that should be made specific.

The Clerk read as follows:

Total, United States Veterans' Bureau, \$65,000,000.

Mr. STEVENSON. Mr. Chairman, I move to strike out the last word. I want to ask why this hospitalization should not be divorced from the Public Health Service entirely? The chairman made a statement this morning, which I approve of cordially, that in the homes for disabled soldiers men were kept and kept splendidly for about one-third of the cost per man that they are kept in the United States Public Health Service hospitals. I want to find out for my constituents why we do not go to that system. What reason is there for not having this independent service instead of keeping these men under the Public Health Service?

Mr. MADDEN. Let me say to the gentleman that my first knowledge of this situation came from an investigation which the committee made of facts in this connection. I reached the conclusion and set it out in my statement this morning which conforms very nearly to what the gentleman's views are, but I think it would be far better now not to undertake to divorce one from the other until we can work it out. The reason why we made a very large cut in the appropriation recommended for this activity was that we hoped to bring them back in a short time with the facts and ascertain the condition which will enable them to do this, and then we will work out a scheme or be able to force them to work out a scheme that will comply with what the gentleman and I have expressed. So I think it would be better to do no more to-day than to express our opposition to the present method, and after having expressed it to follow it up and force a proper condition in this service.



Mr. STEVENSON. The committee wants to look at all of the circumstances to see which way to go after you have given it consideration?

Mr. MADDEN. Yes.

Mr. KELLEY of Michigan. Will the gentleman yield?

Mr. STEVENSON. Yes.

Mr. KELLEY of Michigan. I think it is only fair to say, in respect to this high per diem rate in the Public Health Service, that they took over hospitals all about the country and had to reinstate, to make extensive repairs, and put them in condition. I think that expense is included in the large per diem that the chairman gave this morning.

Mr. STEVENSON. There was some initial expense for plants?

Mr. KELLEY of Michigan. Yes; and I think that ought to be stated, in fairness to the Public Health Service.

Mr. ANDREWS of Nebraska. It is also true that there is not sufficient bed capacity in the buildings under control of the soldiers' homes to meet the demands.

Mr. STEVENSON. I think that is true; and we can not start too soon if we are paying \$7 in the hospitals of the Public Health Service and \$2.50 in the soldiers' homes. We can not start too soon in getting enough equipment where we can save \$5 a day.

Mr. ANDREWS of Nebraska. Mr. Chairman, will the gentleman yield further?

Mr. STEVENSON. Yes.

Mr. ANDREWS of Nebraska. The estimate furnished generally is \$3,000 per bed, but we would spend more in building than we would in meeting the slightly increased expense. I agree with the gentleman fully that the Public Health Service ought to bring its service to a lower grade.

Mr. STEVENSON. That is the position that I am contending for now.

Mr. KELLEY of Michigan. And there is another consideration also, which is a partial explanation, I think, of the high per diem in the Public Health Service. These hospitals which they started up anew sometimes were not patronized immediately to their full capacity, so that you would have a large overhead very often at the beginning with only a few patients, and the per diem would necessarily run very high in those cases.

The CHAIRMAN. The time of the gentleman from South Carolina has expired.

Mr. WINGO. Mr. Chairman, I rise in opposition to the pro forma amendment. I have great respect for the judgment of both the gentleman from South Carolina and the gentleman from Illinois [Mr. MADDEN], and with no more facts than I have before me I would not undertake to hazard a suggestion to either one of them, except that the known facts would naturally appeal to the conservative position of each gentleman. For illustration, as I understand, the gentleman says there is a difference of \$5 per day in the two services.

Mr. STEVENSON. That was a statement made by the chairman of the committee.

Mr. WINGO. The gentleman from Nebraska [Mr. ANDREWS] called attention to the extraordinary expense in building. If this new kitchen down here in the basement of the Capitol is a criterion, I am a little bit disheartened, because if we undertake to provide hospital equipment for the soldiers who need it, and gauge our expenditures on the basis that this little kitchen we have down here costs us, it will bankrupt the Government. Every one of these hospitals has to have a kitchen, and this little Republican kitchen down here, as I understand it, cost \$55,000—I will ask the gentleman from Arkansas how much it cost?

Mr. PARKS of Arkansas. About \$75,000.

Mr. WINGO. Well, 35 and 20 makes 55, and just to be conservative I will say \$55,000. Whoever heard of spending \$55,000 on a kitchen? No one but this Republican administration would think of such absurd waste of money. Why, I can buy every kitchen in the district of my friend from Michigan [Mr. KELLEY] for \$55,000. In addition to that, we furnish these people down here with free lights, and free silver, and free linen, and good solid mahogany tables are placed down there for Congressmen to eat their lunches on once a day, and then each Congressman has to pay an extravagant price for what he gets. Who gets all this money? We do not get any service.

I do not want to quibble about little things, but I had hoped that we could have some sort of an arrangement by which we could get decent service; but it is a disgrace to this House that it spends \$55,000 on a kitchen, and then we do not get any decent kind of service or good food. Oh, gentlemen may smile, but the people of this country are going to put their own

construction upon it. Fifty-five thousand dollars for a kitchen, when you already have most of your equipment, including your dining-room equipment. Mind you, that is just the kitchen. Why, you can build most of the mansions in most of the districts with a kitchen, a dining room, a parlor, a sitting room, a den, and ample bedrooms and baths for less than \$55,000 each. Yet you Republicans spend \$55,000 on a scrub kitchen in a basement and get no food after you get through with it. But that is the way with it; that is typical of the boasted efficiency of the Republican Party. They can not get even a decent kitchen without wrecking the Treasury, much less take care of proper hospitalization of our soldiers. God pity us! We are getting back to normalcy all right. Gentlemen here who are old in the service will recollect the old days when such as this is typical of Republican administration. No Republican administration ever touched even a hencoop or a kitchen but that it afterwards called for a deficiency out of the Treasury to take care of it. If I had any assurance that this would be the end of that, I would not speak of a petty thing like a kitchen, even though it did cost \$55,000; but I am disheartened when I think of the burden that is placed upon the backs of the taxpayers.

Mr. JOHNSON of Washington. How sad!

Mr. WINGO. My friend from Washington says, "How sad." It is sad, this wanton waste of public funds. It is interesting to hear gentlemen say that they can not spend any money by way of bonus to the soldiers, it is interesting to hear men complain of a railroad man getting \$200 a month and risking his life, and at the same time seeing those men, as my friend from Michigan [Mr. FORDNEY] would say, spending money like drunken sailors—\$55,000 on a scrub kitchen. Where is the boasted efficiency and the boasted business management of the Republican Party? It can not even get itself a kitchen with any degree of satisfaction or economy; but waste, extravagance, and indifference to the taxpayers, except those of great wealth, are typical of this entire Republican administration.

Mr. FESS. Mr. Chairman, I move to strike out the last two words. The chairman of the committee compared the cost of the administration of the National Homes with the cost of the Public Health Service. Is the board of control that has control of the National Homes a governmental agency?

Mr. MADDEN. Yes.

Mr. FESS. So that really they are both Government agencies?

Mr. MADDEN. Yes; only one is civilian and the other quasi military.

Mr. FESS. Is the work in the Health Service of sufficiently high grade to justify the heavy increase in cost?

Mr. MADDEN. The Managers of the National Home for Disabled Veterans would not admit that. They say that they manage their institutions the best in the world, and everyone who knows anything about the matter agrees with them. I do not say that the Public Health Service does not manage its institution well, or as well, but it manages it at excessively high cost.

Mr. FESS. The thing I wanted to make an observation about was that when the Government undertakes to do anything there seems to be a lack of concern in respect to the cost of it, just as if when the Government does it it does not cost anybody anything.

Mr. MADDEN. If the gentleman will allow me right there, the managers for the National Home for Disabled Soldiers before our committee claimed that their expenses had been materially increased because of the necessity for meeting the higher compensation allowed through the Public Health Service. For example, where they were paying \$3,000 for a doctor and manager, which was considered ample, the other people are paying \$6,000, and they in the National Homes have been compelled to go up somewhere near that standard.

Mr. FESS. Mr. Chairman, during the war, when we could not specify what the need of the personnel was and therefore could not limit the specific salaries, it seemed that everybody took advantage and began to increase salaries. I can understand how that would be done by a newly created Government agency, but the Public Health Service is an old agency, one that existed long before the war, and yet under stress, with the cost of doing things constantly increasing; and I believe the lump-sum appropriation is largely due to that—not so much to this particular agency of the Government as to a general rule that we followed during the war when we had not the facts that would enable us to designate what the salaries should be.

Mr. MADDEN. I wish to say for the information of the gentleman from Ohio and the Members of the House, the board in charge of the management of National Homes for Volunteer Soldiers serve without compensation. No one in the manage-

ment gets compensation except the secretary of the board, and the president, I think, gets \$4,000. But no other member of the board gets anything.

Mr. FESS. I think they ought to have a chromo. It is a rare service. My suggestion is that during the stress of war we have been increasing all along the cost of everything, and whether we are ever going to cut down or not is our problem.

Mr. MADDEN. We are going to try to bring it down.

Mr. FESS. We will help you.

Mr. ANDREWS of Nebraska. Mr. Chairman, I move to strike out the last line.

Mr. Chairman, this matter of cost in hospitals for the soldiers was reviewed at considerable length by the House Committee on Public Buildings and Grounds. We had before us the officers of the soldiers' homes; the officers of the Public Health Service; expert physicians from New York and Pennsylvania connected with different kinds of hospitals. All the way through the testimony showed that the expense in connection with the Public Health Service was the highest of all. I need not enter into a discussion of the details that were brought out in showing that fact.

Second, the hearings disclosed the fact that the expense in the soldiers' homes was lowest of all, and that in connection with the service in those homes there was not a word of valid complaint. In fact, the testimony showed in the main that in those homes they had really the best service of all. On that basis the House Committee on Public Buildings and Grounds decided to utilize the soldiers' homes to the utmost extent. Certain modifications were made in the regulations and in the law in order to remove certain minor objections that were presented by the soldiers of the World War and by others with reference to the military requirements formerly exacted. We were enlarging the plants at the different points, of the 10 different establishments of the homes. Where a hospital was needed for the enlarged work for the soldiers of the World War we built the hospital and thereby avoided the overhead charges, the additional expense for ground, sewerage, light, and everything of that sort, and a large unit was provided for, and on that basis we were utilizing the Government property, already owned by those homes, in which will gradually merge the care and treatment of the soldiers of the World War, not in such a way, however, as would deprive any of the ex-Union soldiers of their privileges and rights there, not giving to the soldiers of the World War any uncomfortable surroundings, but giving a unit for each, if you please, where conditions might call for it.

Now, in addition to that it was thought wise in some new hospital there should be specific provision made for the development of the highest possible skill for the treatment of mental troubles and also in some hospital there should be made provision for development of the highest possible skill in the treatment of tubercular cases. From all of these various institutions, in cases that were particularly severe and acute in the extreme, a transfer could be made to the institution where the best treatment could be furnished, but in the others arrangements would be made to utilize Government properties already owned, and enlarge them as conditions might require. On that basis we solved a large portion of this problem, meeting at least one-half of the demand in connection with the soldiers of the World War.

Mr. Chairman, I withdraw the pro forma amendment.

Mr. BARKLEY. Mr. Chairman, I move to strike out the last section. I do that, Mr. Chairman, in order to get some information from the chairman of the committee on an item which has been passed or, rather, on the lack of an item which was estimated for but which was not included in the bill. I have reference to the estimates of the Interstate Commerce Commission of \$36,000 for carrying out the provisions of the law with respect to the safety appliance act and the inspection of locomotive engines and boilers, and so forth. As the chairman and other Members of the House will recall, from time to time Congress has enacted legislation requiring the Interstate Commerce Commission to provide for the inspection of engines and boilers, and those laws have progressed to such an extent now that it is almost necessary to inspect the entire train and to make inspections and reports with reference to the loss of lives and injuries to people by reason of accidents or collisions on the railroads. Last year the commission was compelled to lay off some of its inspectors for a week or two weeks, and in some cases perhaps a month, in order to keep the expenses within the appropriation for the year, and of course to that extent there was lost motion and the service lost by reason of that hiatus. Since that time the transportation act has also placed upon the commission additional duties, and they have asked for an additional sum. What was the idea of the committee in refusing this appropriation?

Mr. MADDEN. They could not use that for this purpose. There is an appropriation, however, of \$313,600 to the credit of the Interstate Commerce Commission for the very activities referred to by the gentleman from Kentucky, and the committee's investigation led them to the conclusion that that was all the money they needed for this purpose.

Now, of course, it is easy enough for any commission or any department—and I am afraid that is their practice—at the beginning of the fiscal year never to look at the appropriation, but when they make their allotments, as the law requires them to do, of that appropriation, instead of making an allotment of the appropriation they make an allotment of their imaginary needs. The imaginary needs may be twice the appropriation, and they spend money according to their imaginary needs, and when they get to the middle of the year, of course they find they have got the whole appropriation for the entire year expended, and they come back for a deficiency. Now, the law in regard to deficiencies provides that no deficiencies shall be created, except in the Army and Navy for certain things.

It also provides that where the allotment is not made and they have gone on spending the money without regard to the amount of the appropriation, unless it is waived by the head of the department the person in charge is liable to be removed from office, he is liable to be fined and liable to be sent to prison for violation of the law, and it is because of our desire to make these department chiefs and bureau heads live up to the law that we have not made this appropriation. We have called the attention of every bureau chief and every head of a department that has come before us to the law, and we have said to them, "Although you have been violating the law in the past we are not going to join you in that violation of the law."

I want to say that Mr. McGinty, secretary of the Interstate Commerce Commission—a very clever gentleman, by the way, bright and very able—admitted to us that he did not know there was any such law, and he admitted also that they had violated the law because they did not know about it. He also promised us that he never would violate it again; that he would live up to the law from now on.

Mr. BARKLEY. I think that is a very commendable resolution, but that really does not reach the question of providing the Interstate Commerce Commission with sufficient money to carry out this very efficient branch of the service. I do not think the Interstate Commerce Commission has been guilty of wasting any money in the inspection service.

Mr. MADDEN. It has been guilty of violating the law.

Mr. BARKLEY. I do not believe the Interstate Commerce Commission has been guilty of waste in carrying on its work in the train-inspection service. They have not a very large force in comparison with the field which they have to cover, and I do not think the gentleman from Illinois will find that there has been any waste of money in that branch of their duties.

Mr. MADDEN. But they have admitted that they have violated the law.

The CHAIRMAN. The time of the gentleman from Kentucky has expired.

Mr. BARKLEY. Mr. Chairman, I ask unanimous consent for one minute more.

The CHAIRMAN. The gentleman from Kentucky asks unanimous consent to proceed for one minute more. Is there objection?

There was no objection.

Mr. BARKLEY. From time to time we have increased their duties, and in view of the fact that the commission has heretofore been rather conservative in its deficiency estimates, and in view of the fact that practically all that they have asked for has been given, it seems to me unfortunate that when we have increased their duties in this respect the committee has denied them what they consider is a sufficient amount of money to carry on this inspection service for the rest of the year.

Mr. MADDEN. The great mistake in the past has been that we have given them all they requested in the form of deficiencies. They have been getting it heretofore, but the time has come when they ought to be stopped getting it, like everybody else.

Mr. BARKLEY. The fact that the committee has heretofore given them what they asked and other departments have not received that consideration is proof of the fact that the committee has confidence in the good faith of the commission, and I think it is unfortunate that the committee has not given them this. The appropriation for the commission in the lump sum carried in the bill does not cover specifically the inspection service, and I fear this service will be crippled by lack of funds before the year is out. I regard this as very unfortunate. So far as this item is concerned, the committee has exercised economy at the wrong place.



The CHAIRMAN. The time of the gentleman from Kentucky has again expired. The Clerk will read.

The Clerk read as follows:

Prevention of loss of timber from insect infestations on public lands in Oregon and California: To enable the Secretary of Agriculture to prevent further loss of timber from insect infestations within the national forests and on other lands owned or administered by the United States in Oregon and California, \$150,000, to remain available until December 31, 1922, of which sum not exceeding \$90,000 shall be expended in cooperation with the Secretary of the Interior to prevent further loss of timber from insect infestations on Indian reservations, on lands title to which was vested in the United States by the act of June 9, 1916, and on unreserved public lands in Oregon and California: *Provided*, That no part of this appropriation, except necessary expenditures for preliminary investigations, shall be expended unless the States of Oregon and California, or the owners of pine timberland adjacent to or intermingled with lands owned or administered by the United States shall have satisfied the Secretary of Agriculture that the insect infestations on said adjacent and intermingled lands will be abated, in accordance with State law or voluntarily by the owners of such lands, to the extent necessary in the judgment of the Secretary of Agriculture to protect the timber on lands owned or administered by the United States from reinfestation.

Mr. HUDSPETH. Mr. Chairman, I move to strike out the last word.

Mr. LANHAM rose.

The CHAIRMAN. The gentleman from Texas moves to strike out the last word.

Mr. HUDSPETH. Mr. Chairman, I have discussed this matter with the chairman privately, but I would like to have the chairman make a statement relative to the appropriation for treating tuberculosis in cattle.

Mr. LANHAM. That was a matter that I wished to inquire of the gentleman about.

Mr. HUDSPETH. The National Livestock Association, the Texas and southwestern cattle raisers, the largest cattle raisers' association in the world, and others have called the attention of Members to the fact that the appropriation for the treatment of tuberculosis in cattle is exhausted. In the State that I have the honor to represent in part the statement is made that there are 20,000 dairy cattle to which this inspection should be extended in that State. It is a very important matter, and I do not think that blame should attach to this committee or its chairman. I have had a conversation with him in private, and I would like to have the chairman state here on the floor why that deficiency has not been granted or placed in this bill.

Mr. MADDEN. In common with many other Members of the House, including the gentleman from Texas [Mr. HUDSPETH], who has just spoken, I have had considerable correspondence with those who are interested in the live-stock industry of the United States. One gentleman who is a very warm personal friend of mine, who is the president of the Livestock Association, Mr. E. C. Brown, of Chicago, communicated with me two or three times and urged this appropriation very seriously. I wired him that there was but one way under the law in which to originate a deficiency, and that was for the Secretary of Agriculture to state to the Bureau of the Budget what his deficiency needs were, and to have the Bureau of the Budget agree with him and have the President submit the matter to us; that when that formula was complied with we would be very glad indeed to take the matter up for consideration. I stated to Mr. Brown that the Secretary of Agriculture had not submitted anything to us; that we were not asking the Secretary of Agriculture or any other head of a department to take money out of the Treasury; that our business was to keep them from taking it out; and that we could not consider a proposal that was not before us. I explained to him that it is not before us; that it has never been considered.

It could not get before us in any other way than that I have described, and although I have had no conversation whatever on the subject with the Secretary of Agriculture, I have written and replied to Mr. Brown and said to him that the Secretary of Agriculture had the remedy; it was in his hands; he could submit it. They had an appropriation last year for all they asked for this year in the regular annual appropriation bill. They got every dollar they asked. They spent the whole appropriation, if it is not there now, in four months. The Secretary said he does not need any more, so far as I understand; at any rate, he does not tell us that he needs any more. The result is that we have no remedy except to wait.

Mr. HUDSPETH. I would like to ask the gentleman when, in his judgment, this remedy can be granted?

Mr. MADDEN. Of course, after the 5th of next month, we will begin the consideration of the regular appropriation bills, but unless whatever money is supplied for these activities is made immediately available it would not be available until the 1st of next July.

Mr. HUDSPETH. I will ask the gentleman this question: Will there be an estimate from the Secretary of Agriculture when you go to prepare the bill?

Mr. MADDEN. It is in the estimates for the next bill.

Mr. HUDSPETH. Oh, if the estimates are in the next bill it is all right.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

#### MISCELLANEOUS.

Center Market, Washington, D. C., operation: To enable the Secretary of Agriculture to defray all necessary expenses in carrying out the act approved March 4, 1921, entitled "An act to repeal and annul certain parts of the charter and lease granted and made to the Washington Market Co. by act of Congress entitled 'An act to incorporate the Washington Market Co.'," approved May 20, 1870; to pay for ice, electricity, gas, water, fuel, travel, stationery, printing, telegrams, telephones, labor, supplies, materials, equipment, miscellaneous expenses, necessary repairs, and minor alterations to be reimbursed by any person for whose account any such expenditure may be made; to employ necessary persons, including, for a period of six months after the property of the Washington Market Co. is taken over by the Secretary of Agriculture and without reference to civil-service requirements, such employees of said company as the said Secretary may deem necessary; to provide a fund for the payment of freight, express, drayage, and other charges and claims against commodities accepted for storage, and to require reimbursement thereof with interest at the rate of 6 per cent per annum; and to remove, sell, or otherwise dispose of such commodities held as security for such payments when such reimbursement is not made when due, all reimbursement of such payments and all receipts from such disposition of commodities to be credited to such fund and to be reexpended therefrom for the same purposes during the fiscal year 1922, \$75,000.

Mr. SNELL. Mr. Chairman, I move to strike out the last word. I should like to have the chairman of the committee explain to us just what the situation is in regard to the Center Market, and how much money we intend to invest there in repairs and so forth, and what will be the situation after we have spent that money.

Mr. MADDEN. One day when Congress was in a mood to reform things, I suppose, it passed a law that required the Government of the United States to take over from the private owners the Center Market and conduct it as a Government enterprise. Under that law there was a provision for the appointment of a board of arbitrators to fix the payment to be made to the private owners. The board of arbitrators had an appropriation of \$35,000 for their expenses. They have not yet decided this question, but the law provides that on the day the decision is rendered this property becomes the property of the Government of the United States.

Mr. SNELL. To whom does the property belong now?

Mr. MADDEN. To the Washington Market Co., a private corporation. The Secretary of Agriculture requested \$141,000 for this activity for seven months. After careful consideration we decided that we could not get control of the property until about the 1st of March. Hence we cut to \$75,000, which would be equivalent to \$141,000 for the period that he suggested. He asked \$30,000 for repairs and alterations which we did not allow, and other things which we did not allow. We do not know what the result of this new scheme is going to be when we take it over, except, judging from past experience, we may reasonably conclude that it is going to be a burden on the people.

Mr. SNELL. Then you are not doing anything here except carrying out a law that has already been passed?

Mr. MADDEN. That is all, and we were reluctant to do that. They have an assembly hall there now which is rented for dances and jazz, and then there are bowling alleys and all that sort of thing. It was proposed by the Secretary of Agriculture to remodel that feature of the market and make assembly halls for the gathering together of the employees of the institution at a cost of \$30,000. We refused to allow them to do that. We believe if we have to conduct this Washington Center Market we ought to conduct only the business feature of it and not the amusement features.

Mr. SNELL. Are we going into the business of selling vegetables?

Mr. MADDEN. Oh, no. We shall rent the space to the occupants of the stalls. We shall have to make repairs of that space. We shall run a cold-storage plant there, and we shall have to take the supplies that are shipped for cold storage from anywhere in the United States and pay the freight on them when they arrive. We shall have to do so many things that it would make me sick to think about them. Of course, the only thing to do with this proposition, in my judgment, if we are going to run it at all, is to turn it over to the District Commissioners, to be conducted by them, and not have the Secretary of Agriculture charged with this incubus.

Mr. SNELL. Or else give it away.

Mr. MADDEN. To give it away would be cheaper.

Mr. KELLER. How are we going to pay for the property?

Mr. MADDEN. That is already provided for. When the award is made that is provided for in the act that was passed previously.

Mr. CROWTHER. How much more money ought we to spend before we give it away?

Mr. MADDEN. I do not want to be asked to calculate too rapidly. My mind works slowly. [Laughter.]

Mr. CROWTHER. Is it not true that the private corporation that ran this made a successful profit out of it?

Mr. MADDEN. They will say so, because that will help to increase the price.

Mr. CROWTHER. How much of the \$35,000 appropriated goes for the salaries of the arbitration commissioners?

Mr. MADDEN. I can not state that. The best figures that we have as the result of our investigation show that they made a profit over and above dividends of 5 per cent and other costs, of \$16,000 on a business of about \$280,000 a year.

Mr. MAPES. Will the gentleman yield?

Mr. MADDEN. I yield to the gentleman from Michigan.

Mr. MAPES. Of course, the chairman of the Committee on Appropriations knows that the purpose of the legislation to which he refers was to make it possible for the Government to realize some fair return on the property which it owns where the market company is located. It had there tied up subject to action by Congress very valuable property, which was leased to the Washington Market Co. for 99 years at a rental of \$7,000 a year.

Mr. MADDEN. And they paid \$33,000 a year in taxes, and of course we will not get any of those taxes now.

Mr. MAPES. They paid altogether, I think, in taxes and rentals a fraction of 1 per cent per year upon the value of the property.

Mr. MADDEN. But they paid taxes.

Mr. MAPES. And it was for the purpose of allowing the Government to realize something out of this valuable property that the law was passed which repealed the lease, and of course the law provided that the Government should pay the owners the fair value of the buildings which they owned, which were on the Government land.

Mr. MADDEN. I hope that expectation will be realized.

Mr. MAPES. The land was owned by the Government and not by the Washington Market Co.

Mr. MADDEN. True.

Mr. MAPES. All the Secretary of Agriculture is supposed to do is to rent this property to the tenants who are now in the buildings.

Mr. MADDEN. But he is figuring on expending in overhead charges about \$140,000 for seven months, and the gentleman can figure out how much it will be for the other five months and find out how much it amounts to.

In addition to that, my friend from Michigan will find that we shall lose \$33,000 a year to the Treasury of the United States in taxes that these people paid on the property.

Mr. MAPES. But we ought to get several hundred thousand dollars a year for the rental of the space in these buildings.

Mr. MADDEN. We will get about \$230,000.

Mr. MAPES. And the money we expend ought to be reimbursed to the Treasury many times over.

Mr. MADDEN. I will tell the gentleman what I think about it. From the investigation that I made and from the information I was able to obtain, I think you will find that the expenses will be about \$250,000 a year and the revenues about \$230,000 a year, and it may be worse than that.

Mr. MAPES. If that is true, the Government will not act as most of the landlords have in the District of Columbia.

Mr. SNELL. We know that is true.

The CHAIRMAN. The Chair will state that this discussion is proceeding by unanimous consent. There is nothing before the committee.

The committee informally rose, and the Speaker pro tempore having taken the chair,

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. Craven, its Chief Clerk, announced that the Senate had passed without amendments bill and joint resolutions of the following titles:

H. R. 8346. An act granting the consent of Congress to the board of supervisors of Whiteside County, Ill., to construct a bridge across Rock River;

H. J. Res. 210. Joint resolution for the appointment of one member of the Board of Managers of the National Home for Disabled Volunteer Soldiers; and

H. J. Res. 225. Joint resolution authorizing payment of the salaries of officers and employees of Congress for November, 1921, on the 23d day of said month.

The message also announced that the Senate had agreed to the amendments of the House of Representatives to the joint resolution (S. J. Res. 33) permitting Chinese to register under certain provisions and conditions.

The message also announced that the Senate had passed with amendments the bill of the following title, in which the concurrence of the House of Representatives was requested:

H. R. 6053. An act to amend section 955 of the Revised Statutes by extending the jurisdiction of courts in cases of revivor.

#### DEFICIENCY APPROPRIATION BILL.

The committee resumed its session.

Mr. RAYBURN. Mr. Chairman, I move to strike out the last word. I desire to ask the chairman of the committee a question. It has been called to my attention by some one interested with reference to this item which has been passed over. I want to ask the chairman if the item to enable the Interstate Commerce Commission to comply with the safety appliance act was allowed?

Mr. MADDEN. I just discussed that for about 10 minutes with the gentleman from Kentucky [Mr. BARKLEY], who asked the same question.

The Clerk read as follows:

For salaries, fees, and expenses of United States marshals and their deputies, including the office expenses of United States marshals in the District of Alaska, services rendered in behalf of the United States or otherwise, services in Alaska and Oklahoma in collecting evidence for the United States when so specially directed by the Attorney General, and maintenance, alteration, repair, and operation of horse-drawn and motor-driven passenger-carrying vehicles used in connection with the transaction of the official business of the office of United States marshal for the District of Columbia, \$140,000.

Mr. DALLINGER. Mr. Chairman, I move to strike out the last word. I want to ask the chairman why such a large amount as \$140,000 is necessary to pay salaries for United States marshals in a deficiency bill?

Mr. MADDEN. That is on account of the great increase in business in the United States courts. The Attorney General has no control over that.

The Clerk read as follows:

For expenses of assessing and collecting the internal-revenue taxes, as provided by the revenue act of 1918, including the employment of the necessary officers, attorneys, experts, agents, accountants, inspectors, deputy collectors, clerks, janitors, and messengers in the District of Columbia and the several collection districts, to be appointed as provided by law, telegraph and telephone service, rental of quarters outside the District of Columbia, postage, freight, express, and other necessary miscellaneous expenses, and the purchase of such supplies, equipment, furniture, mechanical devices, printing, stationery, law books and books of reference, and such other articles as may be necessary for use in the District of Columbia and the several collection districts, \$1,792,000.

Mr. WATSON. Mr. Chairman, I offer the following amendment.

The Clerk read as follows:

Page 24, line 6, after the figures \$1,792,000 strike out the period and insert the following: *Provided*, That no more than \$100 shall be expended for new furniture.

Mr. WATSON. Mr. Chairman, it was said a few moments ago that when purchasing furniture for new bureaus it was necessary to buy the furniture already in Government storehouses. I stated to the chairman of the committee that there is \$750,000 worth of old furniture in the storehouses in Washington. I want to test whether the statute is in force by this amendment providing that no part of this appropriation beyond \$100 shall be expended for new furniture. The appropriation of \$1,792,000 is not limited. I remember a year or two ago a gentleman from the other side stated that the architects were employed to draw plans for furniture for dormitories near the navy yard; that when the furniture was delivered they considered it was not good enough, so they sold it and went to the ordinary department stores and bought furniture. This is a time for economy, which we all favor. I want to test whether the statute cited by the gentleman from Illinois, now on the statute book, is of any value. It is not stated the kind of furniture need. Out of the \$750,000 worth are tables, chairs, rugs, and carpets, and we ought to find enough furniture to supply the Internal Revenue Bureau. [Applause.]

Mr. MADDEN. Mr. Chairman, I simply desire to say in connection with the amendment offered that the General Supply Committee has whatever furniture the Government needs and the power to dispose of it, and every department must buy from the General Supply Committee.

Mr. KELLY of Pennsylvania. And some of the furniture that they have is new furniture, and under this amendment they would not be able to buy it even if the Government was in need of it.

Mr. WATSON. I understand there is \$750,000 worth of old furniture?



Mr. MADDEN. It might be very embarrassing to the department if they could not buy more than \$100 worth of new furniture. They may not need any furniture at all, but I hope the amendment will not be adopted.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania.

The question was taken; and on a division (demanded by Mr. MADDEN) there were 17 ayes and 35 noes.

So the amendment was rejected.

The Clerk read as follows:

Military posts, United States: For the completion of the acquisition of lands at Camps Custer, Devens, Dix, Grant, Jackson, and Lee, \$408,200, to remain available during the fiscal year 1923.

Mr. LANHAM. Mr. Chairman, I offer the following amendment.

The Clerk read as follows:

Page 27, line 14, after the figures "1923," insert a new paragraph, as follows:

"For the maintenance and operation of the helium-product plant at Fort Worth, Tex., \$100,000."

Mr. MADDEN. Mr. Chairman, I reserve a point of order on the amendment.

Mr. LANHAM. Mr. Chairman, I realize that the amendment, under the law and rules applying to deficiency appropriation bills, is subject to a point of order, but I trust that the gentleman will not make it. The importance of the helium project, it seems to me, was lamentably demonstrated in the recent great catastrophe in England, the explosion of the *ZR-2*, in which many Britons and some Americans lost their lives. The helium plant at Fort Worth, Tex., by reason of insufficient appropriation when the Army bill was before the House during the last Congress, is to be closed on the 30th day of November. The best we can now possibly hope to do with the scant funds available is to leave the plant in a stand-by condition until the next regular supply bills will afford adequate sums for the next fiscal year.

The helium project has been conducted in this country by the War and Navy Departments upon a fifty-fifty basis. The appropriation made in the last Congress for the War Department lacked \$150,000 of the amount contemplated in a lump sum appropriated in the naval bill for undertakings of this character, and consequently this amendment which I have offered still lacks \$50,000 of being the amount which is authorized under the naval supply bill. The project, I repeat, has been carried on by the Army and Navy on a fifty-fifty basis. This amendment is to equalize the appropriations in the two departments, in order that this important plant may be continued without harmful interruption.

This is a project not alone of war, but one the fruits of which may prove most useful in times of peace. This country has a practical monopoly of the world's supply of helium. If we should allow this plant, the only one of its kind in the world, to stand idle, I think we should make a great mistake.

I call attention to the fact that under our present contract we get only 15 per cent of the gas from Petrolia, Tex., from which this helium is extracted. Eighty-five per cent of it is being used commercially, and our available supply, therefore, is rapidly going off into thin air. I think there is no nation in the world which could reasonably afford the expenditure that would not gladly to-day pay us for the helium we have already extracted much more than that extraction has cost us. I wish it were possible in these brief five minutes to impress upon the minds of those who are not familiar with helium, its uses, its possibilities, and just what the importance of this project is. This being the first year of the operation of this plant, and helium being an important agency in time of peace as well as of war, this country having practically a monopoly of the supply of the entire world, and 85 per cent of the gas from which it is taken being used commercially, shall we now say that the other 15 per cent from which we are to derive our supply shall be abandoned because of a failure of sufficient appropriation, especially in view of the larger sums which we have already spent in successful experimentation to prove the undertaking a very practical and feasible one? And I desire to call the attention of the committee to the fact that the experimentation with reference to helium has fully justified our hopes. In August the production of helium was 291,000 cubic feet, in September 333,000 cubic feet—

The CHAIRMAN. The time of the gentleman from Texas has expired.

Mr. MADDEN. Mr. Chairman, I make the point of order on the amendment.

The CHAIRMAN. What is the ground of the point of order?

Mr. MADDEN. The item is not germane to the paragraph and it is not proper to be brought in on a deficiency appropriation bill.

The CHAIRMAN. The Chair sustains the point of order.

Mr. MILLER. Mr. Chairman, I move to strike out the last word for the purpose of asking a question or two of the chairman of the committee in reference to the marine cable to Alaska, which is referred to in the hearings of the committee.

Mr. MADDEN. The committee concluded, after careful consideration, that this is not a deficiency, and that it ought to come in in the regular way, and that there was no emergency in connection with it. It was not properly before us from the standpoint of either a deficiency or an emergency, and, besides, the cost of operating the cable was largely in excess of what we thought it should be, and we thought perhaps if we gave them time to reflect they might change their attitude with respect to the expense.

Mr. MILLER. I have read the hearings very carefully, and it seems to me that the Alaska cable is one of the few enterprises of the United States which is somewhere near a paying basis.

Mr. MADDEN. It is \$500,000 and odd a year below a paying basis.

Mr. MILLER. It has turned into the Treasury \$190,000.

Mr. MADDEN. But it is \$500,000 and odd worse off than nothing.

Mr. MILLER. It carries \$200,000, I should think, of Government business, and still notwithstanding that it turns \$189,000 into the Treasury. The cable is in bad condition.

Mr. MADDEN. I think that is true, but it ought to come in in the regular way. It is not a deficiency nor an emergency.

Mr. MILLER. Probably that is technically correct. Does the gentleman think any legislation is necessary on which to base an appropriation in the next bill?

Mr. MADDEN. I would like to have the gentleman from Washington look into that.

Mr. MILLER. I am asking the gentleman.

Mr. MADDEN. I would like to have the gentleman look into it. I shall cooperate with him in looking into the matter. I am not sure. I am in sympathy with the need for this service, but I think we ought to let these people realize that they can not sell the service conducted by the Government for 30 per cent of what private enterprise charges and then pay twice as much for the performance of the duties as a private enterprise pays, and then come to Congress in order to get money out of the Treasury to enable them to carry on their extravagances.

Mr. MILLER. The extravagance, as I understand it, turned in \$189,000 to the Federal Treasury.

Mr. MADDEN. They are charging only 40 per cent of the rates that other people charge.

Mr. MILLER. There is no competition on that cable.

Mr. MADDEN. If there is not any competition, then they ought to be able to get the current rates, but they charge 40 per cent less than the current rates.

Mr. MILLER. Does the gentleman think the rates the department has established are insufficient?

Mr. MADDEN. Altogether.

Mr. MILLER. The department establishes the rate.

Mr. MADDEN. Yes; and they ought not to be allowed to establish rates that will give them a chance to put their hands up to their elbows into the Treasury of the United States to make up a deficiency.

Mr. MILLER. I do not think there is any when they turned in \$189,000 of profit.

Mr. MADDEN. They do not make a profit. They turn that much money in, but do not tell you how much they pay out.

Mr. MILLER. This Congress appropriates \$140,000 a year for the support of that cable and they turn in \$189,000.

Mr. MADDEN. They operate a cable ship over their right straight along, and pay the crew, and do a lot of other things that we do not know anything about.

Mr. MILLER. The cable ship is operated by the War Department.

Mr. MADDEN. It is all paid out of the Treasury of the United States.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

For furniture and repairs of same for public buildings, \$1,635.25.

Mr. WATSON. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The gentleman from Pennsylvania offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amendment offered by Mr. WATSON: Page 32, line 2, after the figures "\$1,635.25," strike out the period and insert in lieu thereof the following: "Provided, That no new furniture shall be purchased except from the Government storehouses."

Mr. MADDEN. Mr. Chairman, this is for an audited claim for an obligation created prior to 1919. The money has already

been spent, bills have been rendered, and a final audit has been made. All there is to it is to pay the bill now. I make the point of order against the item.

The CHAIRMAN. It appears this is for a debt incurred in the purchase of furniture prior to the adoption of the statute referred to. The point of order is sustained.

Mr. WATSON. Mr. Chairman, I withdraw the amendment. The Clerk read as follows:

For enforcement of the child labor law, \$2.34.

Mr. CROWTHER. Mr. Chairman, I move to strike out the last word for the purpose of saying a few words in relation to the Post Office matters. I was called from the room when the Post Office section was read, and I ask your indulgence to refer back to that section. Of course, my colleagues all know we are having considerable trouble about post offices and postmasters. But that is not what I want to discuss particularly. It is the fact that in a newspaper from my home and in several letters that I have received in the last week I find that the Post Office Department is on this rampage of economy to which we are, of course, all pledged, and do not live up to very closely, as evidenced by spending \$55,000 on the kitchen of the restaurant on the floor below and various other wild expenditures listed in this deficiency bill. But it seems to me the employees in the Postal Service in this country come nearer giving a dollar's worth of service for a dollar that is paid in wages than any of the departments that I know of. In my home city of Schenectady they have laid off, taken out of the service, 7 carriers and 10 substitutes and cut down the service to the community, which was not any too good before, but was giving general satisfaction. I hope the Postmaster General will hold a little conference with the heads of the other departments and see if there is not somewhere else they can practice economy rather than adding their contribution to the unemployed of the country, which condition is sufficiently aggravated by the failure to enact a tariff bill at this session, and leave the carriers where they are and give the public the service they are entitled to. They are the best class of service men we have in this country, and I hope the personnel is not going to be thinned out on the plea of economy. [Applause.]

The Clerk concluded the reading of the bill.

Mr. MADDEN. Mr. Chairman, I move that the committee do now rise and report the bill to the House with amendments, with the recommendation that the amendments be agreed to and the bill as amended do pass.

The motion was agreed to.

Accordingly the committee rose; and Mr. WALSH having resumed the chair as Speaker pro tempore, Mr. BURTON, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee, having had under consideration the bill (H. R. 9237) had directed him to report the same to the House with certain amendments, with the recommendation that the amendments be agreed to and the bill as amended do pass.

Mr. MADDEN. Mr. Speaker, I move the previous question on the bill and amendments to final passage.

The previous question was ordered.

The SPEAKER pro tempore. Is a separate vote demanded upon any of the amendments? [After a pause.] If not, the Chair will put them en gross.

The amendments were agreed to.

The bill as amended was ordered to be engrossed and read a third time, was read the third time, and passed.

On motion of Mr. MADDEN, a motion to reconsider the vote by which the bill (H. R. 9237) was passed was laid on the table.

#### EXTENSION OF REMARKS.

Mr. LONDON. Mr. Speaker—

The SPEAKER pro tempore. For what purpose does the gentleman from New York rise?

Mr. LONDON. I ask unanimous consent to revise and extend my remarks by incorporating a letter addressed to President Harding from four congressional medal men, including the document which they refer to in their letter.

The SPEAKER pro tempore. The gentleman from New York asks unanimous consent to extend his remarks by inserting the documents referred to.

Mr. LINEBERGER. Mr. Speaker, reserving the right to object, I want to inquire of the gentleman whether or not his extension of remarks refers to the petition said to have been presented by certain congressional medal of honor men in regard to the release of Mr. Debs from the Federal prison?

Mr. LONDON. Yes; that is it.

Mr. LINEBERGER. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is made.

#### ELECTION TO COMMITTEES.

Mr. GARNER. Mr. Speaker, I ask unanimous consent for the present consideration of two resolutions which I send to the Clerk's desk.

The SPEAKER pro tempore. The gentleman from Texas asks unanimous consent for the present consideration of two resolutions, which the Clerk will report.

The Clerk read as follows:

*Resolved*, That Mr. CHESTER W. TAYLOR, of Arkansas, be, and he is hereby, elected to the Committees on Expenditures in the Interior Department, Accounts, and Woman Suffrage.

The SPEAKER pro tempore. Is there objection to the present consideration of the resolution?

There was no objection.

The SPEAKER pro tempore. The question is on agreeing to the resolution.

The resolution was agreed to.

The SPEAKER pro tempore. The Clerk will report the next resolution.

The Clerk read as follows:

*Resolved*, That Mr. J. MURRAY HOOKER, of Virginia, be, and he is hereby, elected to the Committees on Coinage, Weights, and Measures; Railways and Canals; and Education.

The SPEAKER pro tempore. Is there objection to the present consideration of the resolution?

There was no objection.

The SPEAKER pro tempore. The question is on agreeing to the resolution.

The resolution was agreed to.

#### JURISDICTION OF COURTS IN CASES OF REVIVOR.

Mr. VOLSTEAD rose.

The SPEAKER pro tempore. For what purpose does the gentleman rise?

Mr. VOLSTEAD. To ask to take from the Speaker's table the bill H. R. 6053, with Senate amendments.

The SPEAKER pro tempore. The gentleman from Minnesota calls up from the Speaker's table the bill, which the Clerk will report by title, with Senate amendments.

The Clerk read as follows:

A bill (H. R. 6053) to amend section 955 of the Revised Statutes by extending the jurisdiction of courts in cases of revivor.

The SPEAKER pro tempore. The Clerk will report the Senate amendments.

The Senate amendments were read.

The SPEAKER pro tempore. The question is on agreeing to the Senate amendments.

Mr. VOLSTEAD. Mr. Speaker, the amendments effect no substantial change. They are practically changes of language. It is sought to accomplish exactly the same purpose as the House bill.

The SPEAKER pro tempore. The question is on agreeing to the Senate amendments.

The Senate amendments were agreed to.

#### PRESIDENT'S MESSAGE—REPORT OF THE NATIONAL COMMISSION OF FINE ARTS.

The SPEAKER pro tempore laid before the House the following message from the President, which was read and referred to the Committee on Public Buildings and Grounds and ordered to be printed:

#### To the Senate and House of Representatives:

I transmit herewith for the information of the Congress the ninth report of the National Commission of Fine Arts for the period from July 1, 1919, to June 30, 1921.

The report deals with the progress made during the past 20 years in realizing the comprehensive plan for the entire District of Columbia reported to the Senate, as a result of extensive studies of the plans of capital cities in Europe. This plan was prepared as a public service by men of the highest standing in the professions of architecture, sculpture, and landscape architecture. Professedly it was based upon the L'Enfant plan of 1792 for the Federal City in the District of Columbia, designed under the personal supervision of President Washington; and, indeed, was largely an extension of that plan to cover the entire District. The L'Enfant plan was the first and most comprehensive design for a National Capital ever adopted. The plan of 1901 reasserted the authority of the original plan, extended it to meet the needs of the Nation after a century of growth in power, wealth, and dignity, and marked the path for future development. During the past two decades the essential features of the plan have been established, so that the work of the future will be largely a filling in of outlines. It is a source of satisfaction that so much has been done to make the city of



Washington conspicuous among national capitals in respect of dignity, orderliness, convenience, and beauty. All that has been done increases the importance of adhering to a plan that during nearly a century and a quarter has abundantly justified the foresight and the vision of the founders of the Republic.

The report of the Commission of Fine Arts deals also with the plans made under the direction of the Secretary of War for the cemeteries in Europe where rest the bodies of American men and women who gave their lives in the World War. By reason of their location on the field of battle the French cemeteries have a double claim to our reverent consideration—they mark both the places of burial of our heroic dead, and also the very field on which their sacrifice was made. These cemeteries are indeed fields of honor. They represent in the highest and most sacred way the participation of this Nation in the Great War. They should be treated in a manner befitting their representative character.

Further, the report discloses the work of the commission in its many details. During the 11 years since Congress created that body, its helpfulness has constantly increased. In many fields it has established and maintained standards of taste; and in furthering and safeguarding the plan of Washington it is especially useful.

WARREN G. HARDING.

THE WHITE HOUSE, November 22, 1921.

PRESIDENT'S MESSAGE—ANNUAL REPORT OF THE UNITED STATES CIVIL SERVICE COMMISSION.

The SPEAKER pro tempore also laid before the House the following message from the President, which was read and ordered printed and, with accompanying documents, referred to the Committee on Reform of the Civil Service:

To the Senate and House of Representatives:

As required by the act of Congress to regulate and improve the civil service of the United States, approved January 16, 1883, I transmit herewith the thirty-eighth annual report of the United States Civil Service Commission for the fiscal year ended June 30, 1921.

WARREN G. HARDING.

THE WHITE HOUSE, November 22, 1921.

STANDARD MEASURES FOR FRUITS AND VEGETABLES.

Mr. VESTAL rose.

The SPEAKER pro tempore. For what purpose does the gentleman from Indiana rise?

Mr. VESTAL. I rise to call up as unfinished business the bill H. R. 7102, and move that the House resolve itself into Committee of the Whole House on the state of the Union for the further consideration of the bill H. R. 7102.

The SPEAKER pro tempore. The gentleman from Indiana moves that the House resolve itself into Committee of the Whole House on the state of the Union for the further consideration of the bill H. R. 7102. The question is on agreeing to that motion.

The question was taken, and the Speaker pro tempore announced that the "noes" appeared to have it.

Mr. VESTAL. Mr. Speaker, I demand a division.

The SPEAKER pro tempore. The gentleman from Indiana demands a division.

The House divided; and there were—ayes 45, noes 0.

So the motion was agreed to.

The SPEAKER pro tempore. The gentleman from Michigan [Mr. KELLEY] will please take the Chair.

Thereupon the House resolved itself into Committee of the Whole House on the state of the Union for the further consideration of the bill H. R. 7102, with Mr. KELLEY of Michigan in the chair.

The CHAIRMAN. The House is in Committee of the Whole House on the state of the Union for the further consideration of the bill H. R. 7102, which the Clerk will report by title.

The Clerk read as follows:

A bill (H. R. 7102) to fix standards for hampers, round stave baskets, and splint baskets for fruits and vegetables, and for other purposes.

The CHAIRMAN. The gentleman from Indiana [Mr. VESTAL] is recognized.

Mr. VESTAL. Mr. Chairman, may I inquire how much time remains of general debate?

The CHAIRMAN. The gentleman from Indiana has 22 minutes. The gentleman from Arkansas [Mr. WINCO] has 50 minutes.

Mr. VESTAL. Mr. Chairman, I yield 10 minutes to the gentleman from New York [Mr. LONDON].

The CHAIRMAN. The gentleman from New York is recognized for 10 minutes.

Mr. LONDON. Mr. Chairman, I was interrupted before when I attempted to present to the House several memorials submitted to the President of the United States.

I want to urge upon those who opposed my request that I be given an opportunity to present these memorials. It is the privilege of every member of a representative body to present minority and unpopular views. It is easy enough to permit one to express popular views. That does not require any exercise of democracy.

I accord to you the privilege of being wrong, and I ask the privilege of expressing those sentiments and giving expression to that philosophy which it is my right and my duty to present to the membership of the House.

I will read a memorial in the form of a letter presented to President Harding by four congressional medal men on the 13th of November, 1921. That letter reads:

LETTER TO PRESIDENT HARDING FROM CONGRESSIONAL MEDAL MEN.

WASHINGTON, D. C., November 13, 1921.

Hon. WARREN G. HARDING,  
President, The White House, Washington, D. C.

SIR: We, the undersigned holders of the congressional medal of honor, wish at this time to second the memorial tendered you by the World War veterans, a copy of which is attached, believing that the sentiments they express represent the views of the rank and file of ex-service men the country over.

Had the comrade whom we honored this armistice day returned to America alive, he would perhaps be appealing with us to you for the release of these war prisoners.

You said at his bier on armistice day:

"His patriotism was none less if he craved more than triumph of country; rather it was greater if he hoped for a victory for all human kind. Indeed, I revere that citizen whose confidence in the righteousness of his country inspired belief that its triumph is the victory of humanity."

Mr. President, it is that very kind of citizen whom the Government is to-day holding behind prison bars for loyalty to their ideals. It was no easy task for them to risk unpopularity and prison to maintain these ideals against the majority of the people in time of war. Their loyalty to the interests of humanity as a whole, even against their country's decision to join the war, was what moved them to express the opinions which sent them to prison. We disagree with the methods of the men in prison. We followed ourselves the opposite course. But we respect them for their opinions and their courage, as we respect our own comrades.

We understand that every country in the world which engaged in the Great War has long since released from prison those who like these prisoners opposed the war. May we ask, Mr. President, why America, with her democratic ideals, should wait so long to do an act of justice and good will?

Again, on Armistice Day, you said:

"I can sense the prayers of our people, of all peoples, that this Armistice Day shall mark the beginning of a new and lasting era of peace on earth, good will among men."

May we ask as ex-soldiers, holders of the Congressional Medal of Honor, that you "mark the beginning of this new era" by expressing in an amnesty the generosity and good will of those of us who fought. As Americans we seek a return to that condition of good will and love of neighbor which obtained throughout our beloved country before the war.

Faithfully, yours,

CLAYTON K. STARK, Lampson, Wis.  
JOHN J. KELLY, Chicago, Ill.  
GEO. H. MALLON, Minneapolis, Minn.  
BERGER LOMAN, Chicago, Ill.

Mr. CLARKE of New York. Will the gentleman yield for a question?

Mr. LONDON. No; I decline to yield.

Mr. CLARKE of New York. I want to ask if that is an official utterance, that is all.

Mr. LONDON. Here is the memorial to which they refer:

MEMORIAL TO THE PRESIDENT OF THE UNITED STATES FROM THE WORLD WAR VETERANS.

The World War Veterans, representing almost one-half million ex-service men who participated in the World War, many of whom bear the scars of battle wounds, appeal to you for the release of those prisoners now in Federal prisons who were convicted of opposing the war.

We understand that there are at the present time about 140 such prisoners in Atlanta, Leavenworth, and McNeill's Island prisons. We ask for their release as a matter of simple justice, since no possible purpose can be served by imprisoning them longer. Most of them were sentenced to terms ranging from 10 to 20 years, and unless they are pardoned by your order now the last of them will not be out for years to come.

It is not strange, Mr. President, that veterans of the World War should ask for the release of men who opposed war. These men were moved by the same ideals as moved us. They differed from us only as to the methods of achieving those ideals. We realized that it would be necessary first to fight to end war, while they, no doubt, believed that by not fighting war could be stopped forever. They did not see in the method of war the realization of their hopes for mankind. Who but the judgment of history shall say whether they or we were right in method? We accord to them the same right to follow the dictates of their faith and conscience as we take for ourselves.

We realize, Mr. President, that some of these prisoners belong to unpopular and sometimes misrepresented movements. Most of them are radicals; some militant, others merely passive. We make no distinction between them. We ask the release of all of them without discrimination, because they were all convicted of the same offense—that of opposing the war by spoken or written words or by labor activities construed as interfering with recruiting and enlisting. We can find no single instance of any of these prisoners having been convicted of committing an act of violence. Not one was a German spy.

In making this appeal we are conscious of speaking not only for the majority of the rank and file of ex-soldiers but for millions of plain people throughout the country. Practically every labor union in the United States has repeatedly urged the release of these prisoners, because they felt their imprisonment was a reflection upon American democracy and because they knew that every one of these prisoners opposed the war as an expression of his honest belief and his love of mankind. Not only labor unions but organizations of the people everywhere have passed such resolutions.

We trust that now, after the celebration of this great and solemn memorial to the war dead for which we have come to Washington, you will see fit to accord to these prisoners the speedy release which our ideals and the country's interest both demand.

A. G. COOPER,  
National Chairman.  
JOHN M. LEVITT,  
Eastern Division Chairman.  
CARL O. PERSSON,  
Minnesota State Chairman.

Gentlemen, all countries of the world have released their war prisoners, and as I pointed out in my talk on amnesty on July 1, 1921, in France they went to the extent not only of releasing the political prisoners but in their general amnesty they included many persons who had committed offenses against the criminal code, offenses involving moral turpitude, in those cases where dependent members of families whose breadwinners were at the front were exposed to temptation by reason of the suffering occasioned by the absence of the supporter of the family.

The CHAIRMAN. The time of the gentleman from New York has expired.

Mr. STEVENSON. Mr. Chairman, in the absence of the gentleman from Arkansas [Mr. Wingo] I was to control the time on this side. I yield five minutes now to the gentleman from California [Mr. LINEBERGER]. [Applause.]

Mr. LINEBERGER. Mr. Chairman and gentlemen of the House, I find it impossible to sit here without uttering a word of protest at what the gentleman from New York [Mr. LONDON] has just attempted to foist on this House and the country, and that is the idea that there is any considerable number of ex-service men of the late World War living or dead who would for one moment give countenance or approval to the sentiments which he has sponsored by quoting and inserting into the Record the memorial which he has just read. [Applause.] That infinite concourse of the invisible; those immortal Americans who sleep beneath the sod in France, and who dying yet live, would turn over in their graves rather than give acquiescence or sanction, as the Member from New York would have you believe, to any such sentiments as he has quoted and approved here to-day. [Applause.] Let us honor and glorify this cult of the dead rather than impute to those who compose it sentiments of disloyalty and un-Americanism which cause even the living to glow with the crimson blush of shame. [Applause.] The World War veterans, the military organization from which the gentleman from New York assumes to quote with such authority, is an association which has been referred to before on the floor of this House. It is none other than the organization which my colleague and comrade [Hon. ROYAL C. JOHNSON of South Dakota] investigated less than four or five months ago. You will all recall the result of that investigation. He found, so he informed us, that that body was an organization of ex-service men permeated by socialistic ideas and un-American sentiments, out of harmony with the spirit with which the most of us, at least, fought, and I regret that it numbers among its membership any congressional medal of honor men—if the statement of these four gentlemen is true. Be that as it may, only a few short weeks ago in Kansas City the American Legion, composed of over a million ex-service men, who, I may say, are a fair average of the four and a half million men who offered their lives during the recent World War, passed the following resolution covering the Debs matter, and the House is entitled to know their sentiments, and I, therefore, quote the resolution:

(1) Whereas during the period of the war there were convicted and confined in various penal institutions a number of men charged and convicted of treasonable acts, utterances, and conduct against the Government of the United States; and

Whereas in numerous incidents influences have been brought to bear to secure the pardon of the criminals or to secure a general amnesty for all such so-called political convicts: Now, therefore, be it

Resolved by the American Legion in convention assembled, That we oppose the pardon of Eugene V. Debs and any person convicted of any treasonable conduct against the United States Government, or the granting of a general amnesty to such convicts; and be it further

Resolved, That this resolution be spread upon the records of this convention and a copy thereof be sent to the President of the United States.

[Applause.]

That is the sentiment of a great national organization of men who fought the battles of this Nation in the recent World War, and I for one certainly hope that no Member of this body

will leave this House with the impression, or that any citizen of this country will be misled into believing, that the men signing the resolution referred to by Mr. LONDON, honorable and brave soldiers though they be, spoke in any sense the sentiments of the vast majority of the veterans of the Nation. I think, gentlemen, that it is a gross injustice to the men who gave their lives and many of whom took the places of these draft evaders who were stimulated to an unpatriotic attitude toward the war and then assisted, aided, and abetted in their evasion of their military duty by the Socialist Debs, even to permit such a resolution to go into the Record of this Congress, and certainly, since the rules permit it, would I be lacking in my duty did I not voice my profound disapproval of the sentiments contained therein. [Applause.]

The CHAIRMAN. The time of the gentleman from California has expired.

Mr. STEVENSON. Mr. Chairman, I yield five minutes to the lady from Oklahoma [Miss ROBERTSON].

Miss ROBERTSON. Mr. Chairman, I would like to ask the gentleman from New York [Mr. LONDON] if he ever had any knowledge of the interview that is said to have taken place between the Attorney General of the United States and Mr. Debs in this city a few months ago?

Mr. LONDON. I understand an interview has been had, and Mr. Debs impressed the Attorney General as being a man of extraordinary ability, high idealism, and uprightness of soul.

Miss ROBERTSON. Does the gentleman understand that the prisoner, who was given leave to come all alone unattended from a distant place where his abode now is and then return in the same way, was trusted to a very unusual degree by the Attorney General of the United States?

Mr. LONDON. I understand that in trusting him the Attorney General gave expression to the faith which he had in Mr. Debs, and that the Attorney General believed he was dealing not with a criminal, but with a man devoted to principle.

Miss ROBERTSON. For what purpose was he brought here?

Mr. LONDON. So that the Attorney General might get his viewpoint.

Miss ROBERTSON. Was he given any suggestion by the Attorney General as to the proper course for him to pursue?

Mr. LONDON. I presume that might have been under discussion. I have no knowledge of it.

Miss ROBERTSON. I do not know what took place at that interview, but the suggestion has come to me that Mr. Debs was given an opportunity to express his faith in the Government of the United States and his willingness to be like all other loyal American citizens, and to promise to be true to his citizenship and loyal to this Government.

Mr. LONDON. May I reply? I thought that was a question.

Miss ROBERTSON. I am always interested in prisoners, and perhaps in a way that the gentleman does not know, because in two or three instances in my own family we have been prisoners for conscience' sake. My grandfather wore the striped garb and shaved head of a convict in a penitentiary in the very State where Mr. Debs is because he would not stop preaching to the Indians.

He was confined illegally, as the Supreme Court decided. He refused to take an oath contrary to his conscience, but agreed to leave the State when he accepted the pardon tendered him. He did not continue in a useless martyrdom which only stirred up sectional bitterness, but went with his Indian congregation into the distant wilderness of what is now Oklahoma. So when I sat in the very chair that this man Debs had occupied across the desk from the Attorney General and looked over to him—as I fancied Mr. Debs had looked. By the way, I had heard him speak to a labor meeting in my home town, and I looked with horror then at a man who would come there and say the things against the Government of the United States that he said. [Applause.] I did not see how anyone could claim and receive the benefits of American liberty and be so disloyal to the United States. So it was with interest as well as curiosity I talked with the Attorney General that day I was sitting where Debs had sat, and the Attorney General spoke with great sympathy of these unhappy disloyal people. By the way, they say that all other nations have released political prisoners. Did they have many to release; did not they shoot them as they went along?

[Laughter and applause.] Has not America shown more tolerance in her lenient treatment of un-Americanism than any other country? The Attorney General said he felt we should attempt to Americanize, not to antagonize, these misguided ones. I understand Emma Goldman would try to be a good American if allowed to return, but that for her is no day of grace. To Americanize, that is the keynote, and if any man in any prison



in this country is not ready to be a loyal American he ought to stay in prison. [Applause.]

Mr. VESTAL. Mr. Chairman, I move that the committee do now rise.

The motion was agreed to.

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. KELLEY of Michigan, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill (H. R. 7102) and had come to no resolution thereon.

#### ENROLLED BILLS SIGNED.

Mr. RICKETTS, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills and joint resolution of the following titles, when the Speaker signed the same:

H. R. 8347. An act to authorize the New York Central Railroad Co. to construct a bridge across the Grand Calumet River within the corporate limits of the town of Gary, Ind.;

H. R. 7394. An act to extend the time for the construction of a bridge across the Tombigbee River at or near Ironwood Bluff, in the county of Itawamba, Miss.;

H. R. 8346. An act granting the consent of Congress to the Board of Supervisors of Whiteside County, Ill., to construct a bridge across Rock River; and

H. J. Res. 225. Joint resolution authorizing payment of the salaries of officers and employees of Congress for November, 1921, on the 23d day of said month.

The SPEAKER announced his signature to enrolled bills of the following titles:

S. 2724. An act to authorize the construction of a bridge across the White River, in Prairie County, Ark.;

S. 2722. An act to extend the time for constructing a bridge across the White River at or near the town of Des Arc, Ark.;

S. 1039. An act for the promotion of the welfare and hygiene of maternity and infancy, and for other purposes;

S. 2555. An act to construct, maintain, and operate a bridge and approaches thereto across Great Peedee River, S. C.;

S. 2594. An act authorizing the counties of Allendale, S. C., and Screven, Ga., to construct a bridge across the Savannah River, between said counties, at or near Burtons Ferry; and

S. 843. An act to amend section 5 of the act approved March 2, 1919, entitled "An act to provide relief in cases of contracts connected with the prosecution of the war, and for other purposes."

ENROLLED BILL PRESENTED TO THE PRESIDENT FOR HIS APPROVAL.

Mr. RICKETTS, from the Committee on Enrolled Bills, reported that this day they had presented to the President of the United States for his approval the following bill:

H. R. 7294. An act supplemental to the national prohibition act.

#### DISPENSING WITH CALENDAR WEDNESDAY.

Mr. MONDELL. Mr. Speaker, I ask unanimous consent to dispense with the business under the Calendar Wednesday call to-morrow.

The SPEAKER. The gentleman from Wyoming asks unanimous consent to dispense with business under the Calendar Wednesday call to-morrow. Is there objection?

There was no objection.

Mr. WALSH. Mr. Speaker, I ask unanimous consent to proceed for a moment to propound an inquiry of the gentleman from Wyoming.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none.

Mr. WALSH. I desire to ask the gentleman from Wyoming if it is expected that the bill providing for the appointment of additional Federal judges is likely to be taken up to-morrow under a rule?

Mr. MONDELL. Would the gentleman who has propounded the inquiry like to have it taken up to-morrow?

Mr. WALSH. I will state that I would be glad to stay here this evening and have it taken up now if the gentleman from Wyoming would assure the House that there is a quorum within call.

Mr. MONDELL. If I was really certain that there would be a quorum, I think it might be appropriate to take up the bill the gentleman refers to, but I am inclined to the opinion that there is not likely to be many in excess of a quorum to-morrow. In that condition of affairs I feel a little doubtful if we should take up so important legislation.

#### ADJOURNMENT.

Mr. VESTAL. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; and accordingly (at 5 o'clock and 33 minutes p. m.) the House adjourned until to-morrow, Wednesday, November 23, 1921, at 12 o'clock noon.

#### EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2, of Rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

274. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report on preliminary examination and survey of Yaquina River, Oreg., from Newport to Toledo; to the Committee on Rivers and Harbors.

275. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report on preliminary examination and survey of Passaic River, N. J., from the Montclair & Greenwood Lake Railroad bridge to the Garfield Bridge, city of Passaic; to the Committee on Rivers and Harbors.

#### REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills and resolutions were severally reported from committees, delivered to the Clerk, and referred to the several calendars therein named, as follows:

Mr. STEENERSON, from the Committee on the Postoffice and Post Roads, to which was referred the bill (H. R. 8334) to amend the laws relating to the postal savings system, reported the same with amendments, accompanied by a report (No. 489); which said bill and report was referred to the House Calendar.

Mr. NEWTON of Minnesota, from the Committee on Interstate and Foreign Commerce, to which was referred the bill (S. 621) an act to amend subdivision (c) of section 206 of the transportation act, 1920, reported the same with amendments, accompanied by a report (No. 490), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

#### CHANGE OF REFERENCE.

Under clause 2 of Rule XXII, the Committee on Invalid Pensions was discharged from the consideration of the bill (H. R. 8919) granting an increase of pension to Preston C. Freed, and the same was referred to the Committee on Pensions.

#### PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. HILL: A bill (H. R. 9255) to create an additional judge in the district of Maryland; to the Committee on the Judiciary.

By Mr. ANTHONY: A bill (H. R. 9256) to provide pensions for retired enlisted men who served for 90 days or more in the Army, Navy, or Marine Corps of the United States during the Civil War; to the Committee on Invalid Pensions.

By Mr. HAYDEN: A bill (H. R. 9257) to permit adjustment of conflicting claims to certain lands in Mohave County, Ariz.; to the Committee on the Public Lands.

By Mr. DARROW: A bill (H. R. 9258) authorizing holders of congressional medals of honor to add "M. H." after their names; to the Committee on Military Affairs.

By Mr. HUDDLESTON: A bill (H. R. 9259) to amend subdivision (c) of section 206 of the transportation act, 1920; to the Committee on Interstate and Foreign Commerce.

#### PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BLAKENEY: A bill (H. R. 9260) to carry out the findings of the Court of Claims in the case of the heirs of Thomas J. Benson, deceased; to the Committee on War Claims.

By Mr. CURRY: A bill (H. R. 9261) to correct the military record of First Lieut. Truman D. Thorpe, United States Army, retired; to the Committee on Military Affairs.

By Mr. DAVILA: A bill (H. R. 9262) for the relief of Jose Louzau; to the Committee on Claims.

By Mr. GALLIVAN: A bill (H. R. 9263) granting a pension to Josephine Frances Cox; to the Committee on Invalid Pensions.

By Mr. HUDSPETH: A bill (H. R. 9264) authorizing the Chief of Engineers, War Department, to make a survey of the Rio Grande River, at El Paso, Tex.; to the Committee on Rivers and Harbors.

By Mr. McDUFFIE: A bill (H. R. 9265) for the relief of Rosa H. Battle; to the Committee on Claims.

By Mr. PATTERSON of Missouri: A bill (H. R. 9266) granting a pension to Frederick E. Woodlee; to the Committee on Invalid Pensions.

By Mr. RYAN: A bill (H. R. 9267) for the relief of Arthur John Thorson; to the Committee on Claims.

By Mr. SANDERS of Indiana: A bill (H. R. 9268) granting an increase of pension to Sarah E. Woods; to the Committee on Invalid Pensions.

By Mr. THOMPSON: A bill (H. R. 9269) for the relief of Charles A. Riley; to the Committee on Military Affairs.

#### PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

3160. By the SPEAKER (by request): Petition of State board of health of the State of Mississippi, thanking Congress for the passage of the Sheppard-Towner bill; to the Committee on Interstate and Foreign Commerce.

3161. Also (by request), petition of Federal Employees' Union No. 2, Washington, D. C., favoring local self-government for the District of Columbia; to the Committee on the District of Columbia.

3162. By Mr. APPLEBY: Papers to accompany H. R. 9001, granting a pension to William Price; to the Committee on Pensions.

3163. By Mr. BARBOUR: Petition of the California Teachers' Association, northern section, indorsing the proposal to create a separate department to be known as the department of education, and indorsing the Towner-Sterling bill; to the Committee on Education.

3164. Also, petition of the Fresno Business and Professional Women's Club, of Fresno, Calif., indorsing the objects and purposes of the Disarmament Conference; to the Committee on Foreign Affairs.

3165. By Mr. GALLIVAN: Petition of mass meeting of Lithuanian Organization of Boston, Mass., condemning Polish atrocities in Lithuania; to the Committee on Foreign Affairs.

3166. By Mr. HAWES: Petition of Margaret J. Carolan, State secretary of the American Association for the recognition of the Irish Republic, of Missouri, signed individually by 2,205 residents of the eleventh congressional district of Missouri, urging Congress to take the necessary action to bring about the recognition of the existing duly elected government of the republic of Ireland by the Government of the United States in accordance with the traditional policy of our country, faithfully adhered to since the early days of the Republic; to the Committee on Foreign Affairs.

3167. By Mr. KISSEL: Petition of El Comercio, New York City, protesting against the 60 per cent tariff on Cuban sugar; to the Committee on Ways and Means.

3168. Also, petition of Track Specialties Co., New York City, protesting against the 60 per cent tariff on Cuban sugar; to the Committee on Ways and Means.

3169. Also, petition of Southern Wholesale Grocers, Jacksonville, Fla., regarding the packers' consent decree; to the Committee on Agriculture.

3170. By Mr. NEWTON of Minnesota: Petition of City Council of Minneapolis, Minn., urging total international disarmament; to the Committee on Foreign Affairs.

3171. Also, petition of board of county commissioners of Hennepin County, Minn., urging prompt and effective legislation in regard to putting through the plans of the Great Lakes-St. Lawrence tidewater committee; to the Committee on Rivers and Harbors.

3172. By Mr. RYAN: Petition of New York Chapter, Rainbow Division, Veterans' Association, recommending that the Forty-second Division (Rainbow Division) be reorganized as a complete tactical unit of the American Army; to the Committee on Military Affairs.

3173. By Mr. SNYDER: Petition of the First Presbyterian Church, of Remsen, N. Y., opposing the manufacture and sale of 2.75 per cent beer, and also against the Stanley amendment; to the Committee on the Judiciary.

3174. Also, petition of Women's Civic Club, of Little Falls, N. Y., favoring universal limitation of armament; to the Committee on Foreign Affairs.

3175. By Mr. WOODS of Virginia: Petition of members of New River Convocation of the Protestant Episcopal Church, diocese of Southwest Virginia, Blacksburg, Va., indorsing ideals of Disarmament Conference; to the Committee on Foreign Affairs.

3176. Also, petition of Women's Missionary Union, Bedford Baptist Church, indorsing ideals of Disarmament Conference; to the Committee on Foreign Affairs.

3177. Also, petition of Federation of Women's Clubs, of Bedford, Va., indorsing ideals of Disarmament Conference; to the Committee on Foreign Affairs.

3178. Also, petition of board of supervisors of Bedford County, Va., indorsing ideals of Disarmament Conference; to the Committee on Foreign Affairs.

#### SENATE.

WEDNESDAY, November 23, 1921.

(Legislative day of Wednesday, November 16, 1921.)

The Senate reassembled at 10 o'clock a. m., on the expiration of the recess.

Mr. CURTIS. Mr. President, I suggest the absence of a quorum.

The VICE PRESIDENT. The Secretary will call the roll.

The reading clerk called the roll and the following Senators answered to their names:

Cameron	Harrison	McLean	Robinson
Capper	Hefflin	McNary	Sheppard
Caraway	Jones, N. Mex.	Myers	Smoot
Curtis	Kendrick	Nelson	Spencer
Dial	Keyes	Norbeck	Trammell
France	Ladd	Norris	Watson, Ga.
Gooding	La Follette	Oddie	Watson, Ind.
Hale	Lenroot	Page	Willis
Harris	McCumber	Pomerene	

Mr. TRAMMELL. I wish to announce the absence of my colleague [Mr. FLETCHER] on official business.

The VICE PRESIDENT. Thirty-five Senators have answered to their names. A quorum is not present. The Secretary will call the names of absent Senators.

The reading clerk called the names of the absent Senators and Mr. HITCHCOCK, Mr. SHIELDS, and Mr. SUTHERLAND answered to their names when called.

Mr. CUMMINS entered the Chamber and answered to his name.

Mr. CURTIS. I was requested to announce the absence of the Senator from Washington [Mr. JONES] on official business.

Mr. CULBERSON, Mr. STERLING, Mr. BALL, Mr. NICHOLSON, Mr. ERNST, Mr. PHIPPS, Mr. CALDER, Mr. SIMMONS, Mr. MOSES, Mr. WELLS, and Mr. SWANSON entered the Chamber and answered to their names.

The VICE PRESIDENT. Fifty Senators have answered to their names. A quorum is present.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. Overhue, its enrolling clerk, informed the Senate that Hon. JOSEPH WALSH, a Representative from the State of Massachusetts, had been appointed Speaker of the House pro tempore, such designation having been approved by the House.

The message also announced that the House had passed bills of the following titles, in which it requested the concurrence of the Senate:

H. R. 8744. An act granting the consent of Congress to the State of North Dakota, the county of Cass and the city of Fargo, N. Dak., and the State of Minnesota, the county of Clay and the city of Moorhead, Minn., or any of them, and their successors and assigns, to construct, maintain, and operate a bridge and approaches thereto across the Red River of the North at a point suitable to the interests of navigation between the cities of Fargo, N. Dak., and Moorhead, Minn.; and

H. R. 9237. An act making appropriations to supply deficiencies in appropriations for the fiscal year ending June 30, 1922, and prior fiscal years, supplemental appropriations for the fiscal year ending June 30, 1922, and subsequent fiscal years, and for other purposes.

The message also announced that the House had agreed to the amendments of the Senate to the bill (H. R. 6053) to amend section 955 of the Revised Statutes by extending the jurisdiction of courts in cases of revivor.

#### ENROLLED BILLS AND JOINT RESOLUTION SIGNED.

The message further announced that the Speaker pro tempore of the House had signed the following enrolled bills and joint resolution, and they were thereupon signed by the Vice President:

H. R. 6053. An act to amend section 955 of the Revised Statutes by extending the jurisdiction of courts in cases of revivor;

H. R. 7428. An act to amend section 1 of an act entitled "An act to incorporate Gonzaga College, in the city of Washington and District of Columbia"; and

H. J. Res. 210. Joint resolution for the appointment of one member of the Board of Managers of the National Home for Disabled Volunteer Soldiers.

#### SUPPLEMENTAL AND DEFICIENCY APPROPRIATIONS (S. DOC. NO. 84).

The VICE PRESIDENT laid before the Senate a communication from the President of the United States, transmitting supplemental and deficiency estimates of appropriations, in the sum of \$23,893.75, required by the Treasury Department, Division of Customs, Dye and Chemical Section, and also the Dis-



trict of Columbia, which, with the accompanying papers, was referred to the Committee on Appropriations and ordered to be printed.

#### PRESIDENTIAL APPROVAL.

A message from the President of the United States, by Mr. Latta, one of his secretaries, announced that the President had on to-day approved and signed the bill (S. 1283) for the relief of the Chicago, Milwaukee & St. Paul Railway Co.; the Chicago, St. Paul, Minneapolis & Omaha Railway Co., and the St. Louis, Iron Mountain & Southern Railway Co.

#### WORLD'S DAIRY CONGRESS (S. DOC. NO. 85).

The VICE PRESIDENT laid before the Senate the following message from the President of the United States, which was read, and, with the accompanying report, referred to the Committee on Agriculture and Forestry and ordered to be printed: *To the Senate and House of Representatives:*

I transmit herewith a report by the Secretary of State communicating the desire of the Secretary of Agriculture for the postponement until 1923 of the World's Dairy Congress, invitations to which were authorized by the act making appropriations for the Department of Agriculture approved March 3, 1921.

Inasmuch as it appears that adequate preparations for the World's Dairy Congress can not be completed in time to permit it to be held in 1922, I ask that the recommendation for postponement until 1923 receive favorable consideration.

WARREN G. HARDING.

THE WHITE HOUSE,  
Washington, November 23, 1921.

#### PETITIONS AND MEMORIALS.

Mr. ROBINSON presented resolutions adopted by a mass meeting of citizens of Little Rock, Ark., on Armistice Day, November 11, 1921, and signed by Gov. Thomas C. McRae, of Arkansas, and Mayor Ben D. Barkhouse, of Little Rock, Ark., favoring international disarmament, which was referred to the Committee on Foreign Relations.

He also presented resolutions adopted by the Business Men's Club, of Fort Smith, Ark., protesting against modification, revision, or cancellation of a joint consent decree heretofore entered into between the United States Department of Justice and certain meat packing corporations, etc., which was referred to the Committee on Interstate Commerce.

He also presented resolutions adopted by a meeting of citizens of Searcy, White County, Ark., October 14, 1921, favoring inclusion of the Missouri & North Arkansas Railroad in the tentative plan for consolidation of railroads, preferably attaching it to the Santa Fe Railroad, giving that railroad a line from the Kansas wheat fields to Memphis, etc., which was referred to the Committee on Interstate Commerce.

He also presented a letter in the nature of a petition from Prof. F. A. Wirt, of the University of Arkansas, of Fayetteville, Ark., praying for a reduction in freight rates, particularly on agricultural products and farm machinery, which was referred to the Committee on Interstate Commerce.

Mr. SHORTRIDGE presented a resolution adopted Armistice Day (November 11, 1921) by a mass meeting of approximately 2,000 citizens representing sundry societies, fraternities, and organizations in the city of Tracy, Calif., favoring the granting of prompt and adequate Federal relief to all disabled soldiers and their dependents, which was referred to the Committee on Finance.

He also presented letters and communications in the nature of petitions of the Placer County Chamber of Commerce; a citizens' mass meeting of Los Angeles; the Tulare County Pomona Grange, of Tulare; the First Baptist Church of Redlands; the First Methodist Episcopal Church, of Pasadena; Dr. I. D. Webster, of San Diego; and Caroline R. Wood, of Saratoga, all in the State of California, favoring limitation of armaments, open negotiations, etc., which were referred to the Committee on Foreign Relations.

He also presented a resolution adopted by the San Leandro (Calif.) Chamber of Commerce, favoring an appropriation to establish a naval base upon the Pacific coast at Alameda, Calif., which was referred to the Committee on Naval Affairs.

He also presented a letter in the nature of a petition from John W. Henderson, of Los Angeles, Calif., praying that Japanese be entirely excluded from the United States, that no portion of the foreign debt be remitted, and for the adoption of the sales tax, which was ordered to lie on the table.

Mr. HARRIS presented a resolution adopted by students of the Emory University, in Georgia, indorsing the Conference on Limitation of Armament, etc., which was referred to the Committee on Foreign Relations.

Mr. KENYON presented five petitions numerous signed by citizens of Fort Dodge, Sioux City, Marshalltown, Burlington, Grand Mound, and De Witt, all in the State of Iowa, praying for the recognition of the Irish republic by the Government of the United States, which were referred to the Committee on Foreign Relations.

The heading of one of the petitions was ordered to be printed in the Record, as follows:

Petition.

FORT DODGE, IOWA.

*To the President, the Senate, and the House of Representatives, Washington, D. C.:*

Whereas we believe that the conditions existing in Ireland are a menace to the peace of the world, and that the savage efforts of England, without protest by other civilized States, to repress representative government, are breeding disrespect for law and undermining the foundations of all organized government; and

Whereas we believe the highest and best interests of our country demand a free, prosperous, and peaceful republic in Ireland:

Therefore the undersigned citizens of the United States residing in the State of Iowa respectfully petition the Congress of the United States to take the necessary action to bring about the recognition of the existing duly elected government of the republic of Ireland by the Government of the United States in accordance with the traditional policy of our country faithfully adhered to since the early days of the Republic.

#### REPORTS OF COMMITTEE ON MILITARY AFFAIRS.

Mr. ROBINSON, from the Committee on Military Affairs, to which was referred the bill (S. 748) to remove the charge of desertion from the military record of Charles F. Getchell, reported it with amendments and submitted a report (No. 322) thereon.

He also, from the same committee, to which was referred the bill (S. 1655) for the relief of Orin Thornton, reported it with an amendment and submitted a report (No. 323) thereon.

#### MEMORIAL TO DEAD OF FIRST DIVISION, AMERICAN EXPEDITIONARY FORCES.

Mr. BRANDEGEE. Mr. President, from the Committee on the Library I report back favorably without amendment the joint resolution (H. J. Res. 81) authorizing the erection on public grounds in the city of Washington, D. C., of a memorial to the dead of the First Division, American Expeditionary Forces, in the World War, and ask for its immediate consideration.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution, which was read, as follows:

*Resolved, etc., That the Chief of Engineers, United States Army, be, and he is hereby, authorized and directed to grant the Memorial Association of the First Division, United States Army, permission to erect on public grounds of the United States in the city of Washington, D. C., a monument to the dead of the First Division, American Expeditionary Forces, in the World War: Provided, That the site chosen and the design of the monument and pedestal shall be approved by the Joint Committee on the Library, with the advice and recommendations of the National Commission of Fine Arts, and the United States shall be put to no expense in or by the erection of this memorial.*

Mr. BRANDEGEE. The joint resolution has passed the House, Mr. President, and it seems to me that it ought to be passed by the Senate without any question.

The joint resolution was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

#### BILLS INTRODUCED.

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. WELLER:

A bill (S. 2765) for the relief of the Fidelity & Deposit Co. of Maryland, Baltimore, Md.; to the Committee on Claims.

By Mr. BURSUM:

A bill (S. 2766) for the relief of Diego Antonio Sanchez; to the Committee on Claims.

A bill (S. 2767) to appoint First Lieut. Donald P. McCord, United States Army, retired, to the grade of major on the retired list; to the Committee on Military Affairs.

By Mr. KING:

A bill (S. 2768) to appropriate \$5,000,000 for the commencement of the Weber-Provo reclamation project in Utah; to the Committee on Irrigation and Reclamation.

By Mr. MOSES:

A bill (S. 2769) granting a pension to Josephine L. Webber (with accompanying papers); and

A bill (S. 2770) granting a pension to Cadie L. Eggleston (with accompanying papers); to the Committee on Pensions.

By Mr. KENYON:

A bill (S. 2772) to correct the military record of John W. Terry; to the Committee on Military Affairs.

A bill (S. 2773) granting a pension to Anne E. Ward (with an accompanying paper); to the Committee on Pensions.

## HOUSE BILLS REFERRED.

The following bills were each read twice by title and referred as indicated below:

H. R. 8744. An act granting the consent of Congress to the State of North Dakota, the county of Cass and the city of Fargo, N. Dak., and the State of Minnesota, the county of Clay and the city of Moorhead, Minn., or any of them, and their successors and assigns, to construct, maintain, and operate a bridge and approaches thereto across the Red River of the North at a point suitable to the interests of navigation between the cities of Fargo, N. Dak., and Moorhead, Minn.; to the Committee on Commerce.

H. R. 9237. An act making appropriations to supply deficiencies in appropriations for the fiscal year ending June 30, 1922, and prior fiscal years, supplemental appropriations for the fiscal year ending June 30, 1922, and subsequent fiscal years, and for other purposes; to the Committee on Appropriations.

## REPUBLIC OF HAITI AND THE DOMINICAN REPUBLIC.

Mr. KING. Mr. President, owing to a pressure of public duties, I am unable to accept the assignment of the Chair, under the provisions of Senate resolution 112, to a position upon the Haitian committee. I therefore tender my resignation, and I ask unanimous consent that the Vice President may name my successor. I take the liberty to suggest the name of the Senator from New Mexico [Mr. JONES] for that position.

The VICE PRESIDENT. Is there objection? The Chair hears none, and the Chair designates the Senator from New Mexico [Mr. JONES] to take the place made vacant by the resignation of the Senator from Utah [Mr. KING].

## AMENITIES BETWEEN THE HOUSES.

Mr. CURTIS. Mr. President, I ask unanimous consent to expunge from the permanent CONGRESSIONAL RECORD the language of the Senator from Missouri [Mr. REED], in which that Senator made personal reference to Representative VOLSTEAD, as published in the CONGRESSIONAL RECORD of Thursday, August 18, 1921. I will state that I have a telegram from the Senator from Missouri stating that he wants the matter eliminated, and I ask unanimous consent that that be done.

The VICE PRESIDENT. Is there objection? The Chair hears none, and it is so ordered.

## TAX REVISION—CONFERENCE REPORT.

The Senate resumed the consideration of the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 8245) to reduce and equalize taxation, to amend and simplify the revenue act of 1918, and for other purposes.

The VICE PRESIDENT. The question is on agreeing to the report of the committee of conference.

Mr. HITCHCOCK. Mr. President, before this report is agreed to I want to say a few words in reviewing the history of this bill to amend our tax laws.

What the bill actually does, in the main, is to reduce very largely the tax on incomes which are over \$200,000. It also repeals utterly the so-called excess-profits taxes, amounting this year to \$450,000,000, the repeal to take effect next year. These are the taxes which have been levied heretofore on the very high profits of the most prosperous corporations in the United States. In substitution for those taxes, the bill levies an insignificant increase of 2½ per cent on all corporations, whether prosperous and highly profitable or not. That is to say, it increases the flat tax on corporations from the present 10 per cent to 12½ per cent.

Mr. President, giving that as the gist of this bill, let me follow the course of its history briefly after it reached the Senate.

The Finance Committee, which reported this bill, and which, no doubt, represented the management of the Republican majority in the Senate, attempted a number of very well-defined purposes. In the first place, the Finance Committee, headed by the Senator from Pennsylvania [Mr. PENROSE], attempted an enormous reduction in the surtaxes imposed on large incomes—the incomes which run into large figures. On the smaller incomes of the country it made the most nominal and insignificant reductions.

As reported by the committee, this so-called tax reduction bill proposed a reduction of \$70 a year on incomes of \$10,000 a year, and, of course, on incomes of less than \$10,000 a year the reductions were still more insignificant.

On an income of \$20,000 a year the committee proposed a reduction in the tax amounting to \$250. That, also, is not a great reduction.

On an income of \$100,000 a year, however, the committee proposed to reduce the tax \$2,730. Now we begin to see the reduction cut some important figure for the relief of men enjoying large incomes.

On an income of \$150,000 a year the committee proposed to reduce the tax \$12,730. Here again we note a rapid progression in the relief afforded to men of large incomes.

Reaching an income of \$200,000 a year the Finance Committee proposed to the Senate a reduction of \$24,370. That is to say, a man enjoying an income of \$200,000 a year was to be given relief to the extent of \$24,370 in the tax that he had been heretofore paying.

When we reach a man with an income of \$300,000 a year we find that the committee asked the Senate to reduce his taxes to the extent of \$52,730 a year.

When we reach the man with an income of half a million dollars a year we find that the head of the Finance Committee and the Republican managers of the Senate proposed to reduce his taxes \$114,730 a year.

When we reach the citizen who has an income of a million dollars a year we find that it was proposed to give him relief from taxation to the extent of \$274,730.

I am not going further than the man with an income of \$5,000,000 a year. There are a good many men who have larger incomes than \$5,000,000, but in the case of every man having an income of \$5,000,000 a year this committee, inostensibly carrying out the pledge of tax reduction for the country, proposed to reduce the taxes of that man with an income of \$5,000,000 a year to the extent of \$1,594,730 a year.

That is what the committee proposed, and that is what would have been accomplished in the Senate had it not been for the determined fight made by Democratic Senators upon this side of the aisle, assisted as it was by a number of Republicans upon the other side of the aisle who felt that it would be an outrage upon the country to perform a pledge of tax reduction by giving the relief almost entirely to men enjoying the greatest incomes in the country.

In contrast to that, let me show what was actually done here in the Senate as a result of this cooperation between the solid Democratic vote of the Senate and the small number of Republicans on the other side of the aisle who voted with us to bring about greater equality and reduce the proposed favoritism.

On the income of the man having \$10,000 a year, the result of the Senate debate was to leave the reduction as it had been placed by the committee at \$70.

On the income of the man having \$20,000 a year, the result of the struggle in the Senate was to make his reduction \$240, instead of, as had been proposed, \$250.

On the income of the man having \$100,000 a year, the result of the struggle here in the Senate was to defeat the proposal of the committee to give him a reduction of \$2,730, and he was given a reduction of \$1,240.

On the income of the man reaching \$150,000 a year, the result of the struggle here in the Senate was to give him a reduction of \$4,040, instead of, as proposed by the committee, \$12,730.

On the income of a man amounting to \$200,000 a year, the result of the struggle here in the Senate, was to give him a reduction in taxes of \$14,040 instead of \$24,370.

On the income of a man amounting to \$500,000 a year, the result of the struggle here in the Senate, was to give him a reduction of \$40,000 in taxes instead of a reduction of \$114,730, as proposed by the Finance Committee.

On the income of a man amounting to \$1,000,000 a year, the result of the debate and struggle here in the Senate, was to give him a reduction of \$110,000 in his taxes instead of, as proposed by the committee, \$274,730.

On the income of a man amounting to \$5,000,000 a year, whereas the committee had proposed to give him an abatement of his taxes amounting to \$1,594,730, the result of the struggle here in the Senate, was that his reduction was made \$710,000 a year.

In other words, the result of that struggle here in the Senate was practically to cut in half the proposed reductions which had been given on the taxes of great incomes, and to save that much at least to the Government from those who could well afford to pay what they have been heretofore paying.

Mr. President, I mention this because that was a well-defined struggle here upon the floor of the Senate. It was a struggle against odds. The Finance Committee had reported to the Senate a reduction in the surtaxes on these enormous incomes. The Finance Committee had behind it an enormous pressure coming from the great interests of the country which had contributed largely to finance the Republican campaign and which



no doubt had the pledge from Republican managers that their taxes would be reduced when the Republicans came into power.

It is perhaps not surprising that the Democratic Senators on this side of the aisle belonging to the minority party should have waged their war to avoid the carrying out of this bargain; but I want to compliment those Senators on the other side of the aisle belonging at least nominally to the Republican Party for joining the Democrats in bringing about that saving to the Government, for joining the Democrats in preventing that campaign pledge from being carried out to the uttermost.

That was one of the things attempted by the Finance Committee when it brought in the revenue bill to the Senate. It attempted to make an enormous reduction in the taxes of the very wealthy men of this country, having incomes running from \$150,000 a year to millions of dollars a year. That attempt was frustrated in part by the fight that was made between the Democrats in coalition with a number of Republicans who would not tolerate the carrying out of such a compact.

But, Mr. President, that was not the only iniquity attempted in this bill by the Finance Committee when it reported the bill to the Senate. It attempted at that time to incorporate in the bill provisions exempting certain interests from taxation; and to my mind one of the most outrageous tricks in legislation is to exempt from the taxes, which all ought to bear, favored interests able to secure the ear of those in power. I shall not go into all of these exemptions, but a number of them were wiped out on the floor of the Senate by a determined fight, made largely, although not altogether, on this side of the Chamber.

I will refer to one particularly, namely, the attempt made by the committee in that bill in a number of places to exempt from taxation so-called "foreign traders." The term "foreign trader" was carefully defined. It was defined to be a man or a corporation doing 80 per cent of his or its business in a foreign country and deriving 50 per cent of his or its profit from business in foreign countries. Such individual was to be exempted from taxation upon all of the income he derived from that foreign business. While that is how the term "foreign trader" was defined, the very definition, when we come to examine it, includes bankers, so that the great international bankers of the United States, who, as we know, have been doing a large amount of foreign business recently in negotiating loans, in financing foreign cities and foreign Governments, would have come under the definition of "foreign traders," and all the great profits they have made in such transactions, which have come to this country in the shape of profits and dividends, would have been exempted from taxation by that exemption applying to "foreign traders."

After a very determined fight upon the floor of the Senate, that exemption was wiped out of the bill, and Senators have been told by the Senator from North Carolina that that exemption alone would mean a loss in revenue to the United States of \$200,000,000. That means that \$200,000,000 would have been deducted from taxes of the concerns which are now and which have been during the last year transacting a large amount of foreign business. This exemption was inserted in the bill under the pretense of a desire to encourage foreign trade and foreign commerce for the United States, but it also included foreign banking, which was not mentioned, but which was carefully provided for in the definition.

So I say that one of the results of the fight upon the floor of the Senate, with the solid array of the Democratic Senators on one side, aided by a strong faction of the Republicans upon the other side of the aisle, was to prevent the inclusion in the law of that exemption, that practical theft of \$200,000,000 for favored interests.

There are other exemptions into which I shall not go, but there was one amendment which the Committee on Finance reported to the Senate and undertook to put through the Senate to which I wish to advert. It was the attempt to drop the so-called tax on the stock of corporations, which has been upon the statute books for a number of years. That tax is a nominal tax. It amounts to only one dollar on every thousand dollars of stock, and yet in the aggregate it amounts to \$75,000,000. The bill, as reported by the committee, undertook to eliminate that tax, and of course its elimination would have afforded immense relief to the very large corporate interests of the United States. It is a tax not seriously felt by the ordinary corporation. On a small corporation of \$100,000 capital the tax is only \$100, or \$250 on the corporation with a capital of \$250,000; but when we come to the great corporations, with their millions of dollars capitalization, the elimination of that tax was a great Christmas present which the Committee on Finance proposed to give them. That was defeated, and that was one of the results of the de-

termined fight upon the floor of the Senate made during the time the bill was under consideration.

These attempts to exempt from taxation the favored interests of the country, the great individual and corporate wealth of the country, had their counterpart in the attempt to unload on the masses of the people an increase in taxes. The Committee on Finance attempted to keep upon the statute books one-half of the tax on passenger transportation and one-half of the tax on freight transportation.

These taxes are borne by everybody. They increase the cost of travel and the cost of living. That attempt was defeated here on the floor of the Senate by Democrats and a few independent Republicans.

So much for what the committee attempted to do and what the active Democratic minority of the Senate prevented the committee from doing, with the aid of a minority of the Republican Senators.

I want now to examine for a moment what the Senate conferees have done with the bill which was re-formed here in the Senate and which was materially improved in the interest of justice and in the interest of the people by the fight which was made when the bill was before us. What have the conferees done?

Mr. President, when that bill was brought to the Senate it contained a provision, which originated in the House of Representatives, abolishing the excess-profits tax. That excess-profits tax was, to my mind, one of the most just and easily defensible taxes upon our statute books. It was a tax which fell only upon corporations earning extraordinarily large profits. It did not affect a corporation earning 5 per cent or one earning 6 per cent or 7 per cent or 8 per cent. It did not affect to any great extent the corporation which earned even 20 per cent, but it reached corporations earning more than 20 per cent, and it was a tax which will amount this year to \$450,000,000, according to the estimate of the Secretary of the Treasury. The House of Representatives, under its Republican management, wiped out that tax, and it was proposed to substitute for it another tax on corporations. It was proposed to substitute an increase in the existing flat tax on corporations.

There is at the present time a tax of 10 per cent on all corporate profits, regardless of the rate of profit which a corporation makes. It was proposed to increase that tax from 10 to 15 per cent, and I think we can assume that there was behind that proposal the idea that there ought to be something substituted for the excess-profits tax on corporations, for Secretary Mellon before the Finance Committee used this language in advocating the repeal of the excess-profits tax:

In fairness to other taxpayers and in order to protect the revenues, however, the excess-profits tax must be repealed, not merely reduced, and should be replaced by some other tax upon corporate profits. A flat additional tax on corporate income would avoid determination of invested capital, would be simple of administration, and would be roughly adjusted to ability to pay.

The gist of the recommendation by Secretary Mellon is that while it was necessary for certain reasons, in his opinion, to repeal the excess-profits tax, amounting this year to \$450,000,000 and in prosperous years to a great deal more, he thought there ought to be substituted for it some other tax on corporations. So there was put through the Senate a provision for an additional tax of 5 per cent, thus raising the flat tax on corporations from 10 to 15 per cent. That was not a complete substitute. It did not amount to \$450,000,000, but it did amount to about \$220,000,000.

What happened to that 15 per cent tax when it got into the hands of the conferees? They agreed to reduce that tax from 15 per cent to 12½ per cent, thus wiping out at once over \$110,000,000 of the tax on corporations which was supposed to take the place of the excess-profits tax.

Mr. President, I think in that respect the bill has been immeasurably damaged. The conferees by that act have made a reduction in the taxes of prosperous corporations, and of all corporations, very much greater even than had been originally proposed when the bill was in the Senate.

There are a good many corporations making a 50 per cent profit, and under the bill as it now comes to us every corporation making a profit of 50 per cent a year upon its capital secures a reduction which runs all the way from one-sixth to two-thirds in the taxes it pays.

Think of making a reduction of \$10 or \$20 or \$30 in the taxes of an individual who has a few thousand dollars a year income, all of which, practically, he uses for his living expenses, as is proposed in the lower schedules of this bill, and reducing the taxes of the great corporation which makes a profit of 50 per cent a year one-sixth or one-half or two-thirds; and the larger the corporation the greater the reduction.

There are many corporations in the United States making 50 per cent profit a year upon their capital whose taxes will be reduced more than one-half by this bill, even taking into account the increase in the flat tax on profits which has been made.

That reveals absolutely and clearly the policy underlying this bill. It is a policy designed to bring relief to the wealthy individuals with great incomes, and to the highly prosperous corporations with great profits, and they are practically the only ones who secure any relief by this bill worth mentioning. The other reductions are merely nominal; they are negligible.

Even a corporation which makes a profit of 33½ per cent a year on its capital will secure a reduction in its taxes varying from one-eighth to one-half, in proportion to the size of the corporation. The larger corporations get the one-half reduction, the smaller corporations get the reduction of one-eighth. So, running down the scale, when we come to the corporation making 25 per cent we find that it will secure a very material reduction and the corporation making 20 per cent will secure a considerable reduction, but when you get down to the corporations making only a moderate profit on their business the reduction is practically nothing at all, and in some cases their taxes will be increased by the slight increase in the flat tax.

So I say that we have revealed to us in the action of the Finance Committee as it brought the bill to the Senate and in the action of the conferees as they reported the bill back from conference the studied purpose that has been kept in mind of bringing relief to the wealthy individuals of the country with large incomes and bringing relief to the great corporations enjoying large profits while practically ignoring the rest of the taxpayers of the country and giving them little or no relief at all.

There is another thing that I forgot to mention when I was mentioning the results of the struggle upon the floor of the Senate. Another result of the debate and the struggle was to increase the taxes upon estates. As reported by the committee there was a maximum tax upon estates of 25 per cent.

Upon the floor of the Senate amendments were engrafted upon the bill so that when an estate exceeds \$15,000,000 and does not exceed \$25,000,000 the taxes were increased to 30 per cent on that excess, and when an estate exceeds \$25,000,000 and does not exceed \$50,000,000 that excess was taxed 35 per cent, and so on up until we reached the estate of \$100,000,000, when the tax was made 50 per cent on everything over \$100,000,000. Those amendments were fought into the bill under debate upon the floor of the Senate in spite of the opposition of the Finance Committee. The conferees wiped them out. They restored the original recommendation of the Committee on Finance, so that again is one of the things that happened to the bill as the result of passing through conference.

I have already referred to the fact that when the conferees brought the bill back here the proposed increase of 5 per cent on the flat corporate tax had been reduced to 2½ per cent increase, and that little 2½ per cent increase, which amounts to \$110,000,000 a year, is the only thing left to take the place of the abolished excess-profits tax, amounting to \$450,000,000 a year.

Mr. President, I could mention a number of things that happened in conference which violate evidently the purpose of the Senate in passing the bill and which destroyed the effect of the struggle here in the Senate to improve the bill. I shall close simply by mentioning the fact that after the Senate had, as a result of prolonged debate, engrafted upon the bill an amendment providing that tax records should be public records open to public inspection the conferees agreed to abandon that amendment. They agreed to restore the law as it has been heretofore, which locks up those tax records and makes them secret and private except under very difficult and narrow conditions.

It is only a matter of time when the American people are going to insist that tax records shall be public. Real estate tax records are public, personal tax records in all the States are public. Why should the tax records of the Government of the United States be made private and secret? Why have not the people a right to know what their neighbors pay? We know what the laborer earns, we know what the clerk earns, we know what real estate rents for, we know what our public officials receive, we know the average income of the ordinary man in everyday life. Why should these tax records, which deal largely with large incomes, be kept secret? It is said that it is on the ground of private interest; that it is on the ground of private rights. Mr. President, in my opinion there are no private rights which compare to the public interest in this matter. Secrecy is an invitation to fraud. Secrecy suggests corruption. There is nothing like publicity to make our

taxes honest, and to make the administration of those taxes honest.

When the committee abandoned that amendment which was ingrafted upon the bill in the Senate they abandoned one of the most self-evident reforms that can be mentioned. They abandoned something which they will be compelled some day by public opinion to accept.

Mr. President, this is in line with the whole history of the bill. From the time that it reached the Committee on Finance the responsible management of the Republican Party has done everything possible so to mold the bill that while in name it gives relief from the tax burdens of the past, it gives it only to the favored interests and the favored few. That is the history of the bill.

Mr. JONES of New Mexico. Mr. President, the Senator from Nebraska has just referred to the elimination of the amendment regarding publicity for tax returns. I recall that in looking through the bill after it came back from the conferees I missed that provision, and I did not have an opportunity to follow it up and see whether my first impression was right or not. The thought I gathered was that not only did they eliminate the provision making these returns public, but they eliminated the provision of the present law which permitted either House of Congress to call for those returns, so that now under the bill as we have it presented to us only the President of the United States can permit those returns to be examined and neither House of Congress can do it, if I have gathered the correct idea.

Mr. SMOOT. Mr. President, I will say to the Senator that that was the so-called Reed amendment, which was not agreed to. That was not the existing law.

Mr. JONES of New Mexico. Will the Senator kindly point to that? I think I can call to his attention where the right of either House of Congress to demand these returns has been eliminated from the bill.

Mr. SMOOT. But that was not in the existing law. That is all I can say about it. That was an amendment which was offered to the bill by the Senator from Missouri [Mr. REED] and agreed to by the Senate, and it is true that it has been eliminated.

Mr. JONES of New Mexico. Then I am right to this extent, that while it is not in the existing law, yet in the bill as it went from the Senate to the conferees it was provided that either House of Congress could require those returns to be made available for the use of either House?

Mr. SMOOT. Yes.

Mr. JONES of New Mexico. But now that is eliminated, so that neither House of Congress can make those returns available or get the information which might be derived from them.

Mr. SMOOT. The Senator is correct in the last statement, but of course the Senator's first statement was that it was the existing law, which is an error.

Mr. PITTMAN. Mr. President, I wish to ask the Senator from Nebraska if there is any way by which, under the rules of the Senate, the conference report could be referred back to the conference committee with instructions?

Mr. HITCHCOCK. I think, of course, the Senate can refuse to accept the conference report.

Mr. SIMMONS. I think the Senate can vote down the conference report, or the Senate can recommit the conference report with instructions.

Mr. PITTMAN. I prefer to see it recommitted with instructions.

Mr. SMOOT. The question before the Senate is simply to adopt or reject the report.

Mr. HITCHCOCK. While that is the question before the Senate, I presume a motion to recommit with instructions would take precedence.

Mr. SMOOT. Oh, I do not doubt that.

Mr. SIMMONS. There is no question about that.

Mr. HITCHCOCK. I think such a motion should be made. I think the Senate should make some effort to enforce upon its own conferees the decisions that it reached. We have no evidence whatever that the Senate conferees made any effort to secure from the conferees of the House any recognition of those important amendments which have apparently merely been abandoned.

Mr. WALSH of Massachusetts. Mr. President, will the Senator from Nebraska yield to me?

Mr. HITCHCOCK. I yield.

Mr. WALSH of Massachusetts. I should like to ask the Senator if he knows of anything more injurious to representative government than to have a legislative body debate for days and weeks upon important amendments to proposed legisla-



tion, have the roll called and a vote recorded, and then to have a group of men go into a conference room, secretly confer, and eliminate the recorded decisions made by that legislative body as if it were of no consequence whatever. Is there anything left for a free people except a political revolution if that thing continues to an extent that it completely nullifies the power and voice of the majority?

Mr. HITCHCOCK. I think there may be the ballot by which they can retire from office those Senators who have taken that attitude and broken that trust. My idea is that this legislative body has a right to have represented in the conference the ideas which it has enacted by placing hard-fought amendments on a bill. We have no evidence here whatever that any effort was made by our conferees to retain those amendments. In fact, there is all circumstantial indication that they were very glad indeed to surrender the amendments. We know, as a matter of fact, that they would have surrendered the increase which the Senate made in the surtaxes if it had not been for the fact that the House itself took the situation in hand and forced its own conferees to accept the action of the Senate.

Mr. WALSH of Massachusetts. And in the only instance when the House was permitted to render a decision on questions upon which this body had made its decisions—in that one instance they approved the course taken by the Senate. The House was denied any opportunity whatever to pass judgment upon the very many important amendments upon which this body had solemnly and after much deliberation adopted. I can not conceive of anything more destructive of representative government, anything eating more at the vitals of representative government, that is bound, if consented to without protest and political division, to lead to the destruction of our institutions, than abandoning and treating as naught in secret conference the judgment of the representatives of the people in their Congress. It is a political cancer that will spread until it prostrates our system of government unless we use the surgeon's knife before it is too late.

Mr. SMOOT. Mr. President, will the Senator yield to me?

Mr. WALSH of Massachusetts. I yield.

Mr. SMOOT. I wish to say to the Senator from Massachusetts that there never was an item yielded by the conferees of the Senate until after a vote had been taken by the conferees of the House—

Mr. WALSH of Massachusetts. I am not talking about conferees.

Mr. SMOOT. And until a majority of the conferees had agreed.

Mr. WALSH of Massachusetts. I am not talking about the conferees. I am denouncing a system of legislation which allows one branch of a legislative body to deliberate for weeks and months, call the roll and have a vote, and then allows the other branch of the Government to appoint their representatives, and finally allows three or five men from the other branch and a like number from this branch to meet and throw into the waste-paper basket the votes and the roll calls of the representatives of the people in either House of the Congress. I say to the Senator that if that is carried on, if that kind of work is permitted to go on unchecked, it will be doing in America the business of encouraging bolshevists and anarchists. The people of America want the roll called here and decisions made on their petitions, and they are willing to abide by the decision when made openly and by the consent of the majority, but they want their own representatives to stand up and be counted, and they do not want the action of their representatives to be thwarted by men whose names and votes are not recorded and who meet privately and secretly and repudiate the action of their own representatives in their own Congress.

That is the protest I make. The fact that there has been no record made or a record permitted upon these most important amendments in the other branch at the other end of this building, I repeat, is an indirect invitation to advocate revolution that is bound to come some day if this method is carried on day after day and week after week and session after session. This system is not open, public representative government; it is a form of autocracy and has all the evils of the secret diplomatic system which has caused such a loss of human life and promoted misery, suffering, misunderstanding, and wars wherever practiced.

Mr. SMOOT. Mr. President, I am not going to charge any motives to the Members of the House of Representatives. I think it is unnecessary.

Mr. WALSH of Massachusetts. I am not denouncing motives. I am denouncing this kind of governmental machinery; I am denouncing tyrannical rules; I am denouncing taxation

without representation; I am denouncing autocracy masquerading as democracy.

Mr. SMOOT. The conferees of the House could have taken back to the House any question that was in conference. The conferees of the House did decide to take the question of the surtaxes back to the House for its decision. I do not know of another amendment that they could not have taken back in the same way.

Mr. SIMMONS. Mr. President, I wish to ask the Senator from Utah a question. When the House conferees said that under their instructions they would have to take this matter back to the House if it was proposed to reduce the surtax rate below 50 per cent, I wish to ask the Senator from Utah, when that statement was made by the House conferees, if the House conferees were not informed that they might state to the House that the Senate conferees would be glad to make a compromise?

Mr. SMOOT. I never heard any of the House conferees say that they were instructed to take that back to the House. I do not think they were instructed.

Mr. SIMMONS. They were instructed.

Mr. SMOOT. I followed the record pretty closely, and I do not think they were instructed.

Mr. SIMMONS. I did not mean "instructed"; I will take that back. It probably should have been put in another form, that they entered into an understanding which they felt was binding upon them, which they could not possibly disregard, that before any agreement was reached reducing the 50 per cent rate it should be taken back to the House in order that a vote might be permitted upon the proposition to reduce the rate.

What I ask the Senator is, if the House conferees when that statement was made did not have the assurance from the Senate conferees that they would gladly acquiesce in the reduction of that rate down to 40 per cent?

Mr. SMOOT. I will say, Mr. President, that this was the situation as it existed in the committee, although I do not know that I am authorized—

Mr. SIMMONS. When I say "the Senate conferees," I do not include myself, of course.

Mr. SMOOT. Whether I am authorized to say it I doubt, but so long as the question has been brought before the Senate I am perfectly willing to state the situation, as I understood it. When the question was under consideration one member of the committee of conference who made the proposition asked, "Is there a chance for a compromise in the rate between 32 per cent and 50 per cent?" And he did suggest a compromise at 40 per cent. There was no action taken as to that either by the House conferees or by the Senate conferees. The House conferees stated that they felt that they ought to take the question back to the House for instruction. That is what the result of the conference was.

Mr. SIMMONS. Since the matter has been gone into thus far, I must state the exact facts. The chairman of the committee on the part of the Senate conferees—

Mr. SMOOT. Who spoke only for himself.

Mr. SIMMONS. Said this: "You may say to the House that the three Republican Senators who are members of the conference will accept a proposition of compromise fixing the rate at 40 per cent."

Mr. SMOOT. I wish to say—

Mr. HITCHCOCK. I yield to the Senator, but I should like to go on in a moment.

Mr. SMOOT. I wish to state, with the consent of the Senator, what really took place at that time. The Senator from Pennsylvania [Mr. PENROSE], as I recall, never stated that he made the proposition in behalf of the three Republican conferees of the Senate or that it could be put through.

Mr. SIMMONS. I want to say, most emphatically that I heard the Senator from Pennsylvania distinctly and that he said, "You can say that the three Republican members"—that was his language—"will agree to that."

Mr. SMOOT. I want to say to the Senator that I was one of the Republican members of that conference, and I never heard the Senator from Pennsylvania say one word to me about a compromise until he mentioned it in the conference.

Mr. SIMMONS. What I have stated occurred in the open session of the committee of conference.

Mr. WALSH of Massachusetts. Mr. President, the colloquy which has just taken place shows how damnable and contemptible is the present system of legislating in conference. The proceedings are carried on in secret; there is no roll call, no record of proceedings; any Senator may get up on this floor and deny that he voted in a particular manner or deny what he said, or deny what he did. I say, Mr. President, such a system of law-making is ruinous and destructive of free institutions. Proceed

along that line, especially in connection with a bill which relates so closely and intimately to the welfare of the people as a tax measure, which touches the very foundation stones of government, and the result will be disastrous. If the system of taxation is not equal and just and fair to all classes, a foundation is laid which in the end will undermine the whole structure, no matter how strong we build above the foundation. That is why legislation, every step in the making of the law, should be done in the open and by the majority.

Mr. SMOOT. Mr. President, the Senator from Massachusetts is simply condemning a method of procedure.

Mr. WALSH of Massachusetts. What have we just witnessed here? Senators are unable to explain or agree—

Mr. SMOOT. Not at all.

Mr. WALSH of Massachusetts. Upon what took place in a secret conference dealing with a bill of this importance and of this character. I am not complaining about any one item; I do not care if every amendment was eliminated from the bill. What I do protest against is the lack of opportunity for the representatives of the people to vote; what I do protest against is the want of a record in the conference to show who did this work and how the votes were cast which eliminated these amendments; what I further protest against is making null and void the deliberative proceedings of a great legislative body by a very small minority behind closed doors.

Mr. POINDEXTER. I should like to ask the Senator a question.

Mr. SMOOT. I want to say just one word.

Mr. HITCHCOCK. I should like to proceed, but I yield further to the Senator from Utah.

Mr. SMOOT. I want to say to the Senator from Massachusetts that ever since there was a House and ever since there was a Senate compromises between the House and the Senate have been arrived at.

Mr. WALSH of Massachusetts. But the conferees in their actions have been getting bolder and bolder.

Mr. SMOOT. The House of Representatives provided certain rates of surtaxes in this bill, the highest rate provided by that body being 32 per cent. The bill passed the Senate with a higher rate of 50 per cent. There was a difference between the House and the Senate. That was the question of compromise, Mr. President.

Mr. WALSH of Massachusetts. And it was left to the House and the House agreed with the Senate. That is the system that I am condemning; that is the system I am denouncing. Why were not such questions left to the House?

Mr. SMOOT. It was left to the House.

Mr. WALSH of Massachusetts. That one amendment, and that only, was left to the House. Am I right? Were the other amendments left to the House?

Mr. SMOOT. Mr. President—

Mr. WALSH of Massachusetts. Were the other amendments left to the House that the Senate changed—yes or no?

Mr. SMOOT. Mr. President—

Mr. WALSH of Massachusetts. I think I am entitled to an answer. Were the other amendments left to the House for decision—yes or no?

Mr. SMOOT. If the Senator from Massachusetts will just be patient, I will answer him.

Mr. WALSH of Massachusetts. Is not that a fair question?

Mr. SMOOT. I have answered the Senator once, but I will answer him again.

Mr. WALSH of Massachusetts. The Senator has not answered my question. He has answered to the effect that one amendment was left to the House; but what I ask is as to the other amendments that were adopted here after weeks of debate and struggle and many roll calls—were any amendments other than this one submitted to the House?

Mr. SMOOT. I have answered the Senator's question, but I will answer it again. The conferees of the House had a perfect right to take any other question to the House, but they did not decide to do so.

Mr. WALSH of Massachusetts. That does not answer my question. Be a man about it—say yes or no. The Senator knows that there was not a single, solitary amendment left to the House—

Mr. SMOOT. There was one amendment left to the House.

Mr. WALSH of Massachusetts. Except the one regarding surtax rates, to which the House agreed.

Mr. SMOOT. There was no other, and I have said so.

Mr. WALSH of Massachusetts. Why was there not any other? Was it not because the conferees did not want it done?

Mr. SMOOT. I will answer in my own way and not as the Senator from Massachusetts wants it answered.

Mr. WALSH of Massachusetts. The way the Senator answers it is very evasive.

Mr. SMOOT. Not in the least. I have said more than once that there was only one amendment taken back to the House. The Senator from Utah has nothing to conceal.

Mr. WALSH of Massachusetts. I will leave it to the Senator's colleagues to say how frank he has been; how willing he was to be frank.

Mr. SMOOT. Very well.

Mr. POINDEXTER. Mr. President—

Mr. HITCHCOCK. I yield to the Senator from Washington.

Mr. POINDEXTER. I merely wish to say to the Senator from Nebraska that, while I agree with him entirely that there are gross abuses frequently in the practice of conference committees as to the abuse which he is now speaking of, it seems to me not to be attributable so much to the system of conference committees or to conferees as to the system of this very representative body which he is eulogizing or to the rule adopted by the representatives of the people in what is frequently called the more popular branch of Congress. The submission of one single item out of this great revenue measure, without an opportunity to vote upon other features of the bill, was due to the action taken by the representative branch of Congress, and not by the conferees at all.

I was very much surprised to hear the distinguished Senator from Massachusetts say that the action of a conference in arriving at a compromise between a 50 per cent income tax in the higher brackets—

Mr. WALSH of Massachusetts. Mr. President—

Mr. POINDEXTER. I will ask the Senator to wait for a moment.

Mr. WALSH of Massachusetts. I referred to no particular item; but I criticized the system.

Mr. POINDEXTER. In just one second I will be glad to hear from the Senator from Massachusetts. He intimates that the method of arriving at a compromise between 32 per cent and 50 per cent as advocated, respectively, between the two houses of Congress would lead to a revolution. Mr. President, that has been the practice of parliamentary bodies ever since the development of parliamentary procedure. For a thousand years it has been in the process of development and of practice; and so far it has not been the cause of revolution, but it has been found to be an absolutely essential and necessary means of arriving at an agreement between the branches of any bicameral legislative body.

Mr. HITCHCOCK. Mr. President, the Senator from Massachusetts is absolutely right. The Constitution of the United States places upon the Senate and House of Representatives the responsibility for legislation. It is provided that that legislation shall be in the open; it is provided that a roll shall be called on the demand of one-fifth of those present at any meeting. That is in the interest of having the people know what is pending and how legislators vote, and having a record of the proceedings. However, there has grown up, Mr. President, a very bad system of so-called conference committees. It is quite possible to have a conference committee appointed representing the actual sentiment of the Senate and a conference committee representing the actual sentiment of the House, and having those conferees come together.

I think when they come together they should come together in open meeting, and I think the votes should be recorded; but that is not done. On the contrary, in this instance, the conferees of the House of Representatives did not represent the sentiment of the House and the conferees of the Senate did not represent the sentiment of the Senate; they represented the dominant Republican control in each House. The conferees on the part of the Senate were repudiated here upon the floor of the Senate by amendments which were driven into the bill in spite of their opposition. The conferees on the part of the House were ready and anxious to compromise upon the surtax rates, and it was only the authority of the House of Representatives itself which prevented those conferees from insisting upon a reduction of the maximum surtax rate carried by the Senate amendment. If the House conferees had insisted, the Senate conferees would have yielded, as we know, because it was common talk here in the Senate that, while we might force into the bill an amendment providing for a maximum surtax of 50 per cent, there would be a settlement probably at about 40 per cent. Who would make it? It would be made by the so-called representatives of the Senate who objected to the 50 per cent maximum rate. They would surrender that; we know they were going to surrender it, in whole or in part, as



soon as they got there, just as they surrendered the publicity amendment and just as they surrendered one-half of the increased flat tax on corporations which the Senate fought for and secured.

No; this is not an open conference; this is not a free conference; this is not, in my opinion, a constitutional way to pass legislation. There has been created here by custom a third house, which has no constitutional warrant, which meets in secret, which has no record, and which very often violates first the sentiment of one House and then the sentiment of the other.

Mr. POINDEXTER. May I ask the Senator a question?

Mr. HITCHCOCK. Yes.

Mr. POINDEXTER. Is not the condition which the Senator is now denouncing due very largely, if I may be allowed to refer to it, to the new rule of the House of Representatives governing conferences by which we are, as I believe, deprived of a free conference? I think that the Senator from Nebraska is absolutely right in his statement that this is not a free conference. I myself have had some experience with conferences of that kind. When we thought we had arrived at an agreement, we found that the conferees of the other branch of the legislature, instead of submitting the conference report which had been agreed upon, submitted items for a separate vote of the House and opposed in the other branch of Congress the agreement which had been reached in conference. Certain specific questions were taken out of the conference report and acted upon finally and conclusively in the other branch of Congress, the result being that we were denied the opportunity of a conference upon those features of the legislation which had been submitted to the conference, and consequently it was not a free conference. In that respect I agree absolutely with the Senator from Nebraska, although I may not agree in the particular application he is making.

Mr. HITCHCOCK. I think the Senator will agree to this: He served in the House, as I did; and he will agree that under the form of bringing in a great bill like this and jamming it through under a rule, as is often done and as was done in this case, it is legislating by machinery; and if under those circumstances the conferees represent only the dominant factor of the dominant party, their agreement does not represent the sentiment of the House.

Mr. SMOOT. The House voted for the 32 per cent.

Mr. HITCHCOCK. Yes; that is my idea exactly.

Mr. SMOOT. And that was the expression of the House at that time. I will say to the Senator frankly that in the conference it was agreed that at that time that was the sentiment of the House, but some of the Senators voted against it; and therefore the Members of the House wanted to follow the course taken by the Senators and changed their minds.

Mr. HITCHCOCK. I will say to the Senator that there was no adequate debate in the House on the question of making 32 per cent the maximum surtax. It was put through by machinery; but when the House Members had had the benefit of the great debate here in the Senate they were not only willing but they were determined to prevent their own conferees from reverting to the so-called decision of the House. That is just the benefit of having two legislative bodies. The second legislative body—particularly the Senate, where debate is free—very often changes the decisions previously reached in the other body, but a different situation arises if we have conferees who do not represent the majority opinion in the Senate, conferees who surrender without a struggle and without an explanation.

We have not had any explanation here of why the publicity clause was abandoned. We have not had any explanation here of why the tax on corporations is reduced from 15 per cent to 12½ per cent. We have not had any explanation of any other surrender that the conferees have made. They have simply handed in here a statement, nominally by the chairman of the committee, but actually drawn by one of the experts, explaining some of the mathematical changes which have resulted from the conference. That is all we have had. There has been no explanation even of this utter abandonment of these decisions of the Senate.

I am very much disposed to think that there ought to be a motion to recommit this conference report with instructions, and I hope some member of the committee will make it. If not, I shall take the liberty of making it myself later on.

Mr. NORRIS obtained the floor.

Mr. SIMMONS. Mr. President, before the Senator begins his statement, will he permit me to clear up a little matter of controversy?

Mr. NORRIS. I hope the Senator will wait until I get through. I shall not occupy the floor long, and what I desire to do is to clear up a little matter myself.

Mr. SIMMONS. Very well. The only reason why I interrupted the Senator at this time was because of the fact that a member of the conference on the part of the House is present, and I wanted to make a statement in his presence.

Mr. NORRIS. Mr. President, I have not taken any time in this debate and did not expect to do so. I shall occupy the attention of the Senate for a short time only; but I can not let go unchallenged some statements that have been made here this morning.

My colleague, the senior Senator from Nebraska [Mr. HITCHCOCK], has referred to the way in which some improvements in the surtaxes of income taxes were brought about on this bill when the bill was in the Senate. He continually referred to the fact that what improvements were made were made by a solid Democratic vote and a minority of the Republican votes. I agree to that. I believe that the bill as it came to us was improved by that kind of a combination and I want to give credit where credit is due. I have no desire now and never have had and hope I never may have to take a partisan advantage. Perhaps I do not have as much partisanship as I ought to; at least I do not have the same amount that most of the Members of the Senate have; but when I hear my colleague expostulating here as to what was done by the solid Democratic vote and a few Republican votes my mind carries me back to 1917, when the Democrats were in control of this body, when Woodrow Wilson was in the White House, and when he moved a great many Senators as easily and as completely as the player moves the wooden pawns on the checkerboard.

I remember that in 1917, Mr. President, soon after we went into the war, the Senate fought for weeks over the proposition of increasing income taxes and increasing taxes on war profits, and I remember that there was then a Democratic majority and a Republican minority, and those fights were made by a few Republicans and a few Democrats who were always defeated. We were always in the minority. The difference between my colleague and these Republicans over here who have been fighting to improve this bill is that these few Republicans fight for those principles whether their party is in control or whether they are in a minority. My colleague fights for those things when he is in a minority and can not accomplish anything, and votes the other way when his party is in control.

Mr. President, in 1917, when we had the revenue bill here at the beginning of the war, if the few Republicans that my colleague is glad to work with now had had their way then, they would have increased the taxation on war profits in a way that would have brought into the Treasury of the United States more than a billion dollars in excess of what was brought into the Treasury. We were defeated, and my colleague, as did most of the Democratic Senators, helped to defeat that very thing. There were a few over there who voted with us on every one of those amendments, but the senior Senator from Nebraska [Mr. HITCHCOCK] was not one of them.

But, Mr. President, the thing I wanted particularly to call attention to was that these Republicans who voted then for an increased surtax on big incomes, these few Republicans, in the minority as they were, who fought for increased taxes on war profits when the Democrats were in power, were found when this bill came here with a Republican in the White House and with the Republicans in control of the Senate and of the House fighting for the same principles that they fought for then. Let us see.

On the 23d day of August, 1917, the Senate had the revenue bill before it for consideration. The Senate was Democratic and the House was Democratic. There was a Democratic President in the White House. The condition was just reversed from what it is now and the same question that had been up in this bill was up then, at a time when it was more important than now, because there was more profiteering then than now.

On August 23 the Senate voted upon an amendment which was offered by the Senator from Wisconsin [Mr. LA FOLLETTE] to the tax section of the bill that would have raised a revenue, according to the estimates of the experts at the time, if it had been put into the law, of \$231,000,000. The rates of this amendment increased by gradual steps from sixty-six one-hundredths of 1 per cent on an income of \$3,000 to 59.91 per cent on an income of \$2,000,000. I find on looking at the Record that my colleague [Mr. HITCHCOCK], who is now boasting of the fight that he is making for increased taxes on big incomes, is recorded as voting "nay" on that amendment.

On the 7th day of September, 1917, the Senate voted on an amendment offered by the same Senator from Wisconsin to increase the taxes on individual incomes. The surtax rates of this amendment upon incomes of \$5,000 and not in excess of \$10,000 were lower than the committee amendment and higher

on the larger incomes. The surtaxes began with a tax of one-half of 1 per cent on incomes in excess of \$5,000 and not in excess of \$6,000 and increased by easy stages until upon incomes in excess of \$1,000,000 the surtax would have been 50 per cent.

That was quite an amendment, Mr. President. It would have brought in a very large amount of income; but some of these Senators, including my colleague, now so anxious to increase revenue and to increase the taxes on big incomes, I find upon examining the roll call voted against that amendment. Among the Senators voting "nay" is Mr. HITCHCOCK, of Nebraska.

On the 7th day of September, 1917, the Senator from New Hampshire [Mr. HOLLIS], a Democratic Senator—one of the few Democrats, by the way, who voted with these few Republicans at that time, and who refused to follow the behest of the leader in the White House—offered an amendment to that bill. He increased the rates, according to his statement, as estimated at the time, so that it would have brought in an additional income of \$144,000,000. I find when I look at the roll call that among those who voted "nay" is the Senator from Nebraska [Mr. HITCHCOCK].

Then, Mr. President, on the 1st day of September, 1917, the Senator from California [Mr. JOHNSON] offered an amendment to that bill that levied a tax of 73 per cent upon war profits. There was a great fight and a great debate over that amendment, but when the roll was called I find the Senator from Nebraska [Mr. HITCHCOCK] voting "nay."

On the 5th day of September, 1917, the Senate voted on an amendment to increase the war-profits tax by increasing the rates of taxation on each of the brackets of the bill except the lowest. The rates in this amendment began with 12 per cent on profits not more than 15 per cent in excess of the prewar profits and gradually increased to 75 per cent when the war profits were more than 300 per cent in excess of the prewar profits—another amendment that would have taxed the profiteers; but I find upon looking at the roll call that my colleague [Mr. HITCHCOCK] voted against the amendment of the Senator from California.

I have had only a few minutes to look up this record, although I was very clear in my mind as to what it was. With additional time I should go further into it and show additional circumstances. But I only wanted to call the attention of the Senate—and I hope of the country—to the inconsistency of my colleague. He has been right this time, and in this instance I agree with him. I wish we could have kept the income tax at the present rate, and I voted against the bill because of the change in the rate, among other reasons. I intend to vote against the conference report, because I do not believe it is fair. It lets too much wealth escape taxation. But I think now, as I thought then, that the only difference between myself and my colleague is that at that time, with the Democrats in control, he was following the lead of the President in the White House, doing his dictation, or he is going contrary now to his convictions, or he has experienced a change of heart. I hope it is a change of heart, and the one thing to indicate that it is, is that there is a senatorial election coming on in Nebraska now, and there was not then.

Senators ought to vote their convictions, regardless of what party is in power, and we have a just right to be suspicious of the sincerity of any man who experiences a change of heart on the eve of an election, especially when he is to be a candidate at such election.

Mr. SIMMONS. Mr. President, the suggestion has been made that a motion ought to be made to recommit the conference report. I am in sympathy with that suggestion. A few moments ago I expressed the opinion that a motion to that effect would be in order. After reflection, I am not so sure about that. I think if the Senate had the papers, and therefore under the rule would be required to first act upon the conference report, the motion could be made; but in this case the House has the papers, and the House has acted.

My understanding is that under the House rules a motion to recommit a conference report after the Senate has acted would not be in order. I fear very much that the same rule would obtain in this body in a case where the House acts first.

I therefore make a parliamentary inquiry of the Chair, as to whether a motion to recommit would be in order under the present conditions?

The VICE PRESIDENT. The Chair is of the opinion that a motion to recommit is not now in order.

Mr. SIMMONS. Mr. President, there has been some discussion with reference to the practice of conferees in disregarding the action of the House which they represent, and following their own wishes and views with reference to the matter in controversy in conference. In the main, I agree with the position taken by the Senator from Massachusetts; but I am not able

entirely to agree with him. Of course, where there are two legislative bodies, and where it is necessary that their minds should be brought together in order to make their action effective, there must be some means, outside of the action of the bodies themselves, to bring together the conflicting views of the two bodies. As the Senator from Washington has said, I think that practically every legislative body in the world provides for a conference committee for the purpose of accomplishing that result. In the nature of things, it must be so.

Mr. BRANDEGEE. Mr. President—

The VICE PRESIDENT. Does the Senator from North Carolina yield to the Senator from Connecticut?

Mr. SIMMONS. I yield.

Mr. BRANDEGEE. The Senator from Nebraska stated, if I apprehended his remarks, that the proceedings of the conference committee were conducted in an unconstitutional manner; that it was an unconstitutional proceeding; that a third house had been created, which has arrogated or assumed the powers of the other Houses. Does the Senator agree with that theory?

Mr. SIMMONS. No; I do not.

Mr. BRANDEGEE. It would seem to me that what the Senator has just said is the correct view of it, that a conference committee is a mere legislative device of the two Houses to suggest to the two Houses compromises and ways by which the two Houses themselves can take action.

Mr. SIMMONS. That is what I have said, and I was going to say more.

Mr. HITCHCOCK. What I said was that a conference committee, representing the two Houses, ought to represent each its own House honestly, and I stated that the conferees on the part of the Senate, because they were opposed to amendments which had been put in upon the floor of the Senate, gave them away without regard to those they represented. I said, further, that the conferees on the part of the House were only prevented from yielding in a direction the Senate conferees desired they should yield by the declaration of the House of Representatives that they should not do so. I realize that there has to be a conference committee, although it takes to itself these outrageous powers; but I say that when the conference committee meets, in common honesty, and in order to carry out the purposes of the Constitution, the conferees who represent the Senate ought to represent the sentiment of the Senate, and the conferees who represent the House should represent the sentiment of the House. That result we do not get, and have not gotten in this case.

Mr. BRANDEGEE. Mr. President, the Senator from Nebraska speaks of carrying out the views of the Constitution. The Constitution had no views about a conference committee, and no such committee is mentioned in the Constitution. It is a mere legislative device of convenience between the two branches. The Senator is correct in saying that he has said the things he has just said he said. He also said the things that I said he said. The trouble is that the Senator's grievance appears simply to be, not as to the institution of a conference committee, but that the particular members of this conference committee did not perform their duty in the way he thinks they should have done so.

Mr. HITCHCOCK. It is something more than that, Mr. President. The only justification for selecting conferees is to get those who represent the sentiment of the Senate to meet with similar conferees on the part of the House. When our conferees directly repudiate the sentiment of the Senate, and use their power as conferees to defeat amendments for which the Senate has declared, they are false to their trust, and they defeat the honest purpose of the conference.

Mr. BRANDEGEE. Mr. President, if that is so, the managers of the conference committee on the part of the Senate being the servants of the Senate, the remedy is in the hands of the Senate. If the conferees on the part of the Senate have betrayed the Senate, the Senate can discharge them or refuse to accept their recommendations. The remedy is a simple one.

Mr. CURTIS. Mr. President—

The VICE PRESIDENT. Does the Senator from North Carolina yield to the Senator from Kansas?

Mr. SIMMONS. I would like to finish my statement, but I yield to the Senator from Kansas.

Mr. CURTIS. I want to make merely a short statement. Under the rule which was adopted by the Senate, nothing new can be added by the conferees, and nothing can be taken away or eliminated from any provision which passed both Houses.

Mr. HITCHCOCK. Mr. President, the Senator will recognize the fact that it was necessary to adopt that rule in order to curb the power which conferees have been arrogating to themselves. Before that rule was adopted and insisted on they not



only undertook to compromise the views of the Houses, but they introduced new legislation which had not passed either House. That merely bears out my thought, that the time has come when the Senate should insist that its conferees shall represent its views and not their own.

Mr. SMOOT. Mr. President, I call the Senator's attention to the fact that there were 833 Senate amendments, that the Senate conferees yielded on 7, and that the conferees on the part of the House yielded to 826. Of course, I concede that some of the seven amendments were important amendments, but so were some of the others very important amendments.

Mr. HITCHCOCK. If the Senator from North Carolina will permit me one more interruption, I will say to the Senator from Utah that the amendments which the Senate conferees insisted on, and which they retained, are amendments which the Finance Committee ingrafted upon the bill, and the amendments which they surrendered were the amendments which were fought into the bill on the floor of the Senate.

Mr. SMOOT. The Senator is in error in that statement. I shall not take the time of the Senator from North Carolina to answer it, but I simply say that the Senator from Nebraska is in error about it.

Mr. SIMMONS. Mr. President, I did not rise to discuss the question which has been raised between the two Senators. I was discussing the matter of the conference.

As I said, the practice of appointing a conference committee, as we have evolved that system, is in conformity with the practices of practically all parliamentary bodies composed of two houses and requiring that there should be unanimity of action on the part of those two houses in order that their action should become effective.

Our system is not materially different from the systems of other countries, except possibly in the fact that we have not as thoroughly safeguarded the jurisdiction of the conferees of the respective houses as has been done in some other countries. I do not think that there is cause of complaint of a system providing a conference committee composed of representative Members of the two bodies, to come together and try to bring the action of the two Houses into accord and harmony. That is necessary, and the device of a conference is about the only one that mankind has up to this time worked out; but I believe that, by reason of the fact that we have not sufficiently limited the discretion of conferees, great abuses have sprung up in the actual or practical administration of this system in our country.

We have heretofore recognized that fact, and we have from time to time limited and defined the rights of conferees, with very good results. At one time the conferees on the part of the two Houses were so unrestrained in the exercise of their powers that they assumed to write into a bill matters of important legislative import which had not been considered by either House and upon which therefore there could be no disagreement. To meet that abuse we provided years ago that thereafter the conferees should have no power to add anything which had not been added by either House, or to subtract in certain cases. That limitation has been of great value. It has corrected many of the original abuses of the system. But in the Senate, as elsewhere, we correct abuses only when they have become so flagrant that they can not be tolerated any longer. I am of the opinion expressed by the Senator from Massachusetts [Mr. WALSH] that the abuses which now prevail, and which are not denied, resulting in many instances in a miscarriage of legislation, have grown so flagrant that the time has come when we should further curb the powers and the jurisdiction of conferees.

I admit the difficulty in reaching the abuse that now exists. It is very well illustrated in what has happened in connection with the revenue bill. We have before us now an instance where the conferees on the part of the Senate undoubtedly would have given up a vital amendment which had been placed upon the bill by the Senate if the House had not, as the result of its provision, seen fit in effect so to limit the discretion of their conferees as to require that that question should be brought back to the House before any surrender should be made as to a rate not which the House had imposed but which the Senate had imposed and in which the House by its subsequent action showed it concurred, and which its conferees and the conferees of the Senate were ready to surrender.

We have this illustration before us. Here was an amendment adopted by the Senate, subsequently concurred in by the House in overruling itself, which the conferees on the part of the Senate, the body that had adopted the amendment, were ready to yield, and as to which the conferees on the part of the House would have yielded if they had not been pledged to take the question back to the House for its action. If that had happened we would have had this result: We would have had a

provision limiting surtaxes to 40 per cent, when both branches of the Congress had deliberately declared they were unwilling that tax should be reduced below 50 per cent. In that case, of course, the will of the two bodies would have been defeated and brought to nought by the action of the conferees.

How are we to remedy this sort of thing? I think the remedy is probably twofold. Leading Members in the House never would have demanded and exacted the terms which they did and which forced the House conferees to carry this matter back to the House if they had not suspected that the conferees on the part of the House were not in sympathy with the action of the Senate with reference to that matter. They, therefore, indirectly it is true, placed a limitation upon the powers of the House conferees. Now, either House of the Congress could, where it has reason to question the concurrence on the part of the conferees which it appoints with respect to an important action of that body, instruct them as was done in this case, not by the House itself, but by leaders of the House, or instruct them by a vote of the body that before surrendering a vital question it should be brought back for the purpose of getting the instructions of the body with respect to it.

That practice would in a measure, I think, overcome the difficulty; at least I believe that where it is well known, as it was in this case, that the Senate conferees were not in sympathy with the action of the Senate with respect to most of the vital amendments which were made by this body, it would have been justifiable if we had segregated the amendments of great importance which we had reason to believe would be sacrificed if the conferees were permitted to exercise their will and discretion, and had instructed them with respect to those amendments.

That is one way of reaching the difficulty, rather cumbersome it is true, but not involving, I think, very much difficulty. Another means of doing it would be the selection, after the body has acted upon an important matter like this, of conferees known to be in sympathy with the action of the body. Under our system that can not very well be done unless we go outside of the membership of a committee. It could not have been done very well here because I know the Finance Committee as now constituted has upon it, representing the majority, a membership that is not very largely in sympathy with the views of the twenty-odd Republicans on the other side of the Chamber who as a bloc demanded of the majority members of that committee certain concessions and obtained them. The members of the committee were not in sympathy with that idea, and therefore, the effect and result was that we referred the matter to a conference committee the majority of whom were known not to be in sympathy with the action of the Senate upon these main propositions, although some of them had voted for them as a result of the agreement.

I say that so long as we are confined in the selection of our conferees to the committee bringing in the measure it would be difficult in circumstances like that to secure conferees whose views were in harmony with the action of the body, or in a case similar to the one about which we are talking. But I think that some reform can be worked out which would tend to remove the abuses that have undoubtedly crept into our system of bringing the minds of the two Houses together through a conference committee. I hope some of us will cooperate in trying to bring about some just and reasonable and fair rule that will further abridge the powers and the discretion of the conferees.

#### OPEN EXECUTIVE SESSION.

Mr. CURTIS. Mr. President, I wish to present a request for unanimous consent. A number of nominations have come from the President; I ask unanimous consent that the Senate may proceed to the consideration of executive business in open executive session for the purpose only of referring these nominations.

There being no objection, the Senate proceeded to the consideration of executive business in open executive session.

The VICE PRESIDENT. The Chair lays before the Senate a message from the President of the United States, transmitting lists of Executive nominations, which will be read and referred to the appropriate committees.

(The nominations referred to appear at the end of Senate proceedings to-day.)

Mr. CURTIS. Mr. President, I now move that the Senate proceed to the consideration of legislative business.

The motion was agreed to; and the Senate resumed its legislative session.

Mr. WILLIS obtained the floor.

Mr. SPENCER. Will the Senator yield to me for a moment to present a unanimous-consent agreement?

Mr. WILLIS. I yield for that purpose.

## MICHIGAN SENATORIAL ELECTION UNANIMOUS-CONSENT AGREEMENT.

Mr. SPENCER. Mr. President, I send to the desk a proposed unanimous-consent agreement which I think meets the concurrence of both sides, and if there be no objection I ask for its adoption.

The VICE PRESIDENT. The proposed unanimous-consent agreement will be read.

The assistant secretary read as follows:

It is agreed by unanimous consent that at 1 o'clock p. m. on the fourth calendar day upon which the Senate shall be in session after January 1, 1922, the Senate will proceed to the consideration of Senate resolution 172, declaring Truman H. Newberry to be a duly elected Senator from the State of Michigan, etc., and upon any amendment, motion, or substitute that may then be pending, or that may be offered or that may pertain thereto; that the Senate will continue such consideration to the exclusion of all other business, save only the consideration of routine morning business in the morning hour, and such other business as the Senate may by unanimous consent agree to consider, until the question is finally disposed of; and further, unless thus disposed of prior to the hour of 12 o'clock meridian on the sixth calendar day on which the Senate is in session after January 1, 1922, that from and after such day and hour no Senator shall speak for a longer period than 30 minutes on said Senate resolution 172 or upon any amendment or substitute offered thereto or any motion that may be made in connection therewith.

The VICE PRESIDENT. Is there objection?

Mr. SIMMONS. Mr. President, just a moment.

Mr. SPENCER. Mr. President, where the words "thirty minutes" occur it has been suggested that the language be changed to read "one hour."

Mr. NORRIS. Mr. President, I suggest to the Senator not to change the limit to 1 hour unless 30 minutes can not be agreed to. Is any Senator going to object to fixing the limit at 30 minutes?

Mr. TOWNSEND. I shall have no objection to fixing the time at one hour if that means that a Senator may speak but once and for one hour, but if it means that a Senator may speak for one hour several times, I shall object to the limitation being increased to one hour.

Mr. NORRIS. Let us leave the limitation at 30 minutes; that is long enough.

The VICE PRESIDENT. Is there objection?

Mr. HEFLIN. Mr. President, do I understand that three days are to be allowed for debate before the time is reached when speeches shall be limited?

The VICE PRESIDENT. The Chair thinks there will be but two days of unlimited debate.

Mr. SIMMONS. I will ask the Senator from Missouri to state precisely what the agreement now is, in order that we may all understand it.

Mr. SPENCER. Mr. President, I may say there are three things involved in the proposed unanimous-consent agreement. In the first place, up to the fourth calendar day upon which the Senate shall be in session after the 1st of January of course any Senator may speak on this matter when other matters are pending.

Mr. POMERENE. He may do so under the generally prevailing practice of the Senate.

Mr. SPENCER. He may do so under the usual practice of the Senate. On the fourth calendar day in January the resolution becomes the business of the Senate, and from the fourth calendar day of January until the sixth calendar day of January, if the Senate is in session, there will be unlimited debate.

Mr. SIMMONS. That is two days.

Mr. SPENCER. That is two days.

Mr. SIMMONS. The Senator is not providing for taking this matter up until the 4th day of January.

Mr. SPENCER. Not to make it the unfinished business of the Senate until that time. Of course, up to that date, during the month of December, according to the practice of the Senate—

Mr. SIMMONS. If the Senator will pardon me, if that is the arrangement we shall find when we meet in December that other matters will be taken up, and there will be a desire to dispose of them, so that there will then be no debate upon this question, except probably now and then a Senator may make a speech. The result of the agreement will be that we shall have only two days of unlimited debate with this question specifically before the Senate.

Mr. SPENCER. That is true.

Mr. NORRIS. As the agreement was originally framed—it was subsequently changed in order to suit the Senator from Missouri—there were three days of unlimited debate. I do not see why instead of making it the fourth calendar day it should not be made the third calendar day of January. That will afford three days of unlimited debate, commencing one day earlier.

Mr. SPENCER. Will that suit the Senator from North Carolina?

Mr. SIMMONS. If we are only going to have three days of unlimited debate, then I must understand that after that time has expired the limitation shall not apply except as to an hour to each Senator.

Mr. TOWNSEND. Does the Senator from North Carolina mean that a Senator may speak for one hour as often as he pleases?

Mr. SIMMONS. No. He may speak merely one hour upon the resolution and amendments.

Mr. TOWNSEND. That is satisfactory to me.

Mr. NORRIS. The Senator who mentioned the fact to me is not present, but he would not be disposed to agree to that. It is perfectly satisfactory to me, except that I do not like the provision allowing one hour; I should like to have the limit shorter; but one Senator whom I do not now see on the floor stated that he would object to the proposition as it was originally framed, that a Senator could speak but once and for only 30 minutes. The limitation as to one speech has been stricken out in order to avoid that objection. Now we run right against the other proposition that the Senator from Michigan objects if that limitation is not put in.

Mr. TOWNSEND. I do not object. I do not want to interfere with the original agreement. The point was made that a Senator might rise after a Senator had used 30 minutes and say something which the Senator who had exhausted his time might want to answer. While I do not like it, the provision was attached that after cloture should come into effect a Senator could speak but 30 minutes at a time, but he could speak as many 30 minutes as he pleased.

Mr. NORRIS. Of course, under the rule a Senator can speak but twice on one day. If we take a recess he could only speak twice.

Mr. ROBINSON. I think the first suggestion submitted as the result of a conference may be agreed to. I think the Senator from North Carolina [Mr. SIMMONS] is willing to withdraw his objection.

Mr. SIMMONS. I withdraw my objection after conference.

Mr. McKELLAR. So far as the limitation of 30 minutes is concerned, I desire to say I shall object unless the limitation is increased to one hour. No Senator can discuss this case in 30 minutes.

Mr. SPENCER. A Senator may take more than half an hour.

Mr. McKELLAR. There is nobody who can discuss this case in 30 minutes. I know enough about unanimous-consent agreements to know that the real debate is coming up after cloture is put into effect; we all know that. I am perfectly willing to assent to the unanimous-consent agreement if the time limit is made one hour.

Mr. POMERENE. Will the Senator allow me to make a suggestion?

Mr. NORRIS. Let me ask, if the proposition of the Senator from Tennessee is assented to, would he object to having the limitation of one hour apply from the 3d day of January? I do not like the idea of having unlimited debate for three days, and then practically unlimited debate after that.

Mr. ROBINSON. I think if Senators understood the arrangement in detail as originally suggested, they would find it more satisfactory than as suggested to be modified by the Senator from Tennessee.

Mr. SIMMONS. I want to suggest to the Senator from Arkansas that I originally made the suggestion, but, after understanding it, I think he is correct.

Mr. ROBINSON. The Senator from North Carolina confirms that suggestion.

Mr. McKELLAR. I shall object unless the time limit is fixed at one hour.

Mr. WILLIS. Mr. President—

Mr. HEFLIN. Let us have the proposed agreement again read.

Mr. WILLIS. I have the floor. I am perfectly willing to yield if Senators shall be able to reach some agreement, but I do not desire to yield indefinitely. I yield temporarily to the Senator from Missouri.

Mr. SPENCER. The Senator from Alabama asks that the proposed agreement again be read.

The VICE PRESIDENT. The proposed agreement will be again read.

The ASSISTANT SECRETARY. As originally presented the agreement reads as follows:

It is agreed, by unanimous consent, that at 1 o'clock p. m. on the fourth calendar day upon which the Senate shall be in session after January 1, 1922, the Senate will proceed to the consideration of Senate resolution 172, declaring Truman H. Newberry to be a duly elected Senator from the State of Michigan, etc., and upon any amendment, motion, or substitute that may then be pending or that may be offered or that may pertain thereto; that the Senate will continue such consideration to the exclusion of all other business, save only the considera-



tion of routine morning business in the morning hour and such other business as the Senate may, by unanimous consent, agree to consider, until the question is finally disposed of; and, further, unless thus disposed of prior to the hour of 12 o'clock m. on the sixth calendar day on which the Senate is in session after January 1, 1922, that from and after such day and hour no Senator shall speak for a longer period than 30 minutes on said Senate resolution 172 or upon any amendment or substitute offered thereto or any motion that may be made in connection therewith.

Mr. HEFLIN. I wish to know if the Senate understands that a Senator may speak 30 minutes upon the resolution itself and then 30 minutes upon the resolution of the Senator from Montana [Mr. WALSH] or any amendment that may be offered.

Mr. SPENCER. That is the understanding of those who drew the proposed unanimous-consent agreement.

Mr. SIMMONS. That 30 minutes should be allowed upon any amendment.

Mr. McKELLAR. I recall, Mr. President, that under the procedure followed in connection with the last two unanimous-consent agreements entered into two or three Senators took up all the time. I am not going to mention their names; we all know who they are. We know that that precise thing will be done. It is impossible to discuss this case in 30 minutes; in fact it is impossible to discuss it in twice that time. Let anybody who thinks he can discuss the case in that time try it after going over the record. I think an hour is a reasonable time, and if the Senator from Missouri will change the 30 minutes to one hour, I will be perfectly willing to agree, but otherwise I shall object.

Mr. POMERENE. Let me suggest that by common consent it was understood that the fourth calendar day should be made the third calendar day.

Mr. SPENCER. Not if the limitation is changed from 30 minutes to an hour.

Mr. POMERENE. I know that was the agreement as it was originally framed. I have no objection to either one of those days, so far as I am concerned, if we may so arrange.

Mr. KING. Mr. President, may I suggest to the Senator from Tennessee that it is very important that a unanimous-consent agreement be reached, if possible, for otherwise the Senator from Ohio, who is the ranking member of the Committee on Privileges and Elections, will be compelled to come back from Haiti where he is about to go to discharge an important public duty, or he will be compelled to resign from the committee which is to visit Haiti.

Mr. McKELLAR. I understand that, and I want some arrangement to be made in regard to this matter. I am very fond of the Senator from Ohio, and I would do almost anything to accommodate him, but I know from experience, as does the Senator from Utah and as all other Senators do, that when the case is finally taken up it will be within the hour rule, and whenever that is done there are certain Senators who will take up all the time. We know that that has happened time and time again. I have given my consent for the last time to an agreement which will permit one or two Senators to occupy all the time.

Mr. SPENCER. I suggest that the words "thirty minutes" be changed to "one hour," if the Senator from Tennessee demands that; otherwise that the agreement may stand as submitted.

The VICE PRESIDENT. On what calendar day—the third calendar day?

Mr. SPENCER. No; the fourth calendar day, the agreement to stand as it was originally, with the exception of changing "thirty minutes" to "one hour."

The VICE PRESIDENT. Is there objection to the agreement as modified? The Chair hears none, and the agreement is entered into.

Mr. SPENCER. I thank the Senator from Ohio.

#### TAX REVISION—CONFERENCE REPORT.

The Senate resumed the consideration of the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 8245) to reduce and equalize taxation, to amend and simplify the revenue act of 1918, and for other purposes.

Mr. WILLIS. Mr. President, I have been on the floor for a considerable portion of the time this morning, but other Senators have graciously occupied the time. I do not complain about that, because I merely wish to make a few brief observations touching the conference report. The conference report is, I suppose, not entirely satisfactory to anybody. Since rising to speak there have come to my mind some lines that I read somewhere:

Who'er thinks a faultless piece to see,  
Thinks what ne'er was, nor is, nor e'er shall be.

Those lines are probably applicable to legislation.

I am not one of those who think the measure now presented to us is a bad one. I think on the whole it embodies very good legislation, though many of its provisions are unsatisfactory to me; it contains very much more of good than ought to be commended than there is of evil that ought to be criticized. Consequently, when the conference report comes to a vote, since under the rules it can not be amended, I shall support it, and yet I do not desire it to proceed to a final roll call without making some observations, particularly in regard to one or two matters in connection with this proposed legislation which I think are exceedingly unfortunate and unwise.

It will be remembered by some Senators that when the bill was under discussion some of us made rather an active fight for the protection of what we regarded as the legitimate interests of the building and loan associations. There was a provision on that subject in the Senate bill at pages 85 and 86. The language of that provision, as finally amended by the committee, is:

Domestic building and loan associations substantially all the business of which is confined to making loans to members.

That is all that relates especially to building and loan associations.

I thought then, and I think now, that that was and is a fair provision. I therefore did what I could to prevent the adoption of amendments which seemed to me to be directed particularly with hostile intent against the building and loan associations of the country; but I am unable to understand—speaking thus, I say, as one friendly to the building and loan associations—the action of the conferees with reference to another amendment which is found in the printed copy now before us at page 40.

The House bill provided as an exemption—

So much of the amount received by an individual as dividends or interest from domestic building and loan associations operated exclusively for the purpose of making loans to members as does not exceed \$500.

So far as I am concerned, I think the practice of making exemptions is an unwise and a dangerous one. The majority of the Senate was of that opinion, and consequently, when we reached that provision in the House bill, it was stricken out. However, the conferees in their wisdom have inserted a provision as follows—I am referring to the statement made in the conference report, which says:

The House bill provided that individuals should not be required to include in their gross income so much of the amount received by them as dividends or interest from domestic building and loan associations operated exclusively for the purpose of making loans to members, as does not exceed \$500.

The Senate amendment strikes out the provision of the House bill. That, as I recall, was adopted here practically unanimously, without a record vote. Now the House recedes with an amendment permitting the exclusion from gross incomes of an amount of such dividends or interest not in excess of \$300, provided that this exclusion from gross income shall only be in effect from January 1, 1922, until January 1, 1927.

Mr. President, I think that is an unwise provision. I am anxious to hear some explanation of that from the conferees, and I trust that when I have concluded my brief remarks some one of the conferees will explain why that action was taken.

Mr. SMOOT rose.

Mr. WILLIS. I shall be glad to hear from the Senator from Utah at this time, if he cares to speak now.

Mr. SMOOT. Mr. President, I will do so later if the Senator desires.

Mr. WILLIS. I would just as soon have the Senator do so now.

Mr. SMOOT. I will say to the Senator that his position is exactly the same as my position on this item.

Mr. WILLIS. I think, on the whole, it would be better if the Senator would express his views just now, in connection with what I have said. I yield to him for that purpose.

Mr. SMOOT. Mr. President, the statement made by the Senator from Ohio is correct as to the action taken by the Senate, and it was a very wise action on the part of the Senate to strike out that provision. When we got into conference, the House insisted upon their provision. It was passed over as one of the disputed points by the conferees when we were first reading the bill for consideration of the different amendments. The second time that we went over the bill it was passed over. The Senate would not yield to the House on that item. The third and last time that we went through the bill to see if we could agree upon it there was a proposition of a compromise, cutting down the \$500 to \$300. That was almost the last amendment that was compromised upon, and I want to say frankly to the Senator from Ohio that it was a compromise. The House conferees positively refused, unless we did com-

promise, to agree to the Senate amendment, and a majority of the Senate conferees agreed to that compromise.

Mr. President, I think it is an outrage. It is unjust. It can not be defended, in my opinion; but we had to yield or have no report. This is what it means:

Six per cent on \$5,000 is \$300. Therefore, if a man and his wife and six children want to invest \$5,000 each in these associations, they can have an exemption of the income from \$40,000.

Mr. POMERENE. And his sisters and cousins and aunts.

Mr. SMOOT. Yes; and, as the Senator from Ohio suggests, his sisters and cousins and aunts. There is no limit. It is only adding another burden to the Government by allowing investment in tax-exempt securities other than those of the States and of the Nation; and I will say to the Senator that the Senate conferees really had to yield to it with that compromise of \$300 in place of \$500.

Mr. WILLIS. Mr. President, I am very grateful to the Senator from Utah for his explanation; and I do not doubt the loyalty and the ability and the activity of the Senate conferees in defending the position of the Senate. My only regret is that they found it necessary to accept this compromise.

While I am on that subject I want to say that I have received, as I think a number of Senators have received, numerous letters and telegrams bearing upon this proposition. Here is one from the Ohio Bankers' Association. In that telegram they call attention to the fact that the effect of this legislation undoubtedly will be to cause the wholesale transfer of large sums of money from banks and trust companies to building and loan associations. Attention is also called to the fact that this amendment inserted by the committee of conference will be of practical benefit only to holders of large blocks of stock in building and loan associations and will not benefit the small shareholder at all. It furnishes a convenient means for tax dodging. I hold no brief for banks or trust companies or building and loan associations. If anybody wants to make transfers of his deposits from one to another, that is all right; that is his own business; but I do not think it is the business of Congress so to legislate as to make such transfers practically inevitable. I think we ought to have kept out of that transaction. If the conference report had come back here as the bill passed the Senate, the provisions would have been in such form as to be fair not only to the building and loan associations but also to the banks and trust companies.

Mr. POINDEXTER. Mr. President—

Mr. WILLIS. I yield to the Senator from Washington.

Mr. POINDEXTER. Perhaps the most fundamental rule of taxation is that it should be uniform. It is very difficult to see any distinction in principle between savings invested in building and loan associations and savings invested in savings banks—perhaps mutual institutions organized not for profit, but merely for the benefit of their members, who in most instances are people of small means, who have small savings, and who invest them in savings banks as a matter of thrift. The country is interested in encouraging that mode of savings. It is also interested in building and loan associations. There are many people of small means, perhaps those who are building a house to be used as a home, a place of residence for a family, who invest their money in building and loan associations; but in the consideration of these two different methods of saving I fail to see why a preference should be given to one as against another in the matter of taxation; and I should be very much interested if the Senator from Ohio will permit him to do so, if the Senator from Utah would briefly state the ground upon which that discrimination is made, which seems to me to violate the fundamental principles of taxation.

Mr. WILLIS. If the Senator from Utah desires to respond further, I will yield to him; but I think he has already answered the question of the Senator.

Mr. POINDEXTER. I understood him to say that the House of Representatives simply refused to yield, but he did not state the reasons which they gave for this rather surprising position.

Mr. SMOOT. Mr. President, the reason given was that if we exempted this investment from tax upon the interest, money would flow into this particular line of endeavor.

Mr. POINDEXTER. How did the conferees justify a system of taxation which would cause money to flow into that particular line when the owners of the money might want to put it into some other line, which they had just as much right to do and which is just as much in the interest of public economy, thrift, and general welfare as putting it into a building and loan association?

Mr. SMOOT. There is no doubt that the Senator is absolutely correct. I can not see any defense at all for it; but

in order to reach an agreement on this bill that compromise was made.

Mr. WILLIS. Mr. President, since I have quoted from this telegram, I ask permission to incorporate it as a portion of my remarks. It is a telegram from the Ohio Bankers' Association.

The VICE PRESIDENT. Without objection, it is so ordered. The telegram is as follows:

COLUMBUS, OHIO, November 22, 1921.

HON. FRANK B. WILLIS,  
United States Senate, Washington, D. C.:

Foregoing resolution adopted to-day:

"Whereas the Federal income tax bill passed by the House of Representatives on November 21, 1921, contains in section 213 a provision which exempts from taxable income 'so much of the amount received by an individual after December 31, 1921, and before January 1, 1927, as dividends or interest from domestic building and loan associations operated exclusively for the purpose of making loans to members as does not exceed \$300'; and

"Whereas this provision if enacted into law will result in the wholesale transference of large sums of money from banks and trust companies to building and loan associations because of the large premium therein given the taxpayers for making the transfer; and

"Whereas said provision if enacted into law will act automatically and decidedly to the advantage of the taxpayers having large incomes; and

"Whereas the said provision is so manifestly discriminative in character as to make it purely class legislation; and

"Whereas the said income tax bill is now before the United States Senate for passage: Now, therefore, be it

"Resolved by the council of administration of the Ohio Bankers' Association, That the United States Senate be requested to eliminate from the said bill this unfair, unwarranted, and grossly discriminative provision."

OHIO BANKERS' ASSOCIATION.  
C. E. DUPUIS, President.

Mr. WILLIS. Mr. President, I do not desire to detain the Senate further upon that point, but I wish to direct their attention to another amendment—amendment numbered 627. I should not like to cast my vote for this bill on the final roll call without having some explanation upon that point.

The bill as it passed the Senate provided a tax of \$1.20 per wine gallon on vinous liquor, and \$6.40 per gallon on distilled spirits. It provided for the doubling of taxes on liquors diverted to an unlawful purpose. It provided for the concentration of liquors in fewer Government warehouses. I want to say, by the way, that those particular amendments were not introduced here at the suggestion of any special interest.

As I recall, they were introduced by the Senator from Missouri [Mr. SPENCER] at the instance of officials of the Treasury Department. Those administrative amendments were prepared in the Treasury Department to aid in the enforcement of the law and the collection of the revenues of the Government. My own judgment is that they are exceedingly wise provisions. Those are all stricken out, and we go back to the terms of the House bill.

The conferees, in their explanation at page 48, make the following statement:

The Senate amendment strikes out these provisions of the House bill and inserts three new sections, the first of which imposes a tax of 60 cents per wine gallon on intoxicating liquors, the second of which imposes a tax of \$1.20 per wine gallon upon all vinous liquors, and the third of which imposes a tax of \$6.40 per proof gallon upon all distilled spirits except alcohol, the result thereof being to impose this tax upon whisky withdrawn for medicinal purposes. The amendment also inserted various modifications of administrative features of the law relating to the storage and bottling of distilled spirits.

As I have just pointed out, the administrative provisions were suggested by the experts of the Treasury Department. The conferees have agreed absolutely to wipe out the amendments that were written by the Senate and to accept the House provision.

Another thing in that connection to which I wish to direct particular attention is this fact: I find from the Treasury Department that the amount of spirituous liquors withdrawn from warehouses during the last year, ending June 30, was as follows:

From distillery warehouses, 2,443,897 gallons; bottled in bond, tax paid, 5,000,000 gallons plus; withdrawn from general bonded warehouses, 1,500,000 gallons plus; a total of about 9,500,000 gallons. So much for the spirituous liquors.

The increased taxation provided by the Senate amendment was about \$4 a gallon. It is a very easy matter to compute the returns under that tax. Multiply \$4 by 9,000,000 and you will find about how much revenue is involved. In fairness I want to say, however, that the Treasury experts have advised that the probable loss in revenue would not be that great, due to various causes, but that it would be at least \$20,000,000. My own opinion is—though I hesitate to express it in the face of expert opinion—that that estimate is much too low. From



the figures as to the production of vinous liquors last year we find that the total amount of wine produced was 19,000,000 gallons; that there were 27,000,000 gallons on hand on June 30, 1921; and that on June 30, 1920, there were on hand 17,000,000 gallons. In other words, there are now on hand 10,000,000 gallons more than were on hand at the same time last year. The tax collected on such wines last year is something like \$2,000,000.

I venture the assertion that as a result of this action by the conferees we have thrown away at least \$30,000,000. We have made an effort to reduce taxation. We have not been able to reduce it as we would like because of the necessities of the Government, yet it is proposed to reduce these liquor taxes \$30,000,000. Why? At a time when in order to get the revenue to meet the necessary expenses of the Government it is found necessary to retain very many taxes which all of us would like to get rid of I wonder why this special favor should be granted to the distillery interests of this country. It was not granted by the Senate. As I have indicated, by the action of the conferees at least \$30,000,000, if not \$40,000,000, will be lost to the Government, and while I expect to vote for this report, because it can not be amended and because the bill has very much more of good in it than of bad, I think this provision should not have been enacted. I think this liquor is a luxury upon which we might very well have kept the tax, and I very much regret that this \$30,000,000 has been thrown away. This action of the conferees is a great benefit to those who have these liquors to sell, but it necessitates added burdens on other taxpayers and deprives the Government of at least \$30,000,000 of sorely needed revenue. The Senate amendments should have been kept in the bill.

Mr. SMOOT. Mr. President, I assure the Senator from Ohio that a majority of the conferees on the part of the Senate insisted with all the power at their command on keeping the Senate provision in the bill, for it meant at least \$25,000,000 revenue. So far as I am concerned, I would have kept that \$25,000,000 for the Government, and I would have eliminated an equal amount of the little nagging, irritating taxes; but the House insisted upon the provision found in the conference report.

Mr. STERLING. If the Senator from Utah is at liberty to do so, will he not give us the ground taken by the House conferees in regard to this matter?

Mr. SMOOT. They insisted it was wrong to impose a tax of \$6.40 a gallon upon liquors which may be sold in a drug store for beverage purposes. That was the basis of their opposition to the Senate provision. They did not want to tax whisky sold by a drug store as a beverage, because they designated it as medicine.

Mr. STERLING. Of course, the House conferees knew that under the law it could not be sold in a drug store for beverage purposes.

Mr. SMOOT. They claimed that where vinous liquors are sold upon prescription they are to be drunk, and therefore they are for beverage purposes; and I think that is the ruling of the department.

Mr. WALSH of Montana. As I understand, if a man has a certain amount of money which he desires to invest and buys Liberty bonds, which return him \$300, he has to pay taxes on that income. If he puts his money in a savings bank and it returns him \$300 interest, he has to pay an income tax on that; but if he loans it to a building and loan association and it returns him \$300, he does not have to pay a tax.

Mr. SMOOT. Mr. President, that is not the amendment now under discussion; that amendment has already been considered; but I will say to the Senator that the statement he has just made is correct.

Mr. WALSH of Montana. Referring to that, then, I inquire of the Senator if the conferees took into consideration the question as to whether that does not violate the rule of uniformity laid down in the Constitution?

Mr. SMOOT. I hardly think it does, because of the fact that it applies to all such organizations.

Mr. WALSH of Montana. Exactly; but upon what ground can a distinction be made between money loaned to a building and loan association and money loaned to a savings bank?

Mr. SMOOT. If the Senate conferees had had their way, that provision never would have been put back into the bill.

Mr. WALSH of Montana. I merely rose to inquire whether the constitutional requirement of uniformity was taken into consideration.

Mr. SMOOT. It was not taken into consideration or spoken of in the conference.

Mr. WALSH of Montana. It occurs to me that there is no ground for saying there is any difference between lending

money to a building and loan association and putting it in a savings bank.

Mr. SMOOT. I agree with the Senator absolutely.

Referring now to the remarks made by the Senator from Ohio [Mr. WILLIS], if it had been known that the Senate provision would have the effect of raising the price of whisky sold for beverage purposes by a drug store, there might have been a little excuse for the House provision; but taking into consideration that over 100 per cent profit is made upon every half pint of whisky that is sold in a drug store on a prescription, I think the objection to the Senate provision was far fetched. The result of it will be that not only will the bootleggers in this country continue to make enormous profits out of the people who are compelled to use the liquor for medicinal purposes, but it will permit the retailer to continue to make the outrageous profits he has been making. Only the other day a Senator called attention to the fact that at one of the drug stores in the District of Columbia he had to pay \$3.75 for a half pint of whisky which he had to have in a case of sickness, which I assert did not cost the druggist more than a dollar and a quarter with all the taxes added and with all the profit of making it taken into consideration. Even allowing for exorbitant profits, the druggist did not pay more than a dollar and a quarter for it, and he sold it at \$3.75 a half pint.

Is it necessary for us to concern ourselves over the question of relieving such business from taxation? I doubt it, as did the other conferees on the part of the Senate. But we did the best we could to get an agreement, and it was necessary for the Senate conferees to join in this agreement in order to be able to present the conference report to the Senate.

Mr. WILLIS. My attention was temporarily diverted. Did the Senator state that the Senate conferees were of the same opinion which he has now so clearly expressed?

Mr. SMOOT. The Senate conferees stood for the Senate amendment.

Mr. WILLIS. And the agreement which resulted was found necessary in order to get any bill at all?

Mr. SMOOT. In order to get an agreement.

Mr. POMERENE. Mr. President, my colleague a few moments ago called attention to the exemptions from the income tax of the dividends or interest on stock in building and loan associations. I realize that there has been considerable sentiment in favor of such a provision. As I have stated once before in the course of debate on the bill, I think perhaps we have more capital invested in building and loan associations in Ohio than is so invested in any other State of the Union. The question came up as to whether or not such building and loan associations should be taxed. Both my colleague and I were against the exemption of building and loan associations from taxation.

Some time ago a resolution was passed by some of the building and loan associations of the State of Ohio asking for the \$500 exemption contained in the original House text. I was opposed to it then, and I am opposed to any exemption of that character at the present time, and I may say that I think the best advised building and loan association people in the State of Ohio do not favor that exemption.

This question is going to rise to plague the Congress, in my judgment. Think of the situation. We may have in the same city or town a savings bank, and a building and loan association which is receiving deposits, it may be, or selling stock, both of them of vital importance to the community. But under this amendment, if any man has any deposits in the savings bank, or any stock of the savings bank, his income derived therefrom is subject to the tax, and the temptation will be to take his deposits out of the savings bank and put them into the building and loan association, or to sell his stock in the savings bank and put the money in the building and loan association. If this were hedged about by any limitations there might be some possible excuse for it, but any tax dodger can invest \$5,000 of his funds in building and loan association stock for himself, another \$5,000 for his wife, and another \$5,000 for each of his children, and it would result in another tax-exempt security being added to the billions which we have now. That is the vice of it. I think I am right when I make the statement that the only people who have favored the exemption are the rich stockholders of the building and loan associations.

It is represented to Senators that this is done for the benefit of the workingman. Has anyone received any communication from any workingman asking that this be done? I have received none, and my mail is usually crowded with communications of all kinds when proposed legislation relates to a tax measure of this sort.

Now, what is the situation? If one of his neighbors or friends were to come to a Senator and ask his advice about

building a house now, is there any Senator who would advise the building of a house at the present price of labor and material? As a result of the provision which I am discussing, those who are interested will be going around trying to encourage workmen to build houses. The workman will be required to give a mortgage and will get for \$3,000 a house that probably would cost him about \$1,600 in normal times. That is going to be the trouble. This provision, in my judgment, is not going to benefit the workman.

Mr. President, there are a good many provisions in the bill with which I am not content, and one of them is the taxation of corporations in the way it is proposed to be done, increasing the tax of the corporation of low earning power and cutting off and relieving from taxation the corporation of high earning power. When it comes to the income tax and the different brackets, except that the exemption of the taxpayer is increased \$500 for those who have net incomes of less than \$5,000 and except the change in some of the higher brackets, there is little or no relief for the taxpayer who earns from \$5,000 to \$68,000. And now we have added another exemption for the benefit of those who have large means. It will not affect the rank and file of the American people.

For one I shall not vote for the conference report. I do not think it can be defended. The best thing we have heard said about it is a statement made by one of the Senators sponsoring the bill that it is a temporary measure, or something to that effect. I wish it were so temporary that it would expire before it went into operation.

Mr. SIMMONS. Mr. President, on yesterday in making a speech in the Senate I asked the privilege of inserting in the RECORD a certain table with reference to the taxes which would be paid under the provisions of the bill on incomes by individuals, partnerships, and corporations, which table had been prepared for me by the actuary of the Treasury, Mr. McCoy. That permission was granted. Mr. McCoy stated to me this morning that he had made a mistake in his estimate as to the amount which would be paid by corporations; that he had unfortunately and inadvertently included in his estimate of the tax which would be paid by stockholders on their dividends a normal tax which individuals pay, which ought to have been eliminated, and which elimination would have made the tax paid by corporations much less than he estimated in his table which I placed in the RECORD. I now desire to ask that I may be permitted to have placed in the permanent RECORD a table furnished me by Mr. McCoy this morning as a substitute for the table which I placed in the RECORD on yesterday.

The PRESIDING OFFICER (Mr. TOWNSEND in the chair). Without objection, the request of the Senator from North Carolina is granted.

Mr. CALDER. Mr. President, the tax bill is a disappointment to the people of the country, particularly the men who have looked forward to its enactment in the hope that it would inspire the business men of America to renewed activity.

Previous to the war we had no knowledge of income taxes, excess-profits taxes, corporation and other taxes as we have learned to appreciate them since 1917, and when the war was over it was the comforting expectation that these taxes would be modified in a way that would enable men to regain confidence in business and to take the risk of loss and gain.

It is easy enough to say that the rich should stand the burden; that if a man makes a half a million dollars he can afford to give three-quarters of it to the Government. That has been the trouble; we have forced ourselves here to believe that the American people have been beguiled by this sort of talk when facts tell us that there has been an extraordinary business depression; millions of men are out of work, and the winter is approaching with no prospect for many of them securing the bare necessities of life.

These people have come to understand that unless there is real activity in business the working men and women of the country are the first to suffer. Is it, Mr. President, that we lack the capacity to visualize this situation, or do we actually believe that the best way to serve the country is by saying to the man who has extended his business and is earning a profit that he must pay in taxes three-fourths of what he makes? Over and over again during the debate on this bill we have told the story of how men with large incomes have escaped taxation by investment in tax-exempt securities, while those in active business, whose capital was required to finance their enterprises, have been met with an almost confiscatory tax.

When this bill becomes a law there will be no inspiring confidence on the part of the country which will assure a business revival. I shall vote for it, because it is better than the present law, but I shall at once urge its further revision.

I voted in the Senate for a maximum surtax of 32 per cent. I voted against the 15 per cent corporation tax. If I had my way it would have been 10 per cent. I shall vote for this bill only, Mr. President, because, as I said before, it will be an improvement upon the present law. We have done away with the transportation tax, and we have repealed practically all of the so-called luxury taxes. We have cut down surtaxes 15 per cent. We have reduced the taxes on all smaller incomes. We have abolished the excess-profits tax. This much is an improvement over the present law.

I regret that the Senate conferees did not insist upon the retention of the provision in the bill increasing the tax on whisky. Here was an opportunity to secure for the Government revenue aggregating approximately \$25,000,000 per year. At the present tax of \$2.20 per gallon we are paying double the price for whisky for medicinal purposes than we did when the tax was \$6.40 per gallon. As I have indicated, the increase in the price of whisky, even with this additional tax, would have been so small that it would not have been noticeable, and I can not possibly conceive why the Senate conferees were willing to give way to the House on this question.

I shall offer a bill to-day authorizing the appointment of a commission to study this whole question of internal taxation and report to the Congress at the earliest possible moment. The appointment of such a commission would do much to convince the people that Congress is desirous of enacting legislation that will be really comprehensive and founded upon economic principles that will be sound and enduring.

Mr. President, in this connection, I ask unanimous consent out of order to introduce the bill to which I have referred, and I request that it may be read by the Secretary and referred to the Committee on Finance.

There being no objection, the bill (S. 2771) to create a tax-investigative commission was read the first time by its title, the second time at length, and referred to the Committee on Finance, as follows:

*Be it enacted, etc.,* That there is hereby established a commission, to be known as the tax-investigative commission (hereinafter in this act referred to as the "commission"), and to be composed of nine members, as follows:

- (a) Three members who shall be Members of the Senate, to be appointed by the President of the Senate;
- (b) Three members who shall be Members of the House of Representatives, to be appointed by the Speaker of the House of Representatives; and
- (c) Three members who shall represent the public, to be appointed by the President.

Any vacancy in the commission shall be filled in the same manner as the original appointment. The members representing the public shall serve without compensation, except reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of the duties vested in the commission by this act. The members who are Members of the Senate and House of Representatives shall serve without compensation in addition to that received for their services as Members of the Congress.

The Secretary of the Treasury shall furnish the commission with such clerical assistance, quarters, stationery, furniture, office equipment, and other supplies as may be necessary for the performance of the duties vested in the commission by this act.

SEC. 2. That it shall be the duty of the commission—

- (a) To investigate the effect upon Federal revenues of tax-exempt State and municipal securities, and possible methods of Federal taxation of such securities;
- (b) To investigate the effect of the existing differences in law between the Federal taxation of individuals and partnerships and of corporations;
- (c) To investigate the taxation of expenditures and the reduction of the tax rates upon savings, as means for raising revenue, stimulating thrift, and redistributing the burdens of taxation;
- (d) To investigate the effect of income and profits taxes upon the accumulation and investment of liquid capital; and
- (e) To make from time to time such recommendations as it deems advisable pursuant to such investigations, and to report on or before the first Monday in December of each year to the President and to the Congress as to its activities.

SEC. 3. That the expenditures of the commission shall be allowed and paid upon the presentation of itemized vouchers therefor, approved by the commission and signed by the chairman thereof. Reimbursement under the provisions of section 1 of the members representing the public shall be made out of moneys in the Treasury of the United States. All other expenditures of the commission shall be paid one-third out of the contingent fund of the Senate, one-third out of the contingent fund of the House of Representatives, and one-third out of moneys in the Treasury of the United States. For the expenditures of the commission which are to be paid out of moneys in the Treasury of the United States there is hereby appropriated, out of any money in the Treasury not otherwise appropriated, the sum of \$5,000.

SEC. 4. That the commission shall cease to exist on December 31, 1922.

Mr. POMERENE subsequently said: Mr. President, I did not understand what action was called for on the bill presented by the Senator from New York [Mr. CALDER].

The PRESIDING OFFICER. The Senator from New York introduced a bill which has been referred to the Committee on Finance.

Mr. POMERENE. That is all right. I thought the Senator was asking for action on the matter.



Mr. JONES of New Mexico. Mr. President, it seems to me that it is advisable at this time in a very brief way to call attention to the situation as it exists in this Congress regarding the pending bill.

I believe it will be generally conceded that this is the most important measure which could come before Congress in a time of peace. We are now dealing with conditions which have been brought about by reason of the World War. We find ourselves confronted with a very large, heavy burden in order to meet the exigencies of the Government at this time. Heretofore I have dwelt especially upon the fact that at such a time the principles of taxation should be well recognized and scrupulously applied so as to place the burden of Government where it should justly be borne.

We devoted considerable time to the discussion of this bill. I believe that the divergence of thought as to legislation of this sort was very well marked in the Senate, and that the country very well understands the reasons which actuated the various Members of this body in their action upon the measure. The bill has been passed through the Senate and has now come back to us from the committee of conference. That committee was composed, of course, of the leaders of this body as well as those of the other body. We can, I believe, now reasonably appraise the sentiment and the thought which actuate legislation of this kind in the minds of those who control the Congress. Upon the Finance Committee of the Senate and upon the Ways and Means Committee of the House we find the great leaders of the majority party in control of this legislation, and the bill as it comes to us now is stamped with the thought and the characteristics which that leadership represents. We are now able, therefore, to appraise that thought and that sentiment and ascertain the controlling principle which actuates such legislation in the Congress of the United States at this time.

This bill contains several titles, but only a few of them are very important. In connection with the excise taxes, the taxes upon doing business, the taxes upon luxuries, and the transportation taxes there is no special principle involved. They are looked to for the purpose of revenue production solely because of their peculiar situation and the fact that revenue can be raised from them.

A special tax upon luxuries has been looked upon as a proper source for raising revenue at this time. We now have a tax upon transportation. We felt that that should be removed. It has been removed and the country will be gratified with that result. Some of the excise taxes have been eliminated, and that will meet with the approval of the country. Other excise taxes remain, and I suppose almost all of us would be glad to get rid of many of those; but, so far as they are actually taxes upon luxuries, a great many of us felt that they might be retained at this time in order to contribute something to the support of the Government. Those, however, are not the important features of this bill; they are mere incidents in connection with legislation of this character.

The great amount of revenue to be raised by the Government at this time must come from taxation upon incomes and from estate or inheritance taxes, whatever you may choose to call them. It is to those features of the bill that we must look to discover the principle which is actuating the Congress at this time, and I take it, Mr. President, that there will be no difficulty in getting that bird's-eye view and perspective of this legislation which will enable us to understand just exactly what the leadership in this Congress means and how that leadership wants the taxes of this country borne by the people of the country.

The principle which ought to prevail is that the burden of taxes should be imposed upon those who are best able to pay and who can pay with the least burden. If I may say it, the sacrifice which is to be borne by the citizen should in some way be equalized, and it is evident that that can not be done by making everybody pay a tax at the same rate. In every country of which I have any knowledge where an income tax has been resorted to for the purpose of raising governmental revenue the principle has been recognized that there should be a graduated tax; that those having the highest income should pay a higher rate of taxation.

Now, with that in view, let us examine this bill and see what has been done. We find that upon individual incomes above the exemption on the first \$4,000 there is levied a flat tax of 4 per cent. A married man, with an exemption of \$2,000, having an income of \$6,000, must pay 4 per cent upon that as a flat normal tax, so called. In addition to that, on the amount between \$5,000 and \$6,000 he must pay an additional tax of 1 per cent. When his income rises above \$6,000 he pays a flat tax or a normal tax of 8 per cent and an additional tax of 2

per cent, making 10 per cent upon his income between \$6,000 and \$8,000. When his income reaches \$10,000 and a little above, then he pays at the rate of 12 per cent. So we have the man who has an individual income of a little over \$10,000 paying at the rate of 12 per cent. Everybody with an income of that magnitude pays at that rate.

I submit that a normal tax, a flat tax of 8 per cent on the amount above \$6,000, does not recognize the rule of having the taxpayer pay who is best able to pay. The normal tax is too great; it imposes too great a burden upon the people of average means.

Mr. President, when we compare individual income taxes with the provision of this bill imposing taxes upon corporations, what do we find? We find that under the bill as it is now presented here no corporation in the country, regardless of the amount of its income, regardless of its percentage of profit, is called upon to pay at any time more than 12½ per cent. So we put the individual with a meager income of \$10,000 a year upon the same basis practically, lacking the one-half per cent, with the profiteering corporations of the country. That will be the effect of this bill.

Now, let us see what the conferees did in regard to this, how they viewed the situation, and what they did to remedy it. As the bill was passed by the Senate it imposed a flat tax on corporations of 15 per cent. Senators will recall that I criticized that provision as being unjust, stating that it bore heavily upon the corporations which were making small incomes, that it increased their taxes by 50 per cent, while it reduced the taxes upon corporations making high profits upon their invested capital.

Now, let us see what the Senate conferees did and how they viewed that situation. When the Senate came to consider the question of the surtax upon individuals they increased that tax from 32 per cent, as provided by the House, to 50 per cent. When the bill reached conference, let us see what happened; let us see how the representatives of the Senate, how the leaders of the majority party in Congress, the spokesmen for those who shall say what the taxes of the people shall be, dealt with that situation. Let us see if we can find in their report something to indicate that they are willing to stand upon the fundamental principles of justice which should pervade the levying of every income tax.

Yesterday afternoon the chairman of the Committee on Finance [Mr. PENROSE] had read from the desk a statement of what the conferees had done. I presume it was not well understood at the time; Senators had no opportunity to study it. Probably it is printed in the Record this morning, but I think it well enough to call attention to that report which the chairman of the Finance Committee, who is also the chairman of the conferees, made to the Senate and ascertain if we can whether or not there was that spirit manifest in the committee of conference which the Senate wanted to prevail for the purpose of finally settling upon the bill which should become the law.

I read from that statement of the chairman of the committee:

On the vital question of income-tax rates an adjustment in the nature of a compromise is recommended. The managers on the part of the House accepted (under instructions) the Senate schedule of surtax rates applicable to individuals. The Senate conferees, in return, accepted the House rate of 12½ per cent applicable to corporations.

Mr. President, what spirit is manifested in that very first sentence as it comes from the conferees? The House, by its own action, accepted the amendment which the Senate had put upon the bill with reference to individual surtaxes. The House had control of its conferees; but now we are told that "in return," and as a mere matter of compromise, the conferees have accepted the original House provision for only a tax of 12½ per cent upon corporations.

Mr. President, they absolutely ignored the sentiment of this body which was behind the raise of the surtaxes upon individuals. It was felt in this Chamber that those surtaxes were not high enough, and so they were raised from 32 per cent to 50 per cent. What did that mean? Did it not mean that this body felt that taxes upon incomes should be raised rather than lowered? A tremendous effort was made in this body to have an excess-profits tax put upon corporations. At any rate, no one here felt that the tax on corporations would be reduced below the 15 per cent, but, as stated here, "in return" for the acceptance by the House of the Senate amendment upon surtaxes, what did they do? Did they devise some means of making corporations pay a little more, as the Senate had required individuals to pay? Not at all; but they went to the other extreme, and actually reduced the taxes upon corporations in return for what? The mandate of the House was that the taxes were not high enough on these incomes; and in return for the House putting it a little higher and meeting the Senate our conferees very

complacently say: "We will reduce the taxes upon corporations from 15 to 12½ per cent."

What spirit animated that conference body which caused it to do any such thing as that? Did they catch the spirit from anything done here, or was it caught from the zephyrs that came by from other and outside sources?

The comment upon that is as follows:

This reduction of 2½ per cent from the proposed Senate rate on corporations will reduce the tax burden on business—and correspondingly reduce the revenue in the first instance—by \$110,000,000 a year. \* \* \* The lower rate will be particularly reassuring to public utility companies and thousands of other corporations which are now earning only 3 or 4 per cent, or less, on the capital invested.

Mr. President, when did the change come over the spirit of their dreams? We talked here until we were red in the face about the injustice which was being done these public utilities. We tried to bring some relief to them. We tried to demonstrate that the bill as it came out of the Finance Committee of the Senate increased their taxes by 50 per cent and levied upon the transportation of the country a burden which must ultimately be paid by those who patronize the public utilities. We called attention to that, and they listened with deaf ears; and now only for the purpose of furnishing some excuse do they turn to the public utilities of the country and point to the corporations which are only earning 3 or 4 per cent upon their invested capital. Was that the reason? Was that the reason? Is it an excuse? Because what becomes of those profiteering corporations, thousands of them, as was shown here by the evidence, earning 100, 200, and more per cent upon their invested capital? They failed to call attention to the fact that while they are reducing the taxes upon these public utilities they are also reducing taxes upon the others.

Mr. WALSH of Montana. Mr. President—

The PRESIDING OFFICER. Does the Senator from New Mexico yield to the Senator from Montana?

Mr. JONES of New Mexico. I yield to the Senator.

Mr. WALSH of Montana. I want to inquire of the Senator from what source the loss of revenue to the extent of \$110,000,000 by reason of the reduction in the corporation tax has been made up?

Mr. JONES of New Mexico. It is not made up by anything that the conferees did.

Mr. WALSH of Montana. Then, if that is the case, either there will be a deficiency to the extent of \$100,000,000 in the revenue or else the bill as framed in the Senate produced \$100,000,000 of revenue more than was necessary.

Mr. JONES of New Mexico. Evidently the Senator's conclusion follows in the alternative. I will state, however, that the Senator from Pennsylvania [Mr. PENROSE] in his statement calls attention to the fact that on the 1st of November the President wrote a letter saying that he had found a means of raising \$94,000,000 from some other source, through the sale of railroad securities and some other things, thus making it unnecessary to do this and demonstrating, if the Senator please, that this whole legislation at this time is of a haphazard character of the very worst sort.

As I have previously stated, we passed a budget bill here—a bill which was lauded from one end of this country to the other. It was said that the time had now come when some system should be put into the affairs of the Government, when some business sense should be put into it; that we would have our budget, we would have our official estimate of the necessities of the Government, and then we would frame revenue legislation to meet those necessities, and meet them no more and no less. But what do we find here now? In view of this great, exalted idea which has been sent abroad over the country as political propaganda, we find the whole thing overturned, and here at the last minute the chairman of the Finance Committee, coming in from the committee of conference, tells us about a letter from the President of the United States to some one, we know not whom—

Mr. SIMMONS. Mr. President, if the Senator will permit me, I should like to interrupt him. I want to say to the Senator from Montana that because of the fact that most of the changes that have been made in these rates do not go into effect until the 1st day of January of this year—that is, in the middle of the present fiscal year, 1922—the deficit will not be so very great for this fiscal year. The actuary of the Treasury tells me that the bill as reported back to the Senate by the conference committee will involve a deficit for this fiscal year of possibly not over \$51,000,000, but that when the bill gets into full operation, as it will be in the fiscal year 1923, there will be a deficit of \$170,000,000.

Mr. JONES of New Mexico. Mr. President, all of these corporations earning only 3 or 4 per cent upon their invested capital, and even up as high as 8 per cent upon their invested

capital, notwithstanding this reduction, have their taxes increased by 25 per cent under this bill. Then they undertake to justify it:

And the 12½ per cent rate is a fair equivalent, or more than an equal equivalent, for the taxes paid by individuals and in effect by partnerships. More than 99 per cent of those who pay the individual as distinguished from the corporation tax will pay less than 12½ per cent on their net income under the bill as recommended.

Mr. President, what becomes of our principle of having the burden of taxation put upon those who are best able to pay? It may be true that only 1 per cent of the individual taxpayers of this country will pay an average tax of 12½ per cent. I have no means of checking up that statement; but it absolutely ignores the principle of fairness, the principle which should underlie legislation of this sort. Are you going to make the individuals who happen to pay a little less than an average of 12½ per cent upon their total income pay more simply because you put only 12½ per cent upon corporations?

Under this bill a man has an income of about \$31,000 before he pays an average of 12½ per cent of it; but in the meantime what becomes of these rates which they are paying? After you get above \$10,000 you are paying 12 per cent; after you get above \$14,000 you are paying 13 per cent; above \$16,000, 14 per cent; above \$18,000 you are paying at the rate of 20 per cent; and I should like to know what sympathy the leadership in this body, the leaders of the conference committee, the leaders of the great Finance Committee, have for those individual taxpayers, in view of what they have done in this bill.

Mr. President, that is exemplified by the following language in this statement of the Senator from Pennsylvania:

And, as part of the same general compromise, the Senate conferees agreed to that provision of the House bill which debars or excludes corporations from the benefits of a reduced rate on capital gains. The Senate plan in effect taxed capital gains at 40 per cent of the rates applicable to ordinary or other income. This would have meant in the case of individuals a maximum tax on capital gains of over 23 per cent—

That is, if the capital gains belonged to a man with a net income of over \$200,000, as to him it would have amounted to 23 per cent—

that is, 40 per cent of the maximum individual tax of 58 per cent. A tax of 23 per cent is high enough to freeze up or prevent capital transactions of the kind which, for the sake of the revenue, it is desired to encourage.

But in the case of corporations the Senate method would have taxed capital gains at only 5 per cent—that is, 40 per cent of the corporation tax of 12½ per cent. This discrimination or difference between the individual and corporation taxes on capital gains impressed the conferees as extreme; and accordingly—in consideration of the lower rate of 12½ per cent on ordinary corporation income—it is recommended that the privilege of paying a reduced rate on capital gains be confined, as in the House bill, to individuals; and that individuals electing to utilize this provision be permitted to include in capital gains profits derived from the sale of stock in corporations.

That is a very seductive statement. This is the privilege conferred upon individuals; if they make capital gains, either in the disposition of real estate or even in the sale of stocks and bonds, they are to have a reduction in their taxes. But let us see what individuals are brought within the terms of the bill. Upon page 23 of the bill as it comes from the conference committee I find this provision:

In the case of any taxpayer (other than a corporation) who for any taxable year derives a capital net gain there shall (at the election of the taxpayer) be levied, collected, and paid, in lieu of the taxes imposed by sections 210 and 211 of this title—

Those are the normal and surtax provisions of the bill.

A tax determined as follows:

I ask the attention of Senators to this:

A partial tax shall first be computed upon the basis of the ordinary net income at the rates and in the manner provided in sections 210 and 211, and the total tax shall be this amount plus 12½ per cent of the capital net gain; but if the taxpayer elects to be taxed under this section the total tax shall in no such case be less than 12½ per cent of the total net income.

Who will get the benefit of that provision? Only the man who pays a total tax on his net income of 12½ per cent, and that is the individual with an income of \$31,000 or more. So we have this provision in the bill, and we felt that it was necessary to reduce the taxes upon capital gain, and if a man sold his house or his ranch at a profit, or sold his factory at a profit, or sold any other capital at a profit, he should not have to consider all of that profit as gain during the one taxable year. Therefore the Senate provided that in such case he should consider only 40 per cent of those gains, in making his income tax return.

That applied to everybody, as it was passed by the Senate. The man who bought a home for \$5,000 and sold it for \$6,000 under the Senate provision would have to pay a tax upon only 40 per cent of the thousand dollars gain. It was enlarged in the Senate, over the objection of the Senator from Wisconsin [Mr. LENROTH] as I understand, so as to include stock transactions.



Now, in all of these instances of capital gain, whether coming from the transfer of real property, or from the sale of stocks and bonds, we have a provision for relief, but it is limited to those who have incomes in excess of \$31,000 a year.

Can Senators imagine a more stupendous infamy than such a proposition as that? At the time the conferees of the Senate were appointed, the Senate wanted all to participate alike in the reduction of taxation upon capital gain; but, as I think the Senate and the country will believe the conferees carried out the purpose to grant relief, through this bill, only to those who are profiteering upon the country, who have high incomes, and to put the burden upon those who are less able to pay.

Mr. KING. I would like to have the Senator tell me just how that would operate in a case such as I will illustrate. Assume a capital gain of a million dollars by some individual whose net income is two or three or four hundred thousand dollars a year. Assume the case of a farmer whose income is two or three thousand dollars a year, who has owned his farm for many years, but during the past few years, by reason of some industrial development in his neighborhood, or from other causes, it has increased in value very much, let us say 100 per cent, and he sells that farm at an advance of 100 per cent. How would the bill as it comes from the conference committee operate as to those two cases?

Mr. JONES of New Mexico. Unless he had a total net income of \$31,000 or more, he would be taxed upon the full amount of that gain.

Mr. KING. And the man whose income was half a million, and whose capital gain was a million, would pay only—

Mr. JONES of New Mexico. He would pay only 12½ per cent tax upon the million dollars gain.

Mr. KING. I really can not understand how a conference committee, if they understood such a monstrous inequality, could have indorsed it. There must be some mistake in the Senator's computations; the conference committee must have been oblivious to the fact, or—and I can not believe it of them—they were seeking to perpetrate a wrong which can not be defended in morals.

Mr. JONES of New Mexico. Mr. President, my only answer is, read page 23 of the bill as it comes from the conference committee.

Mr. SIMMONS. Mr. President, undoubtedly the result which the Senator from New Mexico has pictured is correct. No taxpayer whose income is less than \$31,000 will receive any benefit from this 12½ per cent rate; that is undoubtedly so. That is brought about in this way: If allowed the 12½ per cent rate on his gains which is provided, then a man must account for his income tax separately, and it must be paid separately. If the income tax which he would have to pay is so small that the rate would be far below 12½ per cent—

Mr. JONES of New Mexico. Not the rate but the total tax.

Mr. SIMMONS. Yes; if the total tax should be far below that, which could only happen where the income was less than \$31,000—

Mr. JONES of New Mexico. That is true.

Mr. SIMMONS. Then he would not be entitled to the benefit of the 12½ per cent, and he would have to pay the normal rate of income tax, and the normal rate on his gains.

Mr. JONES of New Mexico. And he would have to pay the surtaxes, without taking into consideration the fact that he had any capital gain. I may add that the specious reason given for the adoption of this provision is that the tax on corporations is 12½ per cent only, but it is 12½ per cent, and the poor little individual who has a small income can never, under their supervision, with any consent of theirs, get any less rate of taxation than the corporations which are profiteering upon the people of the country. That is the specious reason they give, that if it were capital gain the corporation would have to pay 12½ per cent, so, before the individual can get any benefit even of the 12½ per cent, he has to show that he is paying an average of 12½ per cent upon every dollar of his income.

Mr. SIMMONS. The Senator did not let me quite finish my statement. I am not defending this at all. I am simply stating the facts. A man who has an income of \$31,000, including his normal income and his gain, would never have to pay a tax of over 12½ per cent, and that is the reason why a man whose income is less than \$31,000 would get no benefit from this, because if you include the gain and the income, and the two reach only \$31,000, then the taxpayer could never, under any circumstances, have to pay on the total over 12½ per cent.

Mr. JONES of New Mexico. The Senator's explanation, I think, is quite clear, and it is in accordance with this provision of the bill. But I must hurry along.

Mr. SIMMONS. While I was not defending it, I thought that should be stated in justice to the conferees.

Mr. JONES of New Mexico. In justice to the corporations, or to the conferees?

Mr. SIMMONS. Either way the Senator wants to put it, because I think the conferees had their minds pretty well set on the interests of corporations.

Mr. JONES of New Mexico. If the Senator can distort his statement into a justification of the acts of the conferees, he is a greater intellectual acrobat than I am.

Mr. SIMMONS. I did not say in justification. I said "in justice" to them.

Mr. JONES of New Mexico. Explain this as you will, while it may be in justice to the conferees, it is an injustice to the individual taxpayers of the country. Now, I desire to read another portion of the statement of the Senator from Pennsylvania, referring to the estate tax, as to why the Senate conferees receded on that. Many people have an idea that estate taxes should not be so very high; others think they should be high, and still others think they should be very high. I can understand that when you fix a tax rate upon estates of decedents you are doing an arbitrary thing, and that you are governed only by your own sense of justice in the matter. If the conferees had come back to the Senate and said, "We receded on the amendment increasing the tax upon estates because the House conferees felt that the House had gone far enough, and they were not willing to go any higher," no particular complaint could have been made.

But let us see what they say about it:

On two important amendments to the estate-tax title the managers on the part of the Senate were finally compelled to yield to the persuasive arguments and persistent demands of the House conferees.

Then they tell us what they were:

In Senate amendment No. 582 the estate-tax rates were increased by four new brackets, raising the present maximum rate of 25 per cent to 50 per cent. These increased rates, it was shown, could not bring in any additional revenue before the fiscal year 1924—

That was one argument. They continue—  
and they would, if adopted, so stimulate the distribution or partition of estates before death.

Mr. President, that was the reason. They did not want to stimulate the distribution of these estates before death. Then this follows:

A similar attitude was taken toward the proposed graduated tax on gifts. It would add in effect an entirely new tax to the present unduly extended system of Federal taxes. Moreover, gifts in contemplation of death are taxed under existing law.

That is true, if it is done within two years before the death.

In section 202(a) (2) of the proposed new revenue act both the House and Senate have approved a new provision by which in the case of property acquired by gift the basis for computing gain or loss shall be the same as that which the property would have in the hands of the donor.

Now, in regard to the estate tax, it is said that to increase the taxes upon estates will cause distribution of those estates by gift, and yet in the very next breath they take the tax off of gifts. It is said that the present tax law with reference to estates is being evaded by reason of gifts. It is said that other tax provisions are being evaded through the means of gifts. The father gives stocks and bonds to his children, dividing up the income and avoiding the high surtaxes. The gifts are made in order to avoid the inheritance tax. The Republicans complain of that now in the one breath, and in the next breath say there ought not to be any tax upon gifts. They apparently desire to leave the door open for those who have the highest inducement to avoid the payment of their just taxes.

Mr. KING. Mr. President, is that the persuasive argument to which the Senator referred?

Mr. JONES of New Mexico. That is the persuasive argument. I read further:

In view of its incorporation in the law it was deemed unwise to experiment with more extreme measures and to penalize by the imposition of a new and difficult tax that distribution of fortunes, particularly the so-called "swollen fortunes," which advocates of heavy inheritance or estate taxation usually assert to be the chief aim and purpose of estate or inheritance taxation.

That is not the purpose at all except possibly in the minds of some few. What we are seeking here is to get revenue for the purpose of paying the expenses of the Government. We want the revenue to pay the debts and the running expenses of the Government.

There are many other things to which I would like to refer, but I shall detain the Senate only a few moments further.

Further along in the statement I find this:

It is not possible at this time to make an accurate forecast of the expenditures for the fiscal year 1923.

If it is impossible to know what the expenditures for 1923 are going to be, why should this bill be passed now? We could easily enough pass a bill relating to transportation taxes and the so-called excise taxes. There would be little trouble about

that. It is true that the income-tax provisions of the bill do not become effective for over a year. Not until March, 1923, will anybody be called upon to make an income-tax return under the provisions of this bill. But, it is said here, it is impossible to estimate the amount of revenue which will be required. Then, I ask, Why should the bill be put through now? That, I think, is answered in another paragraph of this statement, as follows:

The revenue act of 1921 is a transitional or temporary measure.

Why?

It does not place the tax system on a stable or scientific basis.

To that I heartily agree.

But it is better than the law which it will supersede.

Mr. President, there is room for a difference of opinion there. I do not believe it will.

Mr. KING. Mr. President, will the Senator permit an interruption?

Mr. JONES of New Mexico. Certainly.

Mr. KING. I am not quite able to perceive the justification for the statement that this is merely a temporary and transitory measure. The Republican Party promised to the country, as soon as it came into power, a scientific, comprehensive, proper, and permanent tax law. Are we now to receive a patchwork and go through all of the trouble of preparing another tax bill in the course of a few months? Is that the policy of the Republican Party?

Mr. JONES of New Mexico. I think I can answer that in the language of the Senator from Pennsylvania. After telling what the bill is and about the amount of revenue that it will raise and will not raise, he said:

It is, as has been said, a temporary measure. But nothing better than a temporary measure will be possible until the people of this country give to the question of Federal taxation an amount and kind of study which it has not yet received; until, in particular, the people become convinced of the sincerity and truth of the contention that the proposal to reduce excessive tax rates is not designed to relieve the rich and the profiteer, but to avert the breakdown of the income tax, unshackle business, and increase the tax revenue.

That is the reason why it is a temporary measure. It is temporary because the House had courage enough to raise the surtaxes from 32 to 50 per cent, in accordance with the views of a majority of the Senate. It is temporary because they will not let this thing rest until they reduce the surtaxes upon individual incomes. They have succeeded in destroying just taxation so far as corporations are concerned, but there is another job to be done. They want to educate the people to the point of believing that a reduction of high taxes relieves business and adds to the revenues of the country. I wonder how long they will be engaged in the attempt so to educate the people of America?

Mr. President, taking the bill as it now stands, we have the corporations paying a tax of only 12½ per cent. This may be mere camouflage. It may be that they look with some degree of serenity upon the action of the House which met the Senate in applying a surtax up to 50 per cent, but with the covert and well-understood knowledge that in the bill there is a great reservoir into which these large profits and these large incomes may safely be put and never pay over 12½ per cent. There is nothing here to prevent anybody from organizing a corporation. There is no reason why any of the wealthy men of the country should not incorporate their personal business. What is to prevent any man from organizing a corporation to deal in stocks and bonds or to deal in anything in which he has an interest? He puts the property into the corporation. He never draws out a dollar except to the extent necessary to pay his personal expenses. The balance of it remains there as a revolving fund for investment and reinvestment, and at no stage can it be taxed above 12½ per cent.

Mr. President, that is the present bill, and I should like to understand how the people of the country are ever going to be educated to accept it and the principles upon which it is based.

#### THE PEACE FLAG.

Mr. WALSH of Montana. Mr. President, I ask unanimous consent to present a resolution upon which I think there will be no discussion.

The PRESIDING OFFICER (Mr. LADD in the chair). The resolution will be read for the information of the Senate.

The resolution (S. Res. 176) was read, as follows:

Whereas at a meeting of the Interparliamentary Union and World's Peace Congress, peace flags of many nations have been displayed, made by adding a white border to each national flag; and  
Whereas the United States flag, thus bordered as a peace flag, was carried by the first United States ship that passed through the Panama Canal, the *Christobal*, a flag now in the custody of the Daughters of the American Revolution at the Capital of the United States: Therefore be it

*Resolved*, That the Senate hereby requests the President to authorize United States delegates at the Conference on Limitation of Armaments, now sitting at the city of Washington, to display such a flag at the conference.

Mr. WALSH of Montana. I ask unanimous consent for the present consideration of the resolution.

Mr. SMOOT. Mr. President, before that is done, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Secretary will call the roll.

The roll was called, and the following Senators answered to their names:

Ashurst	Harris	Myers	Spencer
Brandegee	Harrison	Nelson	Sterling
Broussard	Hefflin	Nicholson	Sutherland
Bursum	Jones, N. Mex.	Norbeck	Swanson
Capper	Jones, Wash.	Norris	Townsend
Caraway	Kendrick	Oddie	Trammell
Culberson	Keyes	Page	Wadsworth
Curtis	King	Phipps	Walsh, Mass.
Dial	Ladd	Pittman	Walsh, Mont.
Elkins	La Follette	Polindexter	Warren
Ernst	Lenroot	Robinson	Watson, Ga.
France	McCormick	Sheppard	Weller
Frelinghuysen	McCumber	Shields	Williams
Glass	McKellar	Shortridge	Willis
Gooding	McKinley	Simmons	
Hale	McLean	Smoot	

Mr. TRAMMELL. I wish to announce the absence of my colleague [Mr. FLETCHER] on official business.

The PRESIDING OFFICER. Sixty-two Senators having answered to their names, a quorum is present.

Mr. SMOOT. Mr. President, as I caught the reading of the resolution it seemed to me that there was really no necessity for its passage. I may, however, have misunderstood it, and I therefore ask that the resolution may again be read.

The PRESIDING OFFICER. The resolution will be read.

The resolution was again read.

Mr. SMOOT. Mr. President, I repeat that it seems to me there is no necessity for the passage of this resolution. If it be desired that the flag shall be bound with a white border that might be done without any action such as is here proposed on the part of the Senate.

Mr. WALSH of Montana. Mr. President, I desire to say to the Senator from Utah that I am advised that appeal having been made to the authorities for permission to do what is here desired, they replied by saying, "We can not consent without some authorization from one or the other House of Congress." This emblem, signifying the activities of world organizations or world assemblages the purpose of which was to promote peace, has been in use for some time, and it seems appropriate that it should be displayed on this momentous occasion.

Mr. SMOOT. Mr. President, I think our flag is good enough as it is. I do not think it needs any kind of decoration whatever when displayed at the Peace Conference on the Limitation of Armaments, or at any other conference, or in any other place in all the world. The Stars and Stripes represent American ideals of government and all that is good in society and in government. Therefore, I object to the consideration of the resolution.

The PRESIDING OFFICER. The resolution being objected to, under the rule will go over.

#### AMENDMENT OF COTTON FUTURES ACT.

Mr. DIAL. Mr. President, I have noticed in last Saturday's Record a protest in the form of a resolution from the Legislature of Louisiana against an amendment which I introduced some time since to correct the cotton futures contract law. That resolution has every earmark of originating outside of the Legislature of Louisiana. However that may be, it misrepresents my proposed amendment. It states that I proposed to reduce below 10 the number of grades of cotton tenderable on contracts. That is entirely in error. My proposed amendment does not undertake to change the number of grades tenderable. Perhaps it might be better to increase the number of grades tenderable.

My amendment seeks to place the man out of the exchange on an equality with the exchange dealer. The present law gives the "bear" dealer ten chances to the other's none. This depresses the price of cotton always. The South can not prosper under this practice.

At the next session of Congress I expect to press my amendment, and we will give the Louisiana people or anybody else every opportunity to be heard. I feel a deep interest in the matter, and I hope to have legislation passed at an early date after the reconvening of this Congress for the regular session that will benefit the grower of every bale of cotton in the United States. I am ready and anxious to debate the question with any man in or out of any legislative body in this country.



## TAX REVISION—CONFERENCE REPORT.

The Senate resumed the consideration of the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 8245) to reduce and equalize taxation, to amend and simplify the revenue act of 1918, and for other purposes.

Mr. SMOOT. Mr. President, I am going to take but a few moments of the time of the Senate, for I am sure that a number of Senators are expecting to leave the city within a very short time and want to vote on the conference report before leaving. So I am not going to undertake to answer any of the charges which have been made or any of the criticisms which have been offered against the conference report. With many of those criticisms I agree most heartily. Others, it seems to me, are not made in good faith, indeed, as I have heard some Senators criticizing the conference report, I have wondered why, because when the bill becomes a law it will be the present revenue baby merely dressed in pink instead of red.

However, I have felt, Mr. President, that it was my duty to call the attention of the Senate to my position and to give the Senate and the country my reasons for signing the conference report. I did not hastily arrive at my conclusion to do so. I refused to sign the report until late Sunday evening, after I had made a thorough examination as to what would be the effect of the defeat of the bill, and whether or not it would be better for the business of the country to have the bill now passed or to allow the existing law to remain on the statute books and business thereby be suspended for months and months to come, as it has been during the last year.

After the conferees had agreed or disagreed to all the amendments offered by the Senate—and the conference report will show that out of 833 amendments which had been made to the bill by the Senate the Senate yielded upon but 7 amendments and that the House yielded upon 826 amendments—I took the bill as the conferees had agreed upon it and first I analyzed all of its administrative features. I took the amendments one by one and placed such amendments as I thought were an improvement over existing law upon one side and the amendments which I thought were even worse than existing law upon the other; and considering the amendments in that manner I decided that, as a whole, the administrative provisions found in the conference report were an improvement over the existing law. I believe that every Senator will agree to that statement as to the administrative features of the bill.

However, Mr. President, I wish to be perfectly frank with the Senate, and I will say that, in my opinion, there are numerous administrative provisions in the bill that never ought to have been adopted by the Senate or by the House. I am fearful that they have been put into the bill without due consideration for the hundreds and thousands of taxpayers and that only one or two or a half dozen cases which have come before the Treasury Department for adjudication have been taken into consideration. I have not any doubt that in some cases there are taxpayers who in the future will be benefited by the administrative provisions of the bill in contrast with the present law as it has been administered; but I think that while some of the administrative amendments may act in an advantageous way in five or six cases it can not be told how many cases they will affect adversely; perhaps one hundred times more than five or six cases. However, taking them as a whole, I have considered some of the administrative features of the bill better than existing law, but very little better. In fact, I almost concluded that they were hardly any better, because of the fact that the existing law, through the regulations which have been promulgated, has at least become known to a limited extent to the taxpayers.

I then considered in the same way every tax imposed, and in the same way I tried to arrive at what was best to do, what was the proper thing for me as an American citizen to do, what was the best for the taxpayer and the Government. I resolved that if I could decide without doubt that question, I would follow my conclusions; and I did not allow politics to enter into my examination in any way whatever.

Mr. President, there are some things in this bill, as far as rates are concerned, that are worse than existing law; and I want to say frankly that there are rates in the bill that are discriminatory and unjust, and I can not see how they can be defended. The American taxpayer is perfectly willing to pay taxes sufficient to maintain the Government. He is perfectly willing, if Congress is not extravagant in the appropriations and if it does not wickedly spend the people's money, to pay whatever taxes are necessary to meet all the obligations of the Government, and also pay enough to begin to reduce our obliga-

tions; but the American people are not willing to have taxes imposed that are unjust and discriminatory. The American people are not willing to have a tax imposed in one way upon one class of business and a tax imposed in another way upon identically the same kind of business; nor are the American people willing to impose taxes upon any one line of business by way of penalties, if you please, and allow other classes of business to escape taxation entirely. No tax bill will ever meet the approval of the American people until a nondiscriminatory plan is carried out, and I am sorry to say that the pending bill is not such a measure.

Mr. KING. Mr. President, will my colleague yield?

The PRESIDING OFFICER. Does the Senator from Utah yield to his colleague?

Mr. SMOOT. Yes.

Mr. KING. In this last observation perhaps my colleague is complaining about the excise taxes levied in the bill. My colleague, with his long experience and his wide knowledge of the subject, knows that some subjects and commodities and articles lend themselves appropriately to an excise tax, whereas other articles do not; and I do not think my colleague means to convey the idea that it would be unjust or inequitable to impose an excise tax upon one commodity and not impose it upon all commodities. As an illustration—and this is merely a crude one—I can readily perceive a reason for levying an excise tax upon tobacco or upon gasoline, and yet that would not justify an excise tax upon the transfer of wheat or flour or many other articles.

Mr. SMOOT. I agree with my colleague; but what I had reference to was the elimination of the excise taxes in this bill and those that were continued to be taxed. Can anybody defend relieving chewing gum from a tax and having it remain on candy?

Mr. KING. No.

Mr. SMOOT. Can anyone defend relieving billiard balls from a tax and having it applied to other sporting goods on which it is imposed under this bill? It is the discriminatory tax to which I object, and it is that to which the American people object, and they are going to object to it until a tax bill is passed in which there is no discrimination.

Mr. President, after making the examination of the administrative provisions of this bill and examining the rates as found in this conference report and in existing law, I came to the conclusion that the conference report was somewhat better than existing law; but do not think I make that statement because of the fact that the surtaxes were reduced from 65 per cent to 50 per cent. That is not the reason. The 50 per cent will keep the money out of business investments and out of circulation for the purpose of extending business throughout the country just the same as the 65 per cent will.

One day a Senator asked, I think, another Senator upon this side why 32 per cent was the rate fixed by the House. Mr. President, it is a mathematical calculation. The reason is because 32 per cent is the difference between the income from a tax-exempt security and one that is taxable on the basis of to-day's money market. That is the only reason, and if Senators heard me speak upon this question on October 11 last they will remember that I called attention then to the reason why, in my opinion, it should be either one or the other, 32 per cent or 65 per cent, because, as I say, the 50 per cent will keep money out of business ventures just the same as the 65 per cent. The 50 per cent will drive the men with great fortunes into purchasing tax-exempt securities just the same as the 65 per cent will. There is no difference whatever. So, Mr. President, even with that and with the other amendments that I think are even worse than existing law, taken as a whole I think they are about equal.

That is not all, however. I wanted to get the opinion of men in whom I had confidence, not only in one section of the country but in different sections of the country, as to what effect the defeat of this bill or the passage of this bill would have upon the business of the country, lagging as it is, unsatisfactory as it is, with men out of employment all over the United States as they are. What could we do to get them back at work again? So I got into communication with leading business men of Chicago, of New York, of Boston, and also into communication with manufacturers in those different sections of the country, and I asked them to let me know, as men of affairs—not as politicians—their opinion as to whether it is best for the United States to have this bill defeated or to have it passed.

I told them that I did not want an answer at once; I wanted them to give consideration to it, and let me know later. The result was that five out of the six whom I consulted advised

me that it would be better for the country, better for business, better for the industries, better for the laboring man, better for the taxpayer, to have the pending bill passed rather than to have it defeated. One reported to me that as far as he was concerned he would like to see it defeated, and by its defeat bring about a hasty revision of the revenue laws.

Mr. President, I want to say frankly as an American citizen, one interested in the welfare of all sections of the country, of business, of the laboring people, and all, and one who wants to see the conditions existing to-day changed as quickly as possible, that I, too, have come to the conclusion that if we should defeat this conference report, and leave business suspended in the air for I do not know how long, it would be indefensible, and the result of it would be most burdensome upon the people of the United States. Better a bad bill with certainty than to have uncertainty, and the institutions of the country waiting, hoping, praying for a change, unable to make any move for the future, not knowing what taxes they would have to meet, not knowing what obligations would be placed upon them, not knowing whether or not they could meet them. So, Mr. President, I concluded that it was my duty, not as a Republican, not as a Senator from the State of Utah, but as a Senator of the United States, to do all in my power to have legislation passed that would at least allow the people of the United States to know what they are to expect by way of taxation in the coming year.

Do I believe that this bill is going to be on the statute books very long? No. Do I think that it is going to be amended, and materially amended, within a very short time? I do. Senators may ask me why I think so, and I am going to be frank and say that I think so because the American people from one end of this country to the other are not satisfied with the bill. They have condemned the existing revenue law. They are justified in condemning it. I have condemned it, and at this time I want to make this prediction:

Congress, now that we are at peace, is going to scrutinize appropriations more closely than they ever have been scrutinized in the past. Appropriations are going to be cut to the bone; and I want to give notice now that unless they are I am going to vote against everything that will encourage extravagance and waste for the future. When Congress takes that position and when we live up to it, we can within the coming year revise this revenue bill and take out every discriminatory tax in it. We can eliminate all of the unjust provisions of existing law and such provisions as are contained in this conference report. We can not only do that, but we can lower the surtaxes in a way that will allow money to go into circulation, and let business revive, and let employment be the rule instead of the reverse, as existing to-day.

Mr. President, I promised not to speak more than 20 minutes, and I see that I have already spoken a little longer than that. But I desired to say to the Senate just what I have said in explanation of the vote I shall cast. I have arrived at my decision with the greatest care. If I had acted upon my first impulse, I would have voted not only against the bill but against the conference report; but for the reasons I have stated I am fearful that if I did, and that vote should defeat the report, the results which I have predicted would follow.

Therefore I think it is the duty of those who feel as I do to vote for the conference report, with the hope that this will be a temporary measure and that it will be amended at the very earliest date possible.

Mr. CURTIS. Mr. President, let us have a vote on the conference report.

The VICE PRESIDENT. The question is on agreeing to the conference report.

Mr. ASHURST. I ask for the yeas and nays.

The yeas and nays were ordered, and the reading clerk proceeded to call the roll.

Mr. TRAMMELL (when Mr. FLETCHER's name was called). I desire to announce the absence of my colleague on official business. If present, he would vote "nay." He is paired with the senior Senator from Delaware [Mr. BALL].

Mr. ROBINSON (when the name of Mr. JONES of New Mexico was called). The Senator from New Mexico is paired on this vote with the Senator from Maine [Mr. FERNALD]. If present and at liberty to vote, he would vote "nay."

Mr. SIMMONS (when Mr. OVERMAN's name was called). My colleague is unavoidably absent from the Senate. He is paired with the senior Senator from Wyoming [Mr. WARREN]. If my colleague were present, he would vote "nay."

Mr. GERRY (when Mr. OWEN's name was called). I desire to announce that the Senator from Oklahoma is paired with the Senator from New Jersey [Mr. EDGE]. If present, the Senator from Oklahoma would vote "nay."

Mr. STANLEY (when Mr. REED's name was called). The Senator from Missouri is absent on important business. If present, he would vote "nay."

Mr. SIMMONS (when his name was called). I have a general pair with the junior Senator from Minnesota [Mr. KELLOGG]. He is absent and I transfer that pair to the senior Senator from Missouri [Mr. REED] and vote "nay."

Mr. DIAL (when Mr. SMITH's name was called). My colleague is unavoidably detained from the Senate. He is paired with the Senator from South Dakota [Mr. STERLING]. I understand that if my colleague were present and allowed to vote he would vote "nay."

Mr. McNARY (when Mr. STANFIELD's name was called). My colleague is absent from the city. If present, he would vote "yea."

Mr. STERLING (when his name was called). I transfer my pair with the Senator from South Carolina [Mr. SMITH] to the Senator from Indiana [Mr. NEW], and vote "yea."

Mr. TRAMMELL (when his name was called). I have a pair with the senior Senator from Rhode Island [Mr. COLT], and in his absence I withhold my vote. If I were permitted to vote, I should vote "nay."

Mr. HEFLIN (when Mr. UNDERWOOD's name was called). My colleague [Mr. UNDERWOOD] is paired with the senior Senator from Massachusetts [Mr. LODGE]. If present and permitted to vote, my colleague would vote "nay."

Mr. WARREN (when his name was called). I have a general pair with the junior Senator from North Carolina [Mr. OVERMAN], which I transfer to the junior Senator from Oregon [Mr. STANFIELD], and vote "yea."

Mr. WILLIAMS (when his name was called). I transfer my pair with the senior Senator from Pennsylvania [Mr. PENROSE] to the senior Senator from Nebraska [Mr. HITCHCOCK], and vote "nay." If the senior Senator from Nebraska were present, he would vote "nay."

The roll call was concluded.

Mr. BALL. I transfer my pair with the senior Senator from Florida [Mr. FLETCHER] to the junior Senator from Pennsylvania [Mr. CROW], and vote "yea."

Mr. McLEAN. I transfer my pair with the Senator from Montana [Mr. MYERS] to the junior Senator from Oklahoma [Mr. HARRELD], and vote "yea."

Mr. CURTIS. I am requested to announce the absence of the Senator from Pennsylvania [Mr. PENROSE] on account of illness. I am also requested to announce the following pairs:

The Senator from Delaware [Mr. DU PONT] with the Senator from Louisiana [Mr. RANDELL];

The Senator from New Jersey [Mr. EDGE] with the Senator from Oklahoma [Mr. OWEN]; and

The Senator from Massachusetts [Mr. LODGE] with the Senator from Alabama [Mr. UNDERWOOD]. The Senator from Massachusetts is detained on official business. If present, he would vote "yea."

Mr. GLASS. I have a general pair with the senior Senator from Vermont [Mr. DILLINGHAM]. In his absence I am compelled to withhold my vote. If permitted to vote, I should vote "nay."

Mr. WALSH of Montana. I wish to announce that my colleague [Mr. MYERS] is unavoidably absent. If present, he would vote "nay."

The result was announced—yeas 39, nays 29, as follows:

## YEAS—39.

Ball	France	McLean	Spencer
Brandagee	Frelinghuysen	McNary	Sterling
Broussard	Gooding	Nelson	Sutherland
Bursum	Hale	Nicholson	Townsend
Calder	Jones, Wash.	Oddie	Wadsworth
Cameron	Keyes	Page	Warren
Capper	Lenroot	Phelps	Watson, Ind.
Curtis	McCormick	Polindexter	Weller
Elkins	McCumber	Shortridge	Willis
Ernst	McKinley	Smoot	

## NAYS—29.

Ashurst	Hefflin	Norris	Swanson
Borah	Kendrick	Pittman	Walsh, Mass.
Caraway	King	Pomeroy	Walsh, Mont.
Culberson	Ladd	Robinson	Watson, Ga.
Dial	La Follette	Sheppard	Williams
Gerry	McKellar	Shields	
Harris	Moses	Simmons	
Harrison	Norbeck	Stanley	

## NOT VOTING—28.

Colt	Fletcher	Kenyon	Penrose
Crow	Glass	Lodge	Ransdell
Cummins	Harreld	Myers	Reed
Dillingham	Hitchcock	New	Smith
du Pont	Johnson	Newberry	Stanfield
Edge	Jones, N. Mex.	Overman	Trammell
Fernald	Kellogg	Owen	Underwood

So the conference report was agreed to.



## PRINTING OF REVENUE ACT OF 1921.

Mr. SMOOT. Mr. President, I offer the following resolution and ask for its immediate consideration.

The VICE PRESIDENT. The Secretary will read the resolution.

The resolution (S. Res. 177) was read as follows:

*Resolved.* That 14,000 additional copies of the pamphlet law of the revenue act of 1921 be printed for the use of the Senate document room.

Mr. SMOOT. I will say that the copies can be printed within the amount allowed by a former Senate resolution.

Mr. KING. That presumes that the President will sign the bill.

Mr. SMOOT. Of course it will not be the law if he does not sign it.

The VICE PRESIDENT. The question is on agreeing to the resolution.

The resolution was agreed to.

## FAMINE CONDITIONS IN RUSSIA.

Mr. FRANCE. Mr. President, I ask unanimous consent to have printed as a public document a report of the American Commission on Near East Relief, comprising 64 typewritten pages, which contain very valuable information as to famine conditions in Russia. I am sure that Members of the Congress would very greatly desire to have the information.

Mr. MOSES. Mr. President, inasmuch as we are to adjourn to-day I shall have to ask that the request be referred to the Committee on Printing, and therefore I shall have to object to the request of the Senator from Maryland.

The VICE PRESIDENT. Objection is made.

## NOMINATIONS FOR POSTMASTERS, ETC.

Mr. CURTIS. Mr. President, some further nominations for postmasters and other nominations have just come from the President. I ask unanimous consent that the Senate proceed to the consideration of executive business as in open executive session for the purpose only of referring those nominations.

The VICE PRESIDENT. Is there objection?

Mr. McCORMICK. Mr. President, reserving the right to object, let me ask the Senator from Kansas what is the purpose of submitting these nominations if they must be referred and the nominations lapse, remaining unconfirmed?

Mr. CURTIS. Most of the nominations are for the office of postmaster, and I understand that if we refer them immediately the Committee on Post Offices and Post Roads will report them back.

Mr. McCORMICK. Will that hold true as to other nominations?

Mr. CURTIS. Yes; I understand so.

Mr. McCORMICK. I have no objection.

Mr. WALSH of Massachusetts. Mr. President, I feel obliged to object to the confirmation of the appointment of postmasters which have been made to-day and yesterday. The system has been adopted of naming postmasters on a civil-service basis, which I approve of, and if we confirm on the day the nominations are made there will be no means for a Senator to ascertain and know whether or not the civil-service rules have been complied with.

Mr. CURTIS. Mr. President, I withdraw the request.

Mr. WALSH of Massachusetts. The only proper way is to have the nominations made public, let them remain in the committee a few days, and let us have information from the proper source as to whether the civil-service rules have been complied with.

The VICE PRESIDENT. The request is withdrawn.

Mr. TOWNSEND. Mr. President, if the Senator from Massachusetts will allow me just a moment, I will say this: The Senator states that he objects to action upon nominations made yesterday or to-day.

Mr. WALSH of Massachusetts. I object to the confirmation of nominations made yesterday or to-day. I think they should go over until the next session.

Mr. TOWNSEND. Those which were made yesterday and this morning have all been referred and acted upon in the usual way, so there can not be any objection to those. There may be objection to the last nominations, which we have not yet had before the committee for consideration.

Mr. WALSH of Massachusetts. I have no objection to the individuals. What I want to know is whether the civil-service rules have been complied with, and I can not tell that by simply having a nominee's name presented to me. There is no way, then, to ascertain whether he has been appointed under the civil-service rules or not.

Mr. TOWNSEND. May I suggest to the Senator that there will be no postmasters confirmed, in Massachusetts or any other State, who do not have the approval of the Senator from the

State? We have obtained that approval in very many of these cases. The last batch of nominations which has just been presented, of course, has not yet been handed to our committee. I do not think the Senator's objection can possibly apply to the nominations which have already been approved by the Senators from the different States.

Mr. WALSH of Massachusetts. I understand that the Senator from Kansas proposes to submit some nominations to be referred to the committee, which nominations have just been made by the President—

Mr. CURTIS. I have withdrawn that request.

Mr. WALSH of Massachusetts. And at another session later in the day to have those nominations confirmed. I am not protesting against the nominations to offices in Massachusetts. So far as I know they are satisfactory; but I wish to see that the nominations of postmasters are made in compliance with the rules and regulations made by the authorities. The only way I can determine whether that has been done is by having the nominations referred to the committee, having publicity given to the nominations, and then have the confirmation follow after we find out whether the civil-service rules have been complied with.

Mr. BRANDEGEE. Mr. President, a parliamentary inquiry.

The VICE PRESIDENT. The Senator will state the inquiry.

Mr. BRANDEGEE. Was there not a unanimous-consent agreement that immediately upon completion of the revenue bill the Senate should proceed to the consideration of executive business?

The VICE PRESIDENT. There was.

Mr. CURTIS. That is true, and I was about to make that motion.

Mr. BRANDEGEE. Very well.

## EXECUTIVE SESSION.

Mr. CURTIS. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After 50 minutes spent in executive session the doors were reopened.

## INVESTIGATION OF TREATMENT OF SOLDIERS.

Mr. CALDER. I report back favorably from the Committee to Audit and Control the Contingent Expenses of the Senate, Senate resolution 165, which was recommitted to that committee on the 22d instant, together with the amendment proposed on that day by the Senator from Connecticut [Mr. BRANDEGEE]. I ask unanimous consent for the immediate consideration of the resolution with the amendment reported by the committee.

There being no objection, the Senate proceeded to consider the resolution.

The amendment was, on page 1, line 9, before the words "the expenses," to insert "and to employ such clerical assistance as in the judgment of the committee may be necessary," so as to make the resolution read:

*Resolved.* That the special committee appointed by the Chair, pursuant to the resolution adopted November 4, to investigate the charges made by the junior Senator from Georgia, is hereby authorized, until it finishes said investigation and reports, to send for persons, books, and papers, to administer oaths, and employ a stenographer, at a cost not to exceed \$1.25 per printed page, to report such hearings as may be had in connection with the subject pending before said committee, and to employ such clerical assistance as in the judgment of the committee may be necessary, the expenses thereof to be paid out of the contingent fund of the Senate upon authorization of the chairman, and that the committee or any subcommittee thereof may sit during the sessions or recesses of the Senate at any place.

The amendment was agreed to.

The resolution as amended was agreed to.

## REPRINT OF THE CONSTITUTION OF THE UNITED STATES, ANNOTATED.

Mr. CALDER. From the Committee to Audit and Control the Contingent Expenses of the Senate I report back favorably, without amendment, Senate resolution 151, and ask unanimous consent for its immediate consideration.

The VICE PRESIDENT. The Secretary will read the resolution.

The resolution was read as follows:

*Resolved.* That the Constitution of the United States of America, including all amendments thereto and with citations of the cases of the Supreme Court of the United States construing its several provisions, collated under each separate provision, to date, be printed, and that 1,500 additional copies be printed for the use of the Senate. The Judiciary Committee is authorized to employ a competent person to prepare the citations provided for, his compensation to be paid out of the contingent fund of the Senate.

Mr. CALDER. The Senator from Minnesota desires to say a word in regard to the resolution.

Mr. NELSON. The resolution just reported was offered by the senior Senator from Tennessee [Mr. SHIELDS]. Down to 1910 or 1911—I am not quite sure of the year—the decisions of

the Supreme Court were noted at the foot of every constitutional amendment in our legislative manual. If Senators will refer to the old manuals, they will find that the decisions bearing on each particular paragraph of the Constitution were noted at the end of the paragraph. The object of this resolution is simply to bring the citations down to date. The annotations were made down to 1911. I do not think it would involve much expense.

Mr. POINDEXTER. I call the attention of the Senator from Minnesota to the fact that a great deal of that work was practically useless on account of the way in which it was done. As a lawyer I am sure the Senator has had the same experience I have had. The copy of the Constitution which is printed for the use of the Senate contains those annotations. After the various clauses of the Constitution is a list of the decisions of the Supreme Court, sometimes a page or more of citations.

In that maze of citations there is not a gleam of light as to what particular question under the section or clause of the Constitution was decided by the case which is cited. In order to make them of very much use the annotator ought to cite in brief language the point decided by the court in the case which he cites.

Mr. CURTIS. Mr. President—

The PRESIDING OFFICER (Mr. HARRISON in the chair). Does the Senator from Washington yield to the Senator from Kansas?

Mr. POINDEXTER. Certainly.

Mr. CURTIS. May I state that I am having the Committee on Rules prepare a manual for the next Congress, and for that manual I am having one of the clerks of the committee prepare citations to all of the decisions of the Supreme Court on all of the clauses of the Constitution which have been passed upon?

Mr. POINDEXTER. There ought to be an instruction given to the clerk that instead of a mere jumble of citations he should follow some such suggestion as I have just made. The Senator from Kansas realizes the fact that hundreds of questions arise under a particular section, even a particular clause, of the Constitution of the United States.

Mr. CURTIS. I have made that statement merely to let the Senate know that that work is being done by my committee. I do not know why the resolution was offered. Of course, if the Committee on the Judiciary is going to do the work, I shall stop the work by my committee, because there is no use of two committees doing the same work.

Mr. POINDEXTER. I did not know that there was any duplication of work, and, of course, there ought not to be.

Mr. CURTIS. I would be very glad to have my committee cease the work, because it is a pretty difficult undertaking.

Mr. POINDEXTER. Whichever committee does it, really, I think, there ought to be some serious attention given to the manner in which it is done, so as to make it of some real use after it is done.

Mr. NELSON. In the absence of the Senator from Tennessee [Mr. McKellar], who introduced the resolution, all I can say at present is that personally it is quite satisfactory to me if the work shall be done by the Committee on Rules. If it is left to the Committee on the Judiciary, we would probably have the clerks of the committee do a good deal of work without any special charge to the Senate. But if the Committee on Rules desires to carry on the work instead of the Committee on the Judiciary, personally I have no objection.

Mr. CURTIS. The Committee on Rules is doing it for this reason: A number of years ago the Committee on Rules prepared a manual and cited the various authorities. A few days ago the Senator from Connecticut [Mr. Brandegee] called my attention to the fact that in the last manual these decisions were not cited and asked me if I would not have the clerks of the committee prepare a new manual for the next Congress, and in that new edition cite the authorities. I at once set one of my clerks at work going over the authorities, seeing that they were correct and preparing the work to make a report as soon as we can get it up or when the next manual is presented. I would very much rather have the Committee on the Judiciary do it, because I believe it is better equipped to do it than is the Committee on Rules. I am simply having the work performed, because I was requested by the Senator from Connecticut and because of the further fact that it was done once before by the Committee on Rules.

Mr. NELSON. Inasmuch as the work done before was by the Committee on Rules and it has already engaged in the work, I would suggest that the consideration of the resolution be postponed. Let it go over until the next session.

Mr. McKellar. Mr. President, I was called from the Chamber for a moment and did not hear the full discussion on

this matter. I wish to ask the Senator from Kansas if it is proposed to arrange the work just as it has been done previously? Would it not be very much better for the convenience of Senators if some note of the subject matter were given before or after the citation of each opinion? I think it would save a great deal of extra labor on the part of Senators in looking up cases if some such arrangement could be made.

Mr. BRANDEGEE. Mr. President—

Mr. McKellar. I yield to the Senator from Connecticut.

Mr. BRANDEGEE. I made the request to the Senator from Kansas at the suggestion of one of the officials of the Senate, I have forgotten whom, who noticed that all the citations of decisions by the Supreme Court involving the construction of any clause of the Constitution had been omitted from our present edition of the manual. I had not noticed it before. I think it would be a great convenience to have them restored. I agree with the suggestion of the Senator from Washington [Mr. Poindexter] that really, when we get 100 Supreme Court citations at the foot of one clause of the Constitution, as contained in our manual, without anything to show what particular question was before the court under that clause of the Constitution, it is not much of a labor-saving device, but we have to look through the whole of them to find perhaps the one point which we are seeking.

Therefore, it seems to me that perhaps it would not be wise to rush to a decision this afternoon. With this object in view at the next session, it occurred to me that it would be a good thing to do what the Senator from Washington has suggested and what the pending resolution calls for, at least to a certain extent—that is, to have the Constitution printed to the extent of 1,000 copies for the use of Senators, with the citations brought down to date under each clause, and with a sort of little syllabus under each decision cited to show the point involved. Let us have that done merely for the use of Senators. Then we need not have all those citations printed in the manual. We can retain the manual as it is, but have the extra book in the shape of a pamphlet which could be consulted by Senators.

Mr. CURTIS. Mr. President, I suggest that the resolution go to the calendar, and we can decide the question at the opening of the next session.

Mr. WILLIS. Mr. President, before that action is had, I wish to make a suggestion in conformity with what the Senator from Connecticut has said. I have a good many requests, and no doubt other Senators have, for copies of the Constitution. If there is anything in the world that we ought to put within the reach of the people, it is the Constitution of the United States. I think there ought to be an edition gotten out by some committee, I do not care which one, that will enable us to bring copies of the Constitution within the reach of all our people.

Mr. McKellar. There ought really to be a larger number printed than is contemplated in this resolution.

Mr. BRANDEGEE. The 1,000 there contemplated are simply for the use of the Senate and to be kept here. I have once or twice in the past had the Constitution of the United States printed as a public document and it has been distributed.

Mr. WILLIS. I hope the Senator will do it again.

Mr. BRANDEGEE. It can always be done on a motion of any Senator.

Mr. McKellar. I think the suggestion made by the Senator from Connecticut is a very wise one, that it should give a notation of the various decisions.

Mr. CALDER. I have no objection to the resolution going over.

The VICE PRESIDENT. The resolution will be placed on the calendar.

#### ADDITIONAL CLERK FOR COMMITTEE ON INDIAN AFFAIRS.

Mr. CALDER. From the Committee to Audit and Control the Contingent expenses of the Senate I report back favorably, without amendment, Senate resolution 157, and ask unanimous consent for its immediate consideration.

The VICE PRESIDENT. The resolution will be read.

The resolution was read, as follows:

*Resolved*, That the Committee on Indian Affairs of the Senate be, and hereby is, authorized and directed to employ an assistant clerk at the rate of \$2,200 per annum, to be paid out of the miscellaneous items of the contingent fund of the Senate until otherwise provided by law.

Mr. KING. Mr. President, may I inquire whether the committee has not already a sufficient number of clerks?

Mr. CURTIS. The committee now has the same number of clerks that other committees have. I did not ask for this additional clerk while I was chairman of the Committee on Indian Affairs because I was very familiar with the work and had it systematized, and by having my clerks render extra service I was able to carry on all the work of the committee. But a new



chairman must be appointed, and I am told by officials of the Senate that so far as the receipt of mail is concerned that committee ranks with the five highest. I know from my work on the committee that the new chairman will have difficulty in performing the work of the committee unless he has extra help.

Mr. McKELLAR. How many additional clerks are asked for?

Mr. CURTIS. Only one.

Mr. JONES of Washington. Is this a permanent clerk or for the session?

Mr. CURTIS. The resolution provides for a clerk permanently or until otherwise provided by law. I think the resolution should be amended to provide the clerk merely during the session of Congress.

Mr. JONES of Washington. I think it should be provided for the next session only.

Mr. KING. May I inquire of the Senator whether or not in addition to the clerks the chairman already has he would have any additional clerks?

Mr. CURTIS. One additional clerk is all that is asked.

Mr. KING. Then the resolution should be amended so as to provide the clerk just for the session.

Mr. JONES of Washington. I think the additional clerk had better be provided just for the next session.

Mr. CALDER. I move to amend the resolution by providing that the additional clerk shall be authorized merely for the next regular session.

The VICE PRESIDENT. The amendment will be stated.

The ASSISTANT SECRETARY. In line 5 it is proposed to strike out the words "until otherwise provided by law" and to insert the words "for the second session of the Sixty-seventh Congress," so as to make the resolution read:

*Resolved*, That the Committee on Indian Affairs of the Senate be, and hereby is, authorized and directed to employ an assistant clerk at the rate of \$2,200 per annum, to be paid out of the miscellaneous items of the contingent fund of the Senate, for the second session of the Sixty-seventh Congress.

The VICE PRESIDENT. The question is on agreeing to the amendment.

The amendment was agreed to.

The resolution as amended was agreed to.

#### BRIDGE ACROSS PAMUNKEY RIVER, VA.

Mr. CALDER. From the Committee on Commerce I report back favorably, without amendment, the bill (S. 2710) granting the consent of Congress to the Pamunkey Ferry Co. to construct a bridge across the Pamunkey River, in Virginia, and I submit a report (No. 324) thereon.

This is a bill which the Senator from Virginia [Mr. SWANSON] is very anxious to have passed, and I ask unanimous consent for its present consideration.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill, which was read, as follows:

*Be it enacted, etc.*, That the consent of Congress is hereby granted to the Pamunkey Ferry Co., duly incorporated under the laws of Virginia, and its successors and assigns, to construct, maintain, and operate a bridge and approaches thereto across the Pamunkey River, at a point suitable to the interests of navigation at or near Sweet Hall, in King William County, to a point opposite in New Kent County, in the Commonwealth of Virginia, in accordance with the provisions of the act entitled "An act to regulate the construction of bridges over navigable waters," approved March 23, 1906.

SEC. 2. That the right to alter, amend, or repeal this act is hereby expressly reserved.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

#### RESOLUTION OF AMERICAN LEGION.

Mr. McKELLAR. I ask unanimous consent to have printed in the RECORD a five-line resolution by the American Legion.

The VICE PRESIDENT. Without objection, the request of the Senator from Tennessee will be granted.

The resolution is as follows:

Resolution No. 14, adopted by the American Legion in convention at Kansas City, November 2, 1921.

*Be it resolved by the American Legion*, That we urge the enactment of an amendment to the act of June 4, 1920, that will place former emergency officers who were appointed to the Regular Army under this act on a parity in all respects with other officers of the Regular Army, of equal age and attainments, as to rank, pay, promotions, and retirement privileges.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. Overhue, its enrolling clerk, announced that the House had agreed to the concurrent resolution (S. Con. Res. 15) providing that the two Houses of Congress shall adjourn on Wednesday, the 23d day of November, 1921, and that when they adjourn on said day they stand adjourned sine die.

The message also announced that the Speaker pro tempore of the House had appointed a committee of three members, to join a similar committee appointed by the Senate, to wait upon the President of the United States and inform him that the two Houses have completed the business of the present session and are ready to adjourn unless the President has some other communication to make to them.

#### ENROLLED BILL AND JOINT RESOLUTION SIGNED.

The message further announced that the Speaker pro tempore of the House had signed the following bill and joint resolution, and they were thereupon signed by the Vice President:

H. R. 8245. An act to reduce and equalize taxation, to provide revenue, and for other purposes; and

S. J. Res. 33. Joint resolution permitting certain Chinese to register under certain provisions and conditions.

#### ENROLLED BILLS PRESENTED.

Mr. SUTHERLAND, from the Committee on Enrolled Bills, reported that to-day they presented to the President of the United States enrolled bills and a joint resolution of the following titles:

S. 843. An act to amend section 5 of the act approved March 2, 1919, entitled "An act to provide relief in cases of contracts connected with the prosecution of the war, and for other purposes";

S. 1039. An act for the promotion of the welfare and hygiene of maternity and infancy, and for other purposes;

S. 2555. An act to construct, maintain, and operate a bridge and approaches thereto across Great Pee Dee River, S. C.;

S. 2594. An act authorizing the counties of Allendale, S. C., and Screven, Ga., to construct a bridge across the Savannah River, between said counties, at or near Burtons Ferry;

S. 2722. An act to extend the time for constructing a bridge across the White River at or near the town of Des Arc, Ark.;

S. 2724. An act to authorize the construction of a bridge across the White River, in Prairie County, Ark.; and

S. J. Res. 33. Joint resolution permitting certain Chinese to register under certain provisions and conditions.

#### NOTIFICATION TO THE PRESIDENT.

Mr. CURTIS submitted the following resolution (S. Res. 178), which was considered by unanimous consent and agreed to:

*Resolved*, That a committee of two Senators be appointed by the Vice President to join a similar committee appointed by the House of Representatives to wait upon the President of the United States and inform him that the two Houses, having completed the business of the present session, are ready to adjourn, unless the President has some other communication to make to them.

The VICE PRESIDENT appointed Mr. CURTIS and Mr. HITCHCOCK as the committee on the part of the Senate to wait upon the President of the United States.

#### PRESIDENTIAL APPROVALS.

A message from the President of the United States, by Mr. Latta, one of his secretaries, announced that on to-day the President approved and signed bills and a joint resolution of the following titles:

S. 843. An act to amend section 5 of the act approved March 2, 1919, entitled "An act to provide relief in cases of contracts connected with the prosecution of the war, and for other purposes";

S. 1039. An act for the promotion of the welfare and hygiene of maternity and infancy, and for other purposes;

S. 2555. An act to construct, maintain, and operate a bridge and approaches thereto across Great Pee Dee River, S. C.;

S. 2594. An act authorizing the counties of Allendale, S. C., and Screven, Ga., to construct a bridge across the Savannah River, between said counties, at or near Burtons Ferry;

S. 2722. An act to extend the time for constructing a bridge across the White River at or near the town of Des Arc, Ark.;

S. 2724. An act to authorize the construction of a bridge across the White River, in Prairie County, Ark.; and

S. J. Res. 33. Joint resolution permitting certain Chinese to register under certain provisions and conditions.

#### NOTIFICATION TO THE PRESIDENT.

Mr. CURTIS. Mr. President, your committee who were appointed to wait upon the President of the United States and inform him that the two Houses of Congress, having completed the business of the present session, are now ready to adjourn unless he has some further communication to make, beg leave to report that they have performed the duty assigned them and that the President replied he had no further communication to make to the Congress.

The VICE PRESIDENT. The Senate will receive the report of the committee, and the committee is discharged.

## THE JOURNAL.

The Journal of the proceedings of the legislative day of Wednesday, November 16, 1921, was read and approved.

## INVESTIGATION OF DYE LOBBY.

Mr. KING. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Order of Business 314, Senate resolution 77, which was reported by the Committee on the Judiciary, was then referred to the Committee to Audit and Control the Contingent Expenses of the Senate, and subsequently reported back by that committee. It is the dye-investigation resolution.

The VICE PRESIDENT. The Senator from Utah asks unanimous consent for the present consideration of Senate resolution 77, the dye-investigation resolution. Is there objection?

Mr. JONES of Washington. Let it be read.

The ASSISTANT SECRETARY. The Committee on the Judiciary proposed an amendment to strike out the preamble, resolving clause, and the body of the resolution and to substitute a new preamble, resolving clause, and resolution. The Committee to Audit and Control the Contingent Expenses of the Senate report it back with an amendment to strike out the last clause of the amendment.

Mr. JONES of Washington. We would like to have the resolution read. That does not tell us anything about what it is.

Mr. KING. Let the resolution be read as reported by the Committee on the Judiciary.

The ASSISTANT SECRETARY. As reported by the Committee on the Judiciary the resolution reads as follows:

Whereas it has been charged that the dye industry is controlled by a combination of corporations and that it is in fact a monopoly, and that in order to maintain such monopoly and obtain an embargo against the importation of competing dyes, has employed agents, attorneys, and lobbyists to influence Congress in behalf of special legislation in the interest of such dye monopoly: Now, therefore, be it

*Resolved*, That the Committee on the Judiciary, or any subcommittee thereof, is hereby authorized and instructed to investigate the charge that the dye industry is controlled by a combination of corporations which is in fact a monopoly and has employed agents, attorneys, and lobbyists to influence Congress in behalf of special legislation in the interest of such monopoly and report its findings to the Senate, together with such recommendations as it may deem appropriate.

*Resolved further*, That the committee is authorized to subpoena witnesses, send for persons and papers, to administer oaths, and to employ the necessary clerical assistance in the prosecution of such investigation.

The Committee to Audit and Control the Contingent Expenses of the Senate proposes to strike from the resolution the second resolve.

Mr. STERLING. Mr. President, I would like to have read, then, the resolve which the Committee to Audit and Control proposes to strike out.

The Assistant Secretary read as follows:

*Resolved further*, That the committee is authorized to subpoena witnesses, send for persons and papers, to administer oaths, and to employ the necessary clerical assistance in the prosecution of such investigation.

Mr. CALDER. The committee struck out the last resolve because the authority to subpoena witnesses, to send for books and papers, and all the other things provided in the second resolve, is already vested in the Committee on the Judiciary.

Mr. KING. If that be true, what objection can there be to making assurance double sure by passing the resolution as it came from the Committee on the Judiciary?

Mr. CALDER. There is no objection to that being done if the provision in the second resolve, permitting the committee to hire clerical assistance, shall be stricken out.

Mr. McCUMBER. Mr. President, I do not think it is at all necessary for the committee to go into a long and extensive investigation. The great trouble is that we do not read the reports of the investigations that have been conducted. If the Members of the Senate would read all of the testimony extant to-day on this subject taken by the Committee on Ways and Means of the House and the Committee on Finance of the Senate, I think they would find all that they could obtain by further investigation along the same line. All Senators have got to do is to read the testimony and make up their minds whether or not there has been such a propaganda as is supposed to influence Senators, and also as to whether or not the dye industry is a monopoly. The evidence is already taken; it is at hand.

Mr. MOSES. I will say to the Senator from North Dakota that there is a vast amount of evidence on this subject that has never been presented to any committee. I myself happen to have some that has never been presented to any committee. I happen to have some evidence about the activities of this group in my State which never has been presented to any committee or to the Senate or to anybody else. I should prefer that such evidence as I have should be submitted in a proper and orderly

manner before a duly constituted investigating committee of the Senate; but if the Senator from North Dakota prefers to have a series of explosive presentations on the floor, that course may be followed I suppose.

Mr. KING. I sincerely hope the Senator from North Dakota is not going to object to the consideration of this measure or to oppose its passage. I can state to the Senator—

Mr. McCUMBER. Let me say to the Senator that if we want to go into another investigation along this line, I have not the slightest objection, but I know there are literally hundreds and hundreds of pages of testimony which have been taken upon the same subject which most of the Senators, at least, have never read.

Mr. KING. Let me say to the Senator that I think he is in error. There are not hundreds and hundreds of pages, but there are, perhaps, 50 or 75 pages bearing directly upon the matter covered by the resolution appearing in the hearings of the Ways and Means Committee of the House and the Committee on Finance of the Senate, but—

Mr. McCUMBER. There are many more than that in the Committee on Finance of the Senate.

Mr. KING. But I can assure the Senator that his committee did not even skim the surface of the subject. Witnesses sent by the dye monopoly, including paid attorneys, testified in favor of an embargo, but no probe was made of the monopoly, the methods by which it operates, the organizations composing it, the sums of money expended in its behalf to secure legislation and to control public opinion and deceive the electorate of the United States.

I can assure the Senator that his committee did not make an investigation. They listened to paid lobbyist and attorneys who made specious pleas for legislation which would enable the dye interests to rob the American people. There should be an investigation that will investigate, that will get all the facts relating to this monopoly, its activities, its sinister purposes, its reprehensible if not corrupt methods of operation, its persistent efforts to control Congress and secure legislation that will enable it to destroy all competition and put millions of profits annually into the pockets of a favored few.

But I am anxious to get a vote and will not make further reply to the Senator from North Dakota. Let me add that in my opinion no Senator who desires the facts and full information upon a monopoly that has become an evil will oppose this resolution or any honest effort to investigate the dye monopoly.

Mr. NORRIS. Mr. President, it seems to me, as I heard the resolution read, that the particular clause which the Committee to Audit and Control the Contingent Expenses of the Senate attempts to strike out by its amendment ought to be amended, and before the motion to strike out is voted on I think would be the proper time to perfect the resolution. I may be mistaken, but, as I remember, the main resolution authorized the Judiciary Committee or any subcommittee of the Judiciary Committee, and so forth. The other clause merely authorized the Judiciary Committee to subpoena witnesses, and so forth. The resolution ought to read "or any subcommittee," it seems to me. The question of the authority of a subcommittee, if one were appointed, might arise when they should undertake to go ahead.

Mr. KING. May the amendment offered by the Committee to Audit and Control the Contingent Expenses of the Senate be read? I refer to the provision which it seeks to eliminate. The resolution, I think, as it was reported by the Senator from Iowa [Mr. CUMMINS], the chairman of the subcommittee of the Judiciary Committee, is sufficiently broad and comprehensive.

Mr. NORRIS. Let us have the resolution read and see about that. I may be mistaken.

The VICE PRESIDENT. The resolution will be read.

The ASSISTANT SECRETARY. The Committee to Audit and Control the Contingent Expenses of the Senate proposes to amend the resolution reported by the Committee on the Judiciary by striking out the following words:

*Resolved further*, That the committee is authorized to subpoena witnesses, send for persons and papers, to administer oaths, and to employ the necessary clerical assistance in the prosecution of such investigation.

Mr. KING. If the Senator will pardon me, I think his point would be covered if after the word "committee" there would be inserted the words "or any subcommittee."

Mr. NORRIS. I very much doubt that.

Mr. KING. I have no objection to the amendment suggested by the Senator being adopted.

Mr. NORRIS. The main resolution provides that the investigation shall be made by the Judiciary Committee or "any subcommittee thereof." In the second resolving clause there should be inserted, after the words "the committee," the words "or such subcommittee."



Mr. CUMMINS. Mr. President, will the Senator from Nebraska yield to me for a moment?

Mr. NORRIS. I yield to the Senator from Iowa.

Mr. CUMMINS. As I remember, by general resolution the Judiciary Committee or any subcommittee of that committee has the power to send for persons and papers and to swear witnesses. The only respect, as I hastily reflect upon it now, in which the amendment proposed by the Committee to Audit and Control the Contingent Expenses of the Senate changes the resolution as reported by the Committee on the Judiciary is this: I do not think that the Judiciary Committee would have any power to employ assistance and counsel and other help of that kind. So, if the resolution is passed as it now is, the subcommittee will have authority to investigate, or may have by order of the full committee, and will have power to send for persons and papers and to subpoena witnesses, but the work will have to be done by the members of the Judiciary Committee who are thus appointed instead of employing anyone else to do it for them.

Mr. CALDER. Mr. President, the committee will be permitted to employ a stenographer, because that authority was vested in the committee by the resolution which was passed at the beginning of the session.

Mr. CUMMINS. What I mean is that I suppose we should have no authority to employ counsel or to employ experts or to employ assistance.

Mr. CALDER. The Senator from Iowa is correct.

The second resolve was stricken out because the committee felt that the Judiciary Committee already had authority, either by the full committee or by the subcommittee; and the committee believed that if the committee charged with this investigation should wish clerical help or other help to assist, it could at some time hereafter come to the Senate and ask for it.

Mr. NORRIS. Mr. President, I am not contesting the proposition made by the Senator from Iowa [Mr. CUMMINS]. The only object I have in suggesting the amendment is to make an investigation effective if one is to take place, so that there may be no occasion for the committee to come back here and ask for further authority. I want to enlarge their authority. The resolution, as I understood it, provides, in substance, that the Committee on the Judiciary or any subcommittee thereof shall have power to conduct the investigation.

Mr. CUMMINS. No. The original resolution required the appointment of a special committee.

Mr. NORRIS. I am speaking of the resolution as reported from the Judiciary Committee by the Senator from Iowa.

There is a second resolve which the Committee to Audit and Control the Contingent Expenses of the Senate reports to strike out which I want to perfect by an amendment before we vote on it. That second resolve provides what the committee may do. I think it ought to provide that it may also be done by the subcommittee. I wish the Senator from Connecticut would read it for me.

Mr. BRANDEGEE. The second resolution to which the Senator refers reads as follows—this is one that the committee omitted—

Mr. NORRIS. Will the Senator read the first resolution first, because they are related to each other?

Mr. BRANDEGEE. Yes; the first resolution is:

*Resolved*, That the Committee on the Judiciary, or any subcommittee thereof, is hereby authorized and instructed to investigate the charge that the dye industry is controlled by a combination of corporations which is in fact a monopoly and has employed agents, attorneys, and lobbyists to influence Congress in behalf of special legislation in the interest of such monopoly and report its findings to the Senate, together with such recommendations as it may deem appropriate.

Mr. NORRIS. Now, I will ask the Senator to read the other resolution.

Mr. BRANDEGEE. The part which the Committee to Audit and Control the Contingent Expenses of the Senate suggest to be stricken out is as follows:

*Resolved further*, That the committee is authorized to subpoena witnesses, send for persons and papers, to administer oaths, and to employ the necessary clerical assistance in the prosecution of such investigation.

The Secretary, in accordance with the suggestion of the Senator from Nebraska, has interlined, after the word "committee," the words "or such subcommittee."

Mr. NORRIS. That is all I want. I think it will perfect it if those words are there. I think anybody can see in a moment that if we are going to adopt the resolution at all it ought to empower the subcommittee to send for persons and papers.

Mr. BRANDEGEE. I myself do not think the investigation will amount to anything. I do not believe that it is the business of Congress to decide what is a monopoly and what is not. That is a judicial question for the courts to decide. So it

would amount to nothing if we resolved that, in our opinion, the dye industry was a monopoly. Nevertheless, if the Senate is determined to enter upon this field, I would suggest that if the second resolve, authorizing the committee or subcommittee to subpoena witnesses and to send for persons and papers, administer oaths, and employ the necessary clerical assistance, is to be adopted, we had better say "the necessary clerical and other assistance," because, as the Senator from Iowa has stated, they may have to employ experts to examine the books of the company and also to employ counsel; at any rate, if we want a complete investigation we had better completely equip the investigating committee.

Mr. McCUMBER. Mr. President—

The VICE PRESIDENT. The question before the Senate is whether there is objection to the immediate consideration of the resolution.

Mr. McCUMBER. Mr. President, I do not want to object to the immediate consideration of the resolution, but I do want to confirm what the Senator from Connecticut has said, that the proposed investigation will not amount to anything. It will be just like all other investigations. We will be investigating some things that are contained in the record to-day; we would be subpoenaing witnesses to ascertain whether the dye industry has employed attorneys to influence Members of Congress. Attorneys have been employed; attorneys have appeared before the committees; they appeared for the purpose of influencing the committees in favor of dye legislation. Not only that, but statements appear in the record showing what is paid to these attorneys for their services. Before both the Committee on Finance and the Committee on Ways and Means of the House we are having hearings all the time, and in a great many cases paid attorneys appear before the committees for the purpose of presenting their clients' cases. There is no question about that. We do not need to investigate that again. As I have already stated there is testimony before the committees to which I have referred showing conclusively that attorneys have been employed for the purpose of securing an embargo, for instance.

The question whether the dye industry is a monopoly may be a serious one. In some branches of the dye industry there may be a monopoly, while in other branches there may not be a monopoly. There may be a manufacturer who produces only one certain brand or character of dyes, and, of course, that would be a monopoly because there is no one else who produces the same article. All of that appears already in the hearings, and I can not believe that any further investigation, no matter how many answers may be forthcoming, will bring forth a single fact that is not already in the testimony.

It may be that somebody has tried to influence voters in New Hampshire and that is not in the testimony. If there should be an investigation along that line, I certainly should not object, but I know what these investigations mean. They consume time; it is easier often hearing testimony than it is doing the regular work of the Senate or of the House; and after the reports are submitted they mold quietly in the committee room or elsewhere and nothing is done concerning them.

I shall not object to a vote upon this resolution and investigating the matter, but I predict now that the investigation will have exactly the same result that has followed nearly all other investigations.

Mr. MOSES. I assure the Senator that many things will be brought out in this investigation that do not appear in any record yet made.

Mr. McCUMBER. The things that are charged and which it is asked to investigate under the resolution appear in the testimony taken before the two committees now, and are in print before both branches of Congress.

Mr. FRELINGHUYSEN. Mr. President, I have not had an opportunity of examining this resolution; but I should like to ask the Senator from Utah whether it is broad enough to give the committee power to investigate the practices of importers of dyes as well, and as to whether they have exerted any influence whatsoever, and are controlling the market or trade. I think that is very important, and I think it should be included in the resolution. I do not think the dye industry or the chemical industry fear any investigation of this character; but I think if the Senator will extend the scope of the investigation to investigate the practices of the importers and the influence they have exerted, he may reveal something.

Mr. KING. Mr. President, I think an investigation of the activities of the dye lobby, of its effort to secure legislation, of the operation of the dye monopoly, and its efforts to prevent importations of dyes, and to control the State Department or the agency therein which grants licenses to import dyes, will reveal something of which the Senator from New Jersey may not be aware. The resolution before us has been emasculated,

It asked for an investigation of various lobbies and their efforts to secure legislation or to prevent legislation. It calls attention to the many lobbies which seek to control or influence Congress, and provides for their investigation. The Judiciary Committee amended the resolution and limited the investigation to the dye lobby and dye monopoly. I regret the amendment, but must be content for the present. However, I demand the passage of the resolution as reported back to the Senate by the Judiciary Committee. I ask for a vote.

Mr. CALDER. Mr. President—

The VICE PRESIDENT. The first inquiry is whether there is objection to the present consideration of the resolution?

Mr. FRELINGHUYSEN. Mr. President, I shall object unless the Senator agrees to amend his resolution in the regard I have indicated.

Mr. KING. I move, then, that the Senate proceed to the consideration of the resolution. It has been on the calendar for some time.

The VICE PRESIDENT. The Senator from Utah moves that the Senate proceed to the consideration of Senate resolution 77, creating a special committee to investigate the expenditures made in behalf of various propaganda and in the maintenance of lobbies in Washington.

Mr. FRELINGHUYSEN. I suggest the absence of a quorum.

The VICE PRESIDENT. The Secretary will call the roll.

The roll was called, and the following Senators answered to their names:

Brandegge	Hale	McKinley	Sutherland
Broussard	Harrison	McNary	Townsend
Bursum	Heflin	Moses	Trammell
Calder	Hitchcock	Norris	Wadsworth
Cameron	Kendrick	Page	Walsh, Mass.
Capper	Kenyon	Poinexter	Warren
Cummins	King	Sheppard	Watson, Ga.
Curtis	La Follette	Shortridge	Willis
Dial	Lenroot	Smoot	
Frelinghuysen	McCumber	Spencer	
Gerry	McKellar	Sterling	

The VICE PRESIDENT. Forty-one Senators have answered to the roll call. There is not a quorum present.

#### FINAL ADJOURNMENT.

Mr. CURTIS. I move that the Senate adjourn sine die.

The motion was agreed to; and (at 4 o'clock and 38 minutes p. m.) the Senate adjourned, the adjournment being sine die under the concurrent resolution of the two Houses.

#### NOMINATIONS.

*Executive nominations received by the Senate November 23 (legislative day of November 16), 1921.*

##### MEMBER OF FEDERAL BOARD FOR VOCATIONAL EDUCATION.

Edward T. Franks, of Kentucky, to be a member of the Federal Board for Vocational Education, for a term of three years, vice James P. Munroe, term expired.

##### RECEIVER OF PUBLIC MONEYS.

Edward P. Gorman, of Wausau, Wis., to be receiver of public moneys at Wausau, Wis., vice Kurt A. Beyrels, resigned.

##### POSTMASTERS.

###### ALABAMA.

Robert M. Mahler to be postmaster at Loxley, Ala. Office became presidential April 1, 1921.

Cullie O. Porter to be postmaster at Hillsboro, Ala. Office became presidential April 1, 1921.

Alice E. Welch to be postmaster at Whistler, Ala. Office became presidential October 1, 1920.

George W. Buck to be postmaster at Thomaston, Ala. Office became presidential October 1, 1920.

Alida J. Cox to be postmaster at Spring Hill, Ala. Office became presidential October 1, 1920.

John A. Griffin to be postmaster at Helena, Ala. Office became presidential April 1, 1921.

###### ARKANSAS.

George L. Fink to be postmaster at Newark, Ark., in place of O. F. Craig. Incumbent's commission expired January 31, 1921.

Paul Smith to be postmaster at Nettleton, Ark. Office became presidential January 1, 1921.

Joseph L. McLaughlin to be postmaster at Perry, Ark. Office became presidential January 1, 1921.

###### CALIFORNIA.

Raymond C. Brackett to be postmaster at Geyserville, Calif., in place of J. A. Ellis, resigned.

Walter E. White to be postmaster at Dos Palos, Calif., in place of Evelyn Mitchell; name changed by marriage.

Brock Dickie to be postmaster at Dixon, Calif., in place of M. B. Wilson, resigned.

Daniel Dennis to be postmaster at Walnut Grove, Calif., in place of A. F. Brown, resigned.

Alex Chalm to be postmaster at Byron, Calif., in place of A. F. Donaldson (appointment declined).

Percy S. Peek to be postmaster at Mokelumne Hill, Calif. Office became presidential April 1, 1921.

Gustav A. Thoren to be postmaster at Eldridge, Calif. Office became presidential April 1, 1921.

Lester S. Clark to be postmaster at Albion, Calif. Office became presidential April 1, 1921.

Carl A. Romer to be postmaster at San Juan Capistrano, Calif. Office became presidential April 1, 1921.

###### COLORADO.

George W. Heflin to be postmaster at De Beque, Colo., in place of Nettie Cornwell. Incumbent's position expired July 10, 1920.

Frank M. Whalen to be postmaster at Deertrail, Colo., in place of L. E. Wible. Incumbent's commission expired January 30, 1921.

Juan R. Valdez to be postmaster at San Luis, Colo. Office became presidential January 1, 1921.

Mary McConnell to be postmaster at Minturn, Colo. Office became presidential January 1, 1921.

###### CONNECTICUT.

Arthur W. Dickinson to be postmaster at Rockyhill, Conn., in place of F. C. Warner, resigned.

Levi C. Frost to be postmaster at Milldale, Conn. Office became presidential July 1, 1920.

###### FLORIDA.

Mattie D. Perry to be postmaster at Floral City, Fla. Office became presidential April 1, 1921.

William T. Graves to be postmaster at Cottondale, Fla. Office became presidential April 1, 1921.

###### GEORGIA.

Maggie Edwards to be postmaster at Canton, Ga., in place of W. J. Webb. Incumbent's commission expired July 25, 1917.

Maude S. Erwin to be postmaster at Fair Mount, Ga. Office became presidential July 1, 1920.

###### IDAHO.

Chester A. Adair to be postmaster at Rupert, Idaho, in place of Paul Olney, resigned.

Hugh H. Hamilton to be postmaster at New Plymouth, Idaho, in place of H. H. Hamilton. Incumbent's commission expired July 25, 1920.

George Alley to be postmaster at Bancroft, Idaho, in place of George Alley. Incumbent's commission expired December 20, 1920.

Alva A. Lewis to be postmaster at McCammon, Idaho. Office became presidential July 1, 1919.

Dalton C. Rogers to be postmaster at Culesac, Idaho. Office became presidential October 1, 1920.

###### ILLINOIS.

Maurice E. Murrie to be postmaster at Grayslake, Ill., in place of R. W. Churchill, resigned.

Rosella L. Fletcher to be postmaster at Easton, Ill., in place of F. H. Conroy. Incumbent's commission expired January 15, 1921.

Otto A. Unbehauen to be postmaster at Mount Carmel, Ill., in place of Frank Storckman. Incumbent's commission expired December 17, 1919.

Charles A. Cline to be postmaster at Clinton, Ill., in place of G. B. Marvel, resigned.

William C. Henley to be postmaster at Nashville, Ill., in place of E. F. Bieser, deceased.

Emil Straka to be postmaster at Berwyn, Ill., in place of George Petertil. Incumbent's commission expired August 1, 1921.

Edwin Temple to be postmaster at Tampico, Ill., in place of J. H. Daley. Incumbent's commission expired June 23, 1920.

Harrison T. Berry to be postmaster at Morrison, Ill., in place of Ray Raridon. Incumbent's commission expired July 12, 1920.

Willis M. Hoag to be postmaster at Princeville, Ill., in place of M. V. Conklin, resigned.

Ralph R. Larkin to be postmaster at Prairie du Rocher, Ill., in place of W. E. De Frenne, resigned.

Ewell V. Rigg to be postmaster at Edinburg, Ill., in place of J. H. Nelms, deceased.

Esther V. Wheeler to be postmaster at Ashmore, Ill. Office became presidential April 1, 1921.



## INDIANA.

Charles W. Burkett to be postmaster at Otterbein, Ind., in place of J. W. Carroll. Incumbent's commission expired July 21, 1921.

Ethel J. Pinney to be postmaster at La Crosse, Ind., in place of E. J. Pinney. Incumbent's commission expired March 16, 1921.

Winbern H. Dillen to be postmaster at Pittsboro, Ind. Office became presidential July 1, 1921.

## IOWA.

Martin A. Aasgaard to be postmaster at Lake Mills, Iowa, in place of C. W. Wescott. Incumbent's commission expired March 16, 1921.

Carl Nielsen to be postmaster at Moorehead, Iowa, in place of F. R. Parker. Incumbent's commission expired March 16, 1921.

Elmer L. Langlie to be postmaster at Marquette, Iowa, in place of A. B. Berry, resigned.

Raymond F. Sargent to be postmaster at Fonda, Iowa, in place of J. J. McCartan. Incumbent's commission expired March 16, 1921.

Emil C. Weisbrod to be postmaster at Fenton, Iowa, in place of J. A. Schwartz. Incumbent's commission expired March 16, 1921.

Hugh W. Dickson to be postmaster at Delta, Iowa, in place of G. W. Bensler, resigned.

James F. Temple to be postmaster at Bode, Iowa, in place of A. M. Johnson. Incumbent's commission expired March 16, 1921.

William H. Hall to be postmaster at Allerton, Iowa, in place of Ed. McConaughy, resigned.

William W. Moore to be postmaster at Ainsworth, Iowa, in place of W. W. Moore. Incumbent's commission expired August 7, 1921.

Thomas Phillips to be postmaster at Dedham, Iowa. Office became presidential April 1, 1921.

Ulysses G. Hunt to be postmaster at Plymouth, Iowa. Office became presidential April 1, 1920.

Martin A. Sandstrom to be postmaster at Kiron, Iowa. Office became presidential January 1, 1921.

John F. Cagley to be postmaster at Ionia, Iowa. Office became presidential January 1, 1921.

Weber B. Kuenzel to be postmaster at Garnaville, Iowa. Office became presidential January 1, 1921.

Earl M. Skinner to be postmaster at Farnhamville, Iowa. Office became presidential July 1, 1920.

Elizabeth Friman to be postmaster at Nodaway, Iowa. Office became presidential January 1, 1921.

## KANSAS.

Frederick B. Larkin to be postmaster at Beattie, Kans., in place of W. J. Halvering. Incumbent's commission expired March 16, 1921.

Clara Cuyler to be postmaster at Arlington, Kans., in place of F. A. Brooks. Incumbent's commission expired January 23, 1921.

Ernest Toomey to be postmaster at Neodesha, Kans., in place of Ernest Bray, resigned.

Ezra D. Belinger to be postmaster at Bucklin, Kans., in place of C. T. Emmons. Incumbent's commission expired May 7, 1921.

Nathan W. Huston to be postmaster at Columbus, Kans., in place of P. J. Hendrickson. Incumbent's commission expired March 13, 1920.

## KENTUCKY.

William E. Ashby to be postmaster at Shepherdsville, Ky., in place of Conrad Maroman. Incumbent's commission expired July 14, 1920.

Eli G. Thompson to be postmaster at Providence, Ky., in place of F. A. Casner, resigned.

Herbert C. Miller to be postmaster at Pembroke, Ky., in place of F. H. Wade, resigned.

Hebron Lawrence to be postmaster at Tompkinsville, Ky., in place of B. L. Bradshaw. Incumbent's commission expired December 20, 1920.

John P. Balee to be postmaster at Guthrie, Ky., in place of Thomas Mimms. Incumbent's commission expired July 21, 1920.

Lettie P. Thompson to be postmaster at Sadleville, Ky. Office became presidential January 1, 1921.

John S. Jones to be postmaster at West Point, Ky. Office became presidential October 1, 1918.

Otis C. Thomas to be postmaster at Liberty, Ky. Office became presidential January 1, 1921.

## LOUISIANA.

John E. Pickett to be postmaster at Fisher, La., in place of H. M. Clark, resigned.

John H. Allen to be postmaster at Plain Dealing, La., in place of J. H. Allen. Incumbent's commission expired March 16, 1921.

Alice I. Redmond to be postmaster at Delhi, La., in place of B. M. Hulse, removed.

Johnnie D. Stagg to be postmaster at Longville, La., in place of H. L. Rhorer, resigned.

Bernard Isaacs to be postmaster at Gueydan, La., in place of C. N. LeBlanc. Incumbent's commission expired April 19, 1921.

## MAINE.

Benjamin F. Ham to be postmaster at Unity, Me., in place of E. T. Whitehouse. Incumbent's commission expired December 20, 1920.

Geneva A. Berry to be postmaster at Brownville Junction, Me., in place of G. W. McLain, deceased.

Majorie R. Tozier to be postmaster at West Enfield, Me. Office became presidential July 1, 1921.

Freeman L. Roberts to be postmaster at Vinal Haven, Me., in place of L. M. Treat, resigned.

Le Forest T. Spear to be postmaster at Rockport, Me., in place of H. M. Poland. Incumbent's commission expired March 16, 1921.

Joseph B. Lewis to be postmaster at Hampden Highlands, Me. Office became presidential October 1, 1920.

## MARYLAND.

Frank T. Buckingham to be postmaster at Woodbine, Md., in place of L. H. Gosnell. Incumbent's commission expired April 24, 1921.

Calvin S. Duvall to be postmaster at Gaithersburg, Md., in place of G. W. Etchison. Incumbent's commission expired April 24, 1921.

## MASSACHUSETTS.

C. Edgar Searing to be postmaster at Stockbridge, Mass., in place of E. W. Sullivan. Incumbent's commission expired July 17, 1921.

Elmer G. Pike to be postmaster at Dalton, Mass., in place of J. J. Kelly. Incumbent's commission expired July 25, 1920.

Henry B. Sampson to be postmaster at South Lancaster, Mass., in place of J. H. Whelan. Incumbent's commission expired May 14, 1921.

John T. Toomey to be postmaster at Oxford, Mass., in place of J. T. Toomey. Incumbent's commission expired September 7, 1920.

Charles F. Slate to be postmaster at Northfield, Mass., in place of E. K. Callaghan. Incumbent's commission expired July 25, 1920.

Robert M. Mudgett to be postmaster at Woronoco, Mass. Office became presidential July 1, 1920.

Warren C. Hastings to be postmaster at Southwick, Mass. Office became presidential January 1, 1921.

## MICHIGAN.

Meta A. Patterson to be postmaster at Edwardsburg, Mich., in place of E. E. Patterson, deceased.

Ward Reynolds to be postmaster at Beulah, Mich., in place of G. M. Dokey, jr. Incumbent's commission expired December 20, 1920.

George E. Meredith to be postmaster at Minden City, Mich., in place of A. C. Kulish, resigned.

Harold B. Whalley to be postmaster at Kalkaska, Mich., in place of Cornelius Cronin, deceased.

Harry G. Turner to be postmaster at Covert, Mich., in place of G. A. Enlow. Incumbent's commission expired December 20, 1920.

## MINNESOTA.

Elmer B. Dahl to be postmaster at Pine River, Minn., in place of W. G. Stewart, resigned.

Frank H. Beyer to be postmaster at Elgin, Minn., in place of De Wane Searles. Incumbent's commission expired March 16, 1921.

Gilbert J. Brenden to be postmaster at Badger, Minn., in place of P. O. Frylund, resigned.

Stanley A. Torgerson to be postmaster at Hawley, Minn., in place of N. J. Thysell, deceased.

Charles H. Huntsberry to be postmaster at Forest Lake, Minn., in place of A. W. Johnson, resigned.

Daniel H. Hill to be postmaster at Cook, Minn., in place of O. J. Leding. Incumbent's commission expired March 16, 1921.

William H. Sturgeon to be postmaster at Canton, Minn., in place of W. H. Sturgeon. Incumbent's commission expired March 16, 1921.

Lida K. Gray to be postmaster at Taylors Falls, Minn., in place of L. K. Gray. Incumbent's commission expired May 17, 1921.

Olaf M. Groven to be postmaster at Mentor, Minn. Office became presidential January 1, 1921.

Jennie M. Payne to be postmaster at Goodridge, Minn. Office became presidential April 1, 1921.

John C. Thorp to be postmaster at Shevlin, Minn. Office became presidential January 1, 1921.

#### MISSISSIPPI.

Joseph E. Lane to be postmaster at Flora, Miss., in place of J. E. Lane. Incumbent's commission expired January 31, 1921.

John N. Truitt to be postmaster at Minter City, Miss., in place of L. M. Quarles, resigned.

Asa A. Edwards to be postmaster at Laurel, Miss., in place of E. G. Harris, resigned.

George D. Myers to be postmaster at Byhalia, Miss., in place of G. D. Myers. Incumbent's commission expired March 16, 1921.

Alexander Yates to be postmaster at Utica, Miss., in place of I. C. Chapman. Incumbent's commission expired July 21, 1920.

Woodard M. Herring to be postmaster at Inverness, Miss., in place of W. M. Herring. Incumbent's commission expired March 16, 1921.

#### MISSOURI.

William F. Crigler to be postmaster at Nevada, Mo., in place of Joseph Harper, deceased.

Edgar H. Intelmann to be postmaster at Cole Camp, Mo., in place of J. S. Fowler, resigned.

James H. Turner to be postmaster at Weston, Mo., in place of H. B. Adkins, resigned.

Elbert L. Stackhouse to be postmaster at Thompson Falls, Mo., in place of William Moser. Incumbent's commission expired August 3, 1920.

Edwin McKinley to be postmaster at Wheaton, Mo., in place of E. H. Davis, removed.

Kinzie K. Gittings to be postmaster at Chilhowee, Mo., in place of J. J. Salmon, resigned.

Leonard D. Fisher to be postmaster at Union Star, Mo., in place of O. L. Perkins. Incumbent's commission expired December 20, 1920.

Gordon E. Guiles to be postmaster at Green Castle, Mo., in place of Z. A. Cleeton. Incumbent's commission expired May 7, 1921.

Horace L. Johnson to be postmaster at Winston, Mo. Office became presidential July 1, 1921.

Edward O. Horton to be postmaster at Washburn, Mo. Office became presidential January 1, 1921.

Isaac M. Galbraith to be postmaster at Walker, Mo. Office became presidential April 1, 1921.

John W. Rissler to be postmaster at Houstonia, Mo. Office became presidential April 1, 1921.

Earle W. Phillips to be postmaster at Henrietta, Mo. Office became presidential April 1, 1921.

Joe Ritchey to be postmaster at Nelson, Mo. Office became presidential July 1, 1920.

Harvey R. Imboden to be postmaster at Arcadia, Mo. Office became presidential April 1, 1921.

Robert W. Wiseman to be postmaster at Maywood, Mo. Office became presidential January 1, 1921.

Evelyn S. Culp to be postmaster at Rocky Comfort, Mo. Office became presidential January 1, 1921.

#### MONTANA.

Edgar P. Mizell to be postmaster at Troy, Mont., in place of Hallie Savage. Incumbent's commission expired March 16, 1921.

Harry H. Goble to be postmaster at St. Ignatius, Mont., in place of M. A. O'Connell. Incumbent's commission expired March 16, 1921.

Jesse D. Working to be postmaster at Wilsall, Mont., in place of A. M. Johns. Incumbent's commission expired December 20, 1920.

#### NEBRASKA.

Vaelav Randa to be postmaster at Verdigre, Nebr., in place of J. L. Klimes, resigned.

Charles E. Black to be postmaster at Omaha, Nebr., in place of C. E. Fanning, deceased.

Mary J. Riley to be postmaster at Dawson, Nebr., in place of M. A. Riley, name changed by marriage.

Willard Steng to be postmaster at Syracuse, Nebr., in place of W. N. Hunter. Incumbent's commission expired March 16, 1921.

#### NEW JERSEY.

James A. Morrison to be postmaster at New Brunswick, N. J., in place of P. H. S. Hendricks, resigned.

William Hockenjos, jr., to be postmaster at Lake Hopatcong, N. J., in place of F. R. Crater. Incumbent's commission expired March 16, 1921.

John D. Seals to be postmaster at Kenvil, N. J., in place of W. D. Jardine. Incumbent's commission expired March 16, 1921.

Charles R. Bassett to be postmaster at Bloomsbury, N. J., in place of Louis Cressman. Incumbent's commission expired April 24, 1921.

Patrick F. Kaine to be postmaster at South Plainfield, N. J., in place of J. B. Geary. Incumbent's commission expired March 16, 1921.

Richard J. Rogers to be postmaster at Rumson, N. J., in place of W. H. Allas, removed.

Annie L. Quint to be postmaster at Metuchen, N. J., in place of D. A. Power. Incumbent's commission expired February 4, 1919.

Alice A. Ayres to be postmaster at Island Heights, N. J., in place of A. B. Ayres. Incumbent's commission expired April 6, 1921.

Joseph H. McLaughlin to be postmaster at Bradley Beach, N. J., in place of W. H. Stephens. Incumbent's commission expired July 10, 1920.

Harry Harsin to be postmaster at Asbury Park, N. J., in place of H. C. Hurley. Incumbent's commission expired August 6, 1921.

#### NEW YORK.

Frank E. Wolcott to be postmaster at Franklin, N. Y., in place of George O. Burgin, resigned.

Owen J. Griffith to be postmaster at Remsen, N. Y., in place of W. F. Brown. Incumbent's commission expired January 28, 1920.

Owen W. House to be postmaster at Parish, N. Y., in place of B. L. Morgan, resigned.

Harold F. Clark to be postmaster at Ovid, N. Y., in place of Benjamin Franklin. Incumbent's commission expired August 8, 1920.

William S. Kershaw to be postmaster at Neshanic Station, N. Y., in place of W. R. Huff. Incumbent's commission expired March 17, 1921.

Thomas M. Keegan to be postmaster at Ferndale, N. Y., in place of T. M. Keegan. Incumbent's commission expired January 8, 1921.

Martin Z. Hyney to be postmaster at Sharon Springs, N. Y., in place of Eugene Smith, resigned.

Edith A. Jennings to be postmaster at Mahopac, N. Y., in place of W. H. Spain. Incumbent's commission expired December 20, 1920.

Federick Traudt to be postmaster at Hyde Park, N. Y., in place of R. M. Halpin. Incumbent's commission expired June 2, 1920.

Lucy E. Murray to be postmaster at Florida, N. Y., in place of A. D. Jessup, resigned.

Stanley D. Cornish to be postmaster at Carmel, N. Y., in place of Thomas O'Brien. Incumbent's commission expired January 28, 1920.

Verona M. Simons to be postmaster at Freeville, N. Y., in place of G. S. Hart. Incumbent's commission expired July 3, 1920.

Frank A. Wheeler to be postmaster at Munnsville, N. Y. Office became presidential January 1, 1921.

Floyd M. Croop to be postmaster at Leonardsville, N. Y. Office became presidential April 1, 1921.

#### NEW MEXICO.

Florence Shelpman to be postmaster at Nara Vista, N. Mex. Office became presidential October 1, 1920.

Louis J. Gusler to be postmaster at Grenville, N. Mex. Office became presidential April 1, 1921.

#### NORTH CAROLINA.

Chester A. Hinton to be postmaster at Pomona, N. C., in place of A. J. Sykes. Incumbent's commission expired March 16, 1921.

William E. Linney to be postmaster at Wilkesboro, N. C., in place of M. F. Bumgarner, resigned.

Herman B. Lassiter to be postmaster at Seaboard, N. C. Office became presidential April 1, 1921.



Nora J. Grimes to be postmaster at Cooleemee, N. C. Office became presidential July 1, 1920.

Albert Z. Jarman to be postmaster at Richlands, N. C. Office became presidential January 1, 1921.

## NORTH DAKOTA.

Otto S. Wing to be postmaster at Edmore, N. Dak., in place of R. L. Woldy. Incumbent's commission expired April 16, 1921.

Reinhart Gilbertson to be postmaster at Glenburn, N. Dak., in place of Reinhart Gilbertson. Incumbent's commission expired March 15, 1920.

## OHIO.

Orville R. Wiley to be postmaster at Hartville, Ohio, in place of C. C. Schenes. Incumbent's commission expired March 16, 1921.

Stella M. Brogan to be postmaster at Lodi, Ohio, in place of P. C. Fullerton. Incumbent's commission expired January 27, 1920.

George W. Burner to be postmaster at Johnstown, Ohio, in place of T. A. Duckworth, resigned.

James P. Evans to be postmaster at Bradner, Ohio, in place of W. L. Bryan. Incumbent's commission expired March 16, 1921.

William Schnoor to be postmaster at Put in Bay, Ohio, in place of C. B. Johannsen. Incumbent's commission expired December 20, 1920.

Otho S. Halloway to be postmaster at Flushing, Ohio, in place of S. E. Bethel. Incumbent's commission expired July 10, 1920.

John R. Williams to be postmaster at College Corner, Ohio, in place of A. L. Foreman. Incumbent's commission expired July 14, 1920.

## OREGON.

Walter C. Holland to be postmaster at Westport, Oreg., in place of J. W. Thompson. Incumbent's commission expired July 21, 1921.

Jessie Hood to be postmaster at Wallowa, Oreg., in place of O. E. Marvin. Incumbent's commission expired August 26, 1920.

Elizabeth Thompson to be postmaster at Nyssa, Oreg., in place of Elizabeth Thompson. Incumbent's commission expired August 8, 1920.

Volney E. Lee to be postmaster at North Powder, Oreg., in place of V. E. Lee. Incumbent's commission expired March 16, 1921.

Edwin F. Muncey to be postmaster at Halfway, Oreg., in place of S. F. Denderick. Incumbent's commission expired March 16, 1921.

## OKLAHOMA.

Benjamin G. Baker to be postmaster at Chattanooga, Okla., in place of J. R. Capshaw. Incumbent's commission expired July 25, 1921.

Albert L. Chesnut to be postmaster at Kingston, Okla., in place of M. C. Murphy. Incumbent's commission expired March 16, 1921.

Charles W. Straughan to be postmaster at Wakita, Okla., in place of H. A. Garrett. Incumbent's commission expired July 25, 1920.

James M. Johnson to be postmaster at Terral, Okla. Office became presidential April 1, 1921.

Sandy H. Singleton to be postmaster at Loco, Okla. Office became presidential January 1, 1921.

## PENNSYLVANIA.

Harry T. Callen to be postmaster at Tower City, Pa., in place of T. F. Berney. Incumbent's commission expired August 7, 1921.

Robert M. Smith to be postmaster at Center Hall, Pa., in place of S. W. Smith. Incumbent's commission expired January 2, 1921.

Mina Connell to be postmaster at Yatesboro, Pa., in place of H. F. Sowers, resigned.

Samuel B. Long to be postmaster at Sykesville, Pa., in place of I. C. Mansfield. Incumbent's commission expired March 16, 1921.

Samuel G. Garnett to be postmaster at Parkesburg, Pa., in place of J. A. McEvoy. Incumbent's commission expired April 19, 1921.

Patrick J. McLane to be postmaster at Girardville, Pa., in place of J. F. Lavalle. Incumbent's commission expired September 5, 1920.

John J. Nolan to be postmaster at Farrell, Pa., in place of R. H. Johnston. Incumbent's commission expired July 24, 1920.

Clifford W. McFarland to be postmaster at Rossiter, Pa., in place of J. W. Murray. Incumbent's commission expired August 30, 1920.

Daniel A. Waters to be postmaster at Dallas, Pa., in place of J. L. Sullivan, resigned.

Ward C. Bergstresser to be postmaster at Dudley, Pa. Office became presidential April 1, 1921.

Willis O. Dell to be postmaster at Mapleton Depot, Pa. Office became presidential January 1, 1920.

## SOUTH CAROLINA.

Alfred de Meurisse, jr., to be postmaster at Parris Island, S. C., in place of L. B. Freeman, resigned.

Warley L. Parrott to be postmaster at Bishopville, S. C., in place of M. B. McCutchen, resigned.

## SOUTH DAKOTA.

John F. Kostel to be postmaster at Tabor, S. Dak., in place of J. F. Kostel. Incumbent's commission expired March 16, 1921.

John L. Donahue to be postmaster at Ethan, S. Dak., in place of J. L. Donahue. Incumbent's commission expired March 16, 1921.

## TENNESSEE.

Leonard D. Carmack to be postmaster at Pressmen's Home, Tenn., in place of L. D. Carmack. Incumbent's commission expired March 16, 1921.

Will F. Sherwood to be postmaster at Petersburg, Tenn., in place of S. H. Allen. Incumbent's commission expired January 2, 1921.

Leslie Vernon to be postmaster at Alamo, Tenn., in place of J. W. Emison. Incumbent's commission expired January 18, 1921.

Joseph T. Hester to be postmaster at Huntingdon, Tenn., in place of J. B. Gilbert. Incumbent's commission expired January 2, 1921.

## TEXAS.

Hugh T. Chastain to be postmaster at Alvarado, Tex., in place of H. T. Campbell. Incumbent's commission expired August 26, 1920.

Tina East to be postmaster at Sanderson, Tex., in place of H. C. Jordan. Incumbent's commission expired July 10, 1920.

Rufus L. Hybarger to be postmaster at Pineland, Tex., in place of R. L. Hybarger. Incumbent's commission expired September 7, 1920.

Mamie E. Bonar to be postmaster at Aubrey, Tex., in place of B. M. Coffey; name changed by marriage.

## UTAH.

John F. Justesen to be postmaster at Spring City, Utah. Office became presidential January 1, 1921.

Earl H. Greenhalgh to be postmaster at Ferren, Utah. Office became presidential January 1, 1921.

James C. Hill to be postmaster at Elsinore, Utah. Office became presidential April 1, 1921.

## VIRGINIA.

William E. Fraley to be postmaster at Cleveland, Va. Office became presidential January 1, 1921.

## VERMONT.

Archie W. Burdick to be postmaster at West Pawlet, Vt., in place of John Layden. Incumbent's commission expired August 7, 1920.

William M. Batchelder to be postmaster at Dorset, Vt., in place of A. B. Roberts. Incumbent's commission expired January 13, 1921.

## WASHINGTON.

Herbert K. Rowland to be postmaster at Zillah, Wash., in place of W. L. Adams. Incumbent's commission expired March 9, 1920.

Frank Putnam to be postmaster at Tonasket, Wash., in place of T. E. Brittain. Incumbent's commission expired January 5, 1920.

William L. Oliver to be postmaster at Rockford, Wash., in place of L. A. Rochford. Incumbent's commission expired July 10, 1920.

I. Wells Littlejohn to be postmaster at Pateros, Wash., in place of I. W. Littlejohn. Incumbent's commission expired January 31, 1921.

Arthur B. Foley to be postmaster at Wilbur, Wash., in place of A. B. Foley. Incumbent's commission expired August 7, 1920.

Oscar W. Behrmann to be postmaster at Fairfield, Wash., in place of O. W. Behrmann. Incumbent's commission expired January 8, 1921.

Frank Hurst to be postmaster at Washtucna, Wash., in place of J. H. Gill. Incumbent's commission expired January 5, 1920.

John L. Field to be postmaster at Quincy, Wash., in place of J. L. Field. Incumbent's commission expired March 16, 1921.  
Nellie A. Smoots to be postmaster at Friday Harbor, Wash., in place of S. D. Martin. Incumbent's commission expired March 29, 1920.

Minnie M. McCracken to be postmaster at Clearlake, Wash., in place of M. M. McCracken. Incumbent's commission expired March 16, 1921.

Edwin L. Hughes to be postmaster at Napavine, Wash. Office became presidential July 1, 1920.

Calvin K. Cooper to be postmaster at Long Beach, Wash. Office became presidential April 1, 1920.

#### WISCONSIN.

Carl E. Reichenbach to be postmaster at Merrillan, Wis., in place of C. E. Reichenbach. Incumbent's commission expired June 29, 1920.

Carl R. Anderson to be postmaster at Weyerhaeuser, Wis., in place of C. A. Anderson, resigned.

#### CONFIRMATIONS.

*Executive nominations confirmed by the Senate November 23 (legislative day of November 16), 1921.*

#### PROMOTIONS IN THE CONSULAR SERVICE.

##### CONSUL GENERAL OF CLASS 2.

Evan E. Young.

##### CONSUL GENERAL OF CLASS 3.

Leo J. Keena.

##### CONSULS GENERAL OF CLASS 4.

Augustus E. Ingram.

DeWitt C. Poole.

##### CONSULAR INSPECTORS.

Nelson T. Johnson.

Roger Culver Tredwell.

##### CONSULS OF CLASS 3.

Clarence Carrigan.

Harry A. McBride.

Ely E. Palmer.

Homer M. Byington.

Clarence E. Gauss.

##### CONSULS OF CLASS 4.

Louis G. Dreyfus, jr.

Claude E. Guyant.

Theodore Jaekel.

Walter A. Leonard.

George S. Messersmith.

Thomas D. Bowman.

Charles M. Hathaway, jr.

J. Paul Jameson.

Addison E. Southard.

Alfred R. Thomson.

##### CONSULS OF CLASS 5.

Harris N. Cookingham.

Robert Harnden.

Frank Anderson Henry.

Frank C. Lee.

Irving N. Linnell.

Charles Roy Nasmith.

Elliott Verne Richardson.

Francis R. Stewart.

Thomas H. Beran.

Algar E. Carleton.

William L. Jenkins.

Leland B. Morris.

Hugh H. Watson.

John J. C. Watson.

##### CONSULS OF CLASS 6.

Charles R. Cameron.

Chester W. Davis.

Erle R. Dickover.

Coert du Bois.

Bernard Gottlieb.

John P. Hurley.

William R. Langdon.

James P. Moffitt.

Ernest B. Price.

John Randolph.

Samuel Sokobin.

S. Pinkney Tuck.

Reed Paige Clark.

Carol H. Foster.

Theodore B. Hogg.

Harry M. Lakin.

Harry L. Walsh.

Avra M. Warren.

##### CONSULS OF CLASS 7.

John R. Bradley.

Thomas W. Chilton.

Raymond Davis.

#### SPECIAL EXAMINER OF DRUGS, MEDICINES, AND CHEMICALS.

Cecil de J. Harbordt to be special examiner of drugs, medicines, and chemicals, collection district No. 11, Philadelphia, Pa.

#### MEMBER OF FEDERAL BOARD FOR VOCATIONAL EDUCATION.

Edward T. Franks to be member of Federal Board for Vocational Education.

#### UNITED STATES MARSHALS.

James A. White to be United States marshal, eastern district of Illinois.

Robert R. Levy to be United States marshal, northern district of Illinois.

#### AIDS, COAST AND GEODETIC SURVEY.

Max Leff.

August Hans Wagener.

#### PROMOTION IN THE ARMY.

Joseph Compton Castner to be brigadier general.

#### PROMOTIONS IN THE NAVY.

##### TO BE A LIEUTENANT (JUNIOR GRADE).

Harry F. Newton.

##### TO BE AN ENSIGN.

Irwin G. Sooy.

##### TO BE AN ASSISTANT PAYMASTER.

David W. Robinson.

##### TO BE CHIEF PHARMACISTS.

De Witt C. Allen.

Herman C. Roe.

##### TO BE CHIEF BOATSWAINS.

Forest E. Frost.

George A. Spedden.

Clarence R. Reed.

Thomas F. Langseth.

##### TO BE CHIEF GUNNERS.

Hal W. Barnes.

Edward L. Moyer.

Howard A. Booth.

##### TO BE CHIEF MACHINISTS.

Emmet L. Bourke.

Leo E. Gray.

Nicholas Kedinger.

Louis Verbrugge.

Elmer O. Davis.

Emmet C. Thurman.

Shine S. Halliburton.

Alfred Hayes.

##### TO BE CHIEF CARPENTERS.

Alfred L. Johnson.

Evert O. Smith.

Lott C. Newton.

Goldsboro Sessions.

Armand Mayville.

Frederick A. Johnson.

Joseph P. Emms.

William Tavenner.

Ellis B. Berkstresser.

Robert J. Leahy.

John Reid, jr.

Merick A. Beach.

Benjamin B. Britt.

##### TO BE A CHIEF GUNNER.

Kenneth G. Clark.

##### TO BE CHIEF CARPENTERS.

Clifford J. Lishman.

Chris A. Rodegerdts.

#### POSTMASTERS.

##### ALABAMA.

Joseph Loran, Jackson.

Alma Collins, Kennedy.

##### CALIFORNIA.

Frank W. Roach, Calexico.

Ella Pratt, Fall River Mills.

William O. Hart, Orange.

William L. Robbins, Orange Cove.

Harold G. McCurry, Sacramento.

William P. Coffman, Burbank.

Brock Dickie, Dixon.

Raymond G. Brackett, Geyersville.

Walter E. White, Dos Palos.

Carl A. Romer, San Juan Capistrano.

Alex Chaim, Byron.

Daniel Dennis, Walnut Grove.

Lester S. Clark, Albion.

Gustav A. Thoren, Eldridge.

Percy S. Peek, Mokelumne Hill.

Bertha V. Eaton, Florin.

Kenneth F. Reynolds, Irvington.

##### COLORADO.

George W. Heflin, De Beque.

Mary McConnell, Minturn.

Juan R. Valdez, San Luis.

##### FLORIDA.

John F. Stunkel, Leesburg.

Oliver H. P. Faus, Lemon City.

Goldie B. Helm, Oneco.

##### GEORGIA.

Charles W. McAfee, Blue Ridge.

Elizabeth L. Ragan, Bronwood.

Robert H. Ridgeway, Canon.

Walter R. Cannon, Clayton.

Alexander Davidson, Cleveland.

James L. Weaver, Ellijay.



Robert L. Williams, Griffin.  
 Hugh C. Register, Hahira.  
 Columbus W. Fields, Hampton.  
 James P. Pirkle, Hoschton.  
 Rosa L. Lindsey, Irwinton.  
 William N. Casey, Kingsland.  
 Jefferson D. Stalvey, Lake Park.  
 Venter B. Godwin, Lenox.  
 E. Stanley Burnett, Leslie.  
 Alice Calhoun, Lumber City.  
 Rois A. Martin, Milner.  
 Janie Pinkston, Parrott.  
 Joe B. Saunders, Ringgold.  
 Mary W. Barclay, Rome.  
 Henry G. Roberds, Villa Rica.  
 Forrest C. Berry, Young Harris.  
 Maude S. Erwin, Fair Mount.

## IDAHO.

George Alley, Bancroft.  
 Dalton C. Rogers, Culesac.  
 Alva A. Lewis, McCammon.  
 Hugh H. Hamilton, New Plymouth.  
 Chester A. Cornwell, Rupert.  
 Charles B. Mirgon, Cascade.

## ILLINOIS.

Henry E. Petersen, Ashkum.  
 George Howard, Brimfield.  
 Arthur L. Burdette, Danvers.  
 Chalon T. Land, Enfield.  
 William E. Kitch, Niantic.  
 William D. Abbaduska, Odell.  
 Mary E. Lister, Percy.  
 Jefferson Louk, Prairie City.  
 Edna G. Mallette, Reynolds.  
 Willis J. Huston, Rochelle.  
 William F. Koch, Union.  
 Charles A. Cline, Clinton.  
 Esther V. Wheeler, Ashmore.  
 Rosella L. Fletcher, Easton.  
 Ewell V. Figg, Edinburg.  
 Maurice E. Murrie, Grayslake.  
 Otto A. Unbehauen, Mount Carmel.  
 Ralph R. Larkin, Prairie du Rocher.  
 Willis M. Hoag, Princeville.

## INDIANA.

Ethel J. Pinney, Lacrosse.  
 Charles W. Burkett, Otterbein.  
 Forrest Ollar, Chalmers.  
 Jesse A. McCluer, Marshall.

## KANSAS.

Ezra D. Bolinger, Bucklin.  
 Ernest Toomey, Neodesha.  
 Clara Guyer, Arlington.  
 Frederick B. Larkin, Beattie.  
 Nathan W. Huston, Columbus.

## KENTUCKY.

William B. Buford, Nicholasville.  
 Otis C. Thomas, Liberty.  
 Herbert C. Miller, Pembroke.  
 Eli G. Thompson, Providence.  
 Lettie P. Thompson, Sadieville.  
 William E. Ashby, Shepherdsville.  
 John S. Jones, West Point.

## LOUISIANA.

James H. Leech, Mer Rouge.  
 Nestor L. Currault, Westwego.  
 John E. Pickett, Fisher.

## MAINE.

Edmund O. Collins, Bridgewater Center.  
 Flavie Fournier, Eagle Lake.  
 Archie D. Clark, East Corinth.  
 Charles W. Farrington, Mexico.  
 Ernest E. Pike, Princeton.  
 Joseph B. Lewis, Hampden Highlands.  
 Le Forest T. Spear, Rockport.  
 Marjorie R. Tozier, West Enfield.  
 Freeman L. Roberts, Vinal Haven.  
 Geneva A. Berry, Brownville Junction.  
 Benjamin F. Ham, Unity.

## MARYLAND.

Howard F. Owens, Betterton.  
 Leo F. McGinity, Camp Meade.

Margaret T. Bowdoin, College Park.  
 Robert M. Garner, La Plata.  
 Lawrence M. Taylor, Perryman.  
 Calvin S. Duvall, Gaithersburg.

## MASSACHUSETTS.

Wallace M. Ripley, Wilbraham.  
 Elmer G. Pike, Dalton.  
 C. Edgar Searing, Stockbridge.

## MICHIGAN.

Ward Reynolds, Beulah.  
 Harry G. Turner, Covert.  
 Meta A. Patterson, Edwardsburg.

## MINNESOTA.

Frank H. Beyer, Elgin.  
 Gilbert J. Brenden, Badger.  
 Elmer B. Dahl, Pine River.  
 Albert Newstrom, Cohasset.  
 Thomas S. Smith, Dilworth.  
 Louis E. Olson, Nicollet.  
 Nels J. Amble, Peterson.  
 Martin O. Sortedahl, Red Lake Falls.  
 Arthur H. Rowland, Tracy.  
 Jennie M. Payne, Goodridge.  
 Olaf M. Groven, Mentor.  
 Fred A. Shipman, Chokio.  
 James E. Ziska, Silver Lake.

## MISSISSIPPI.

Henry F. Clarke, Amory.

## MISSOURI.

Harvey R. Imboden, Arcadia.  
 Joe Ritchey, Nelson.  
 Edgar H. Intelmann, Cole Camp.  
 William F. Crigler, Nevada.  
 Gordon E. Guiles, Green Castle.  
 Robert W. Wiseman, Maywood.  
 James H. Turner, Weston.

## MONTANA.

Mattie C. Donaldson, Froid.  
 George W. Edkins, Glacier Park.  
 Georgiana C. Wilson, Lehigh.  
 Harry L. Coulter, Plains.  
 Luther M. Hoham, Saco.  
 Roy C. Stageberg, Westby.  
 Hazel F. McKinnon, Bearcreek.  
 Malcolm W. Clarke, Browning.  
 John R. Farris, Conrad.  
 Richard Murray, Klein.  
 Roy Ross, Moore.  
 Garfield Hankins, Musselshell.  
 Robert M. Fry, Park City.  
 Harry J. Waters, Rapelje.  
 John A. Brown, Ryegate.  
 Noble O. Anderson, Savage.  
 William A. Francis, Virginia City.

## NEBRASKA.

Edwin R. Frady, Oakdale.  
 Mary E. Hossack, Sutherland.  
 Charles E. Black, Omaha.  
 Mary L. Riley, Dawson.  
 Vaclav Randam, Verdigre.

## NEVADA.

Albert R. Cave, Montello.

## NEW HAMPSHIRE.

Ervin W. Hodsdon, Mountainview.  
 Alfred S. Cloues, Warner.

## NEW JERSEY.

Harry Harsin, Asbury Park.  
 Joseph H. McLaughlin, Bradley Beach.  
 Alice A. Ayres, Island Heights.  
 Annie L. Quint, Metuchen.  
 James A. Morrison, New Brunswick.  
 Richard J. Rogers, Rumson.  
 Patrick F. Kaine, South Plainfield.

## NEW MEXICO.

Ella T. Roberts, Gibson.  
 Nora A. Keithly, Hot Springs.  
 William W. Dedman, Hurley.  
 Louis J. Gusler, Grenville.

## NEW YORK.

George W. Hulbert, Downsville.  
 Sylvester P. Shea, Freeport.  
 Marion L. Lewis, Gilboa.  
 Ida M. Kohler, Jeffersonville.  
 James R. Doyle, Kerhonkson.  
 Ivan L. Connor, Natural Bridge.  
 Darwin E. Hibbard, North Collins.  
 William D. Streeter, Richland.  
 Sheldon G. Stratton, Sacket Harbor.  
 Norman L. Bedle, Spring Valley.  
 Henry W. Osborn, Ulster Park.  
 Wilbur C. Eaton, Youngstown.  
 Frank E. Wolcott, Franklin.  
 Verona M. Simons, Freeville.  
 Floyd M. Croop, Leonardsville.  
 Owen J. Griffith, Remsen.

## NORTH CAROLINA.

Noah J. Grimes, Cooleemee.  
 Chester A. Hinton, Pomona.  
 Herman B. Lassiter, Seaboard.

## NORTH DAKOTA.

Otto S. Wing, Edmore.

## OHIO.

James P. Evans, Bradner.  
 Orville R. Wiley, Hartville.  
 George W. Burner, Johnstown.  
 Stella M. Brogan, Lodi.

## OKLAHOMA.

Benjamin G. Baker, Chattanooga.

## OREGON.

Edwin F. Muncey, Halfway.  
 Volney E. Lee, North Powder.  
 Elizabeth Thompson, Nyssa.  
 Jessie Hood, Wallowa.  
 Walter C. Holland, Westport.  
 Nellie E. Barhan, Kerry.

## PENNSYLVANIA.

Ward C. Bergstresser, Dudley.  
 Daniel A. Waters, Dallas.  
 Clifford W. McFarland, Rossiter.  
 Ralph S. Hood, Beaver Falls.  
 John J. Mather, Benton.  
 William L. Hendricks, Bolivar.  
 Samuel H. Hughes, Camp Hill.  
 Thomas G. Wood, Elkland.  
 Mary A. Gatchell, George School.  
 Cecil E. Adams, Karns City.  
 Earl W. Hopkins, Leetsdale.  
 Edith M. Phelps, Ludlow.  
 Demas L. Post, Marianna.  
 Katharyn L. McClellan, Marienville.  
 James C. Bovard, Marion Center.  
 Jacob R. Snyder, Mount Holly Springs.  
 Horace L. Couch, New Brighton.  
 Willa Saylor, South Brownsville.  
 Robert E. Gammell, Tremont.  
 Karl Mette, Woolrich.  
 Russell H. Brown, Yukon.  
 Robert M. Smith, Center Hall.  
 John J. Nolan, Farrell.  
 Patrick J. McLane, Girardville.  
 Willis G. Dell, Mapleton Depot.  
 Samuel G. Garnett, Parkesburg.  
 Samuel B. Long, Sykesville.  
 Harry T. Callen, Tower City.  
 Mina Connell, Yatesboro.

## SOUTH CAROLINA.

Helen L. Cox, Hemingway.  
 Alfred de Meurisse, Jr., Paris Island.

## SOUTH DAKOTA.

John L. Donahue, Ethan.  
 John F. Kostel, Tabor.

## TEXAS.

Willie L. Weaver, Cooleedge.  
 Enoch G. Fletcher, Grand Saline.

## UTAH.

James C. Hill, Elsinore.

## VERMONT.

Archie W. Burdick, West Pawlet.

## VIRGINIA.

William E. Fraley, Cleveland.  
 Walter C. Stout, Cumberland.  
 Daniel V. Richmond, Ewing.  
 Charles E. Black, Fordwick.  
 Bernard R. Powell, Franklin City.  
 Leonard G. Perkins, Mineral.  
 Thomas C. Coleman, Ridgeway.  
 Howard S. Estill, Roda.  
 William H. Dunlap, Stanley.  
 Leslie M. Gary, Victoria.

## WASHINGTON.

I. Wells Littlejohn, Pateros.  
 William L. Oliver, Rockford.  
 Frank Putnam, Tonasket.  
 Herbert K. Rowland, Zillah.  
 John J. Kashevnikov, Cle Elum.  
 J. Frank Hall, Edwall.  
 Lester S. Overholt, Omak.  
 James S. Edwards, Ritzville.

## WEST VIRGINIA.

Freda W. Mason, Bayard.  
 James P. Peck, Mabscott.  
 Ulysses S. Jarrett, St. Albans.  
 James A. Little, Waverly.

## WISCONSIN.

George J. Chesak, Athens.  
 Ilma Dugal, Cadott.  
 Asa B. Cronk, Clear Lake.  
 John E. Huff, Florence.  
 Harry E. Eustice, Livingston.  
 Mary G. Helke, Nekoosa.  
 Guy M. Boughton, St. Croix Falls.

## REJECTION.

*Executive nomination rejected by the Senate November 23  
 (legislative day of November 16), 1921.*

## PROMOTION IN THE ARMY.

Robert Gray Peck to be lieutenant colonel, Infantry.

## HOUSE OF REPRESENTATIVES.

WEDNESDAY, November 23, 1921.

The House met at 12 o'clock noon, and was called to order by the Speaker pro tempore [Mr. WALSH].

The Chaplain, Rev. James Shera Montgomery, D. D., offered the following prayer:

Almighty God, we thank Thee for the greatness of Thy love, for the pity of Thy heart, and for the strength of Thy grace; therefore we would enter Thy gates with praise and Thy courts with thanksgiving and acknowledge Thee to be our God and our everlasting Father. The might of Thy hand has upheld the walls of the world, and the heavens and the earth record the presence of Thy mercy.

We bless Thy holy name for the stability and the security of our Republic. From our earliest years to our latest breath Thou hast led us forth into a large inheritance. For abundant harvests and fruits of field and land we praise Thee; for the great, broad blessings which have come to all our people we thank Thee. Oh, continue to bestow happiness, comfort, and good will upon all our citizens. Strengthen the bonds of the divinest love in all our homes; behold our children and breathe the messages of gladness and goodness into their hearts; comfort the poor who are bowed down with weakness; care for the sick and bring back their sunny hope and make everybody glad with the purest joy. Through Jesus Christ our Lord. Amen.

The Journal of the proceedings of yesterday was read and approved.

## EXTENSION OF REMARKS.

Mr. QUIN. Mr. Speaker—

The SPEAKER pro tempore. For what purpose does the gentleman from Mississippi rise?

Mr. QUIN. I rise to ask unanimous consent to extend my remarks by inserting in the Record the very able speech made by my colleague [Mr. Tyson, of Alabama] on the 11th day of November, Armistice Day.

The SPEAKER pro tempore. The gentleman from Mississippi asks unanimous consent to extend his remarks by inserting in



the RECORD a speech made by the gentleman from Alabama [Mr. Tyson] upon November 11. Is there objection? [After a pause.] The Chair hears none.

Mr. DARROW. Mr. Speaker, I ask unanimous consent to extend in the RECORD the remarks of my colleague [Mr. GRIEST] on the subject of agriculture.

The SPEAKER pro tempore. The gentleman from Pennsylvania asks unanimous consent to insert a speech made by his colleague [Mr. GRIEST] on the subject of agriculture. Is there objection? [After a pause.] The Chair hears none.

#### DISCONTINUANCE OF CERTAIN GOVERNMENT PUBLICATIONS.

Mr. JOHNSON of Washington. Mr. Speaker, I ask unanimous consent to place in the RECORD for the information of Members, in large type, the views of the minority on Senate joint resolution 132 as amended by the House Printing Committee, which is in reference to a continuance of the printing of certain public documents.

The SPEAKER pro tempore. The gentleman from Washington asks unanimous consent to print in the RECORD in large type the views of the minority on Senate joint resolution 132 relative to continuing certain Government publications. Is there objection? [After a pause.] The Chair hears none.

Mr. JOHNSON of Washington. Senate joint resolution 132, passed by the Senate a few days ago, undertook to give the Joint Committee on Printing full authority to handle the situation which has arisen in connection with the multitude of Government magazines and newspapers. The House Committee on Printing, which consists of but three members, amended the Senate resolution so as to further extend the time. To that proposal I dissented and have filed the following (Report No. 485):

#### VIEWS OF THE MINORITY.

In the opinion of the undersigned, little or nothing, either in the way of economy or in the settlement of the publication problem, will be accomplished by a further extension of time in which unauthorized magazines, periodicals, and other publications may be continued to be issued, wholly or in part, at Government expense.

Many Congresses have tried to find a method of ending the multitude of Government publications which have started as official bulletins and developed into magazines or newspapers.

Congress has continued its effort. Legislation was passed which gave the Joint Committee on Printing certain authority but which limited the publication of the bulk of these Government magazines and newspapers "until the close of the next regular session of Congress," which was the second session of the Sixty-sixth Congress, which expired June 5, 1920.

In other words, in the absence of legislation by Congress the publications were to cease to exist. Some publications were ended through cooperation of the departments and the Joint Committee on Printing, but there was no legislation.

A serious effort to end the irregularity was made by adding an antiprinting rider to an appropriation bill, which was vetoed by President Wilson on the ground that it interfered with the rights of the departments.

#### FIRST EXTENSION OF TIME.

So an extension of time was secured in section 4 of Public act No. 246, Sixty-sixth Congress, approved June 6, 1920, which provided that—

Any journal, magazine, periodical, or similar publication which is now being issued by a department or establishment of the Government may, in the discretion of the head thereof, be continued, within the limitation of available appropriations or other Government funds, until June 30, 1921, when, if it shall not have been specifically authorized by Congress before that date, such journal, magazine, periodical, or similar publication shall be discontinued.

#### SECOND EXTENSION OF TIME.

When that date was about to be reached it was once more discovered that no action had been taken looking to the regulation of Government publications and the date was again extended by legislation, section 3 of Public act No. 389, Sixty-sixth Congress, approved March 4, 1921, as follows:

Any journal, magazine, periodical, or similar publication which is now being issued by a department or establishment of the Government may, in the discretion of the head thereof, be continued, within the limitation of available appropriations or other Government funds, until December 1, 1921, when, if it shall not have been specifically authorized by Congress before that date, such journal, magazine, periodical, or similar publication shall be discontinued.

Why grant another extension?

In my opinion, to grant by special act of Congress another extension until March 1, 1922, is to again invite inaction. It will leave the publications once more up in the air. It will call for still another extension.

#### A MILLION A YEAR SAVED.

Pursuant to the act of March 1, 1919, the Joint Committee on Printing undertook a careful investigation of all Government periodicals and submitted a report on April 12, 1920. This report showed that 266 journals, magazines, and periodicals were being published by various branches of the Government, at a cost of approximately \$2,500,000 per annum.

As a result, either of the regulations adopted by the committee or the acts of the departments themselves, after many conferences with the committee, 111 of these publications, costing approximately \$1,200,000 per annum, were discontinued.

This left 155 publications, the continuance of which was authorized by the committee until the end of the second session of the Sixty-sixth Congress.

Since then, by agreement, 50 or 75 Government newspapers or magazines have been discontinued.

Some of these have switched back to official Government bulletins. Others have let go of the Government "teat" and are now being printed privately. Others hang on and insist that they are being printed within the law.

The Joint Committee on Printing has on file applications for the continuance of 41 publications. There are 40 more, probably, which need attention. The list of Government periodicals in existence on February 14, 1921, comprises 36 pages, each page the size of a page of this report.

There were on June 30 last a total of 342 Government printing plants in the United States and dependencies, with an appraised value of \$1,026,000, not including the Government Printing Office in Washington.

There is objection to Senate joint resolution No. 132, for the reason that it places power in the Joint Committee on Printing which should be left to Congress, but the plan provided for in the Senate resolution is, in my opinion, preferable to the proposal in the substitute that the time be again extended.

#### NO WORTHY PUBLICATION WILL LOSE.

In my opinion no worthy publication will lose by its temporary suspension, which need not be for more than 30 days. On a proper showing it can be resumed by act of Congress, so that it will no longer have a doubtful status. Many publications which have grown up around statistical tables are unnecessary. The tables and other proper information can be published under section 89 of the act approved January 12, 1895, by which departments print—

administrative reports, statistical publications, rules, regulations, instructions, opinions, decisions, official notices and circulars, office records, and such matter as may be required for the exclusive official use of the issuing office or service in the transaction of its routine business.

But bureau chiefs must learn that to issue Government reports and bulletins is one thing, and to issue magazines and newspapers with editorials, book reviews, and illustrations is another.

#### ENDLESS-CHAIN PROPOSITION.

For 10 years the printing of Government publications has run wild. At the end of the World War the number of propaganda and specialty publications going out at the expense of the Government amounted to a scandal. The half-Government-half-private publications were unfair to the Government.

Many Government publications pay much attention to the promotion and development of the particular bureaus from which they come. They boost the bureau, the bureau boosts the magazine, and thus a power for dragging down appropriations and starting "official" back-fires against opposition in Congress is quickly developed.

Even now back-fires are raging; started by Government officials, the telegrams paid for with Government money—all designed to keep all of these publications going that they may assist in getting more money from the Government—"as if increase of appetite had grown by what it fed on."

A little iron now and the desire of this Congress and previous Congresses to end this troublesome system can be realized. A bill giving specific authority to certain publications, and prescribing their size and how far they shall go as newspapers, periodicals, or magazines can be prepared, discussed, and quickly passed. But to decide that for fear that some favored one shall die none shall die means simply to continue the waste.

ALBERT JOHNSON.

#### EXTENSION OF REMARKS.

Mr. YOUNG. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD on the subject of the War Finance Corporation.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Dakota? [After a pause.] The Chair hears none.

## MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. Craven, its Chief Clerk, announced that the Senate had passed the following resolution, in which the concurrence of the House of Representatives was requested:

Senate concurrent resolution 15.

*Resolved by the Senate (the House of Representatives concurring).* That the two Houses of Congress shall adjourn on Wednesday, the 23d day of November, 1921, and that when they adjourn on said day they stand adjourned sine die.

## MESSAGE FROM THE PRESIDENT OF THE UNITED STATES.

A message in writing from the President of the United States, by Mr. Latta, one of his secretaries, who also informed the House that the President had approved and signed bills of the following titles:

On November 23, 1921:

H. J. Res. 225. Joint resolution authorizing payment of the salaries of officers and employees of Congress for November, 1921, on the 23d day of said month;

H. R. 7051. An act to authorize the Secretary of the Interior to execute deeds of reconveyance for certain lands in the city of Mount Pleasant, Isabella County, Mich.; and

H. R. 7294. An act, supplemental to the national prohibition act.

## RECESS.

Mr. CAMPBELL of Kansas. Mr. Speaker, I ask unanimous consent that the House stand in recess until 2 o'clock.

Mr. WEAVER. Will the gentleman withhold that request for a moment?

Mr. CAMPBELL of Kansas. I will.

Mr. WEAVER. Mr. Speaker—

The SPEAKER pro tempore. For what purpose does the gentleman rise?

## EXTENSION OF REMARKS.

Mr. WEAVER. I ask unanimous consent to extend my remarks in the Record, as I wish to insert a speech delivered by my colleague, Hon. S. M. BRINSON, before the North Carolina Society a few days ago.

The SPEAKER pro tempore. The gentleman from North Carolina asks unanimous consent to extend his remarks in the Record by inserting a speech delivered by his colleague [Mr. BRINSON]. Is there objection? [After a pause.] The Chair hears none.

Mr. RHODES. Mr. Speaker—

The SPEAKER pro tempore. For what purpose does the gentleman from Missouri rise?

Mr. RHODES. To prefer a unanimous-consent request. I ask unanimous consent to extend my remarks in the Record by printing an address I delivered at St. Louis September 3 last, before the International First Aid Mine Rescue Society meeting. The address is of a historical and scientific character.

The SPEAKER pro tempore. The gentleman from Missouri asks unanimous consent to extend his remarks in the Record by inserting therein an address delivered by him last September before the International First Aid Mine Rescue Society. Is there objection? [After a pause.] The Chair hears none.

## RECESS.

The SPEAKER pro tempore. The gentleman from Kansas asks unanimous consent that the House stand in recess until 2 o'clock this afternoon. Is there objection?

Mr. WINGO. Mr. Speaker, reserving the right to object, there are two bills of great importance, especially to the agricultural interests of the country, on which the Senate and House Committees on Banking and Currency are unanimous. One of them would put a State bank or State banks in agricultural States in the same position as national banks with reference to the volume of rediscounts by any particular individual borrower at a Federal reserve bank. The other is a bill which will permit an extension until October 31, 1922, of a provision of the law which expired on the 31st of October, which would permit banks to exceed the limit of loans to an individual where that loan was secured by Liberty bonds, and the borrower was the original subscriber and holder of those himself, having bought them at par before January 1, 1921. Now, those two bills—

Mr. CAMPBELL of Kansas. Let me ask if either of those two bills has passed the Senate?

Mr. WINGO. My recollection is that both of them have. I know one of them has, and I was told in committee that both have. I have not been able this morning to get hold of both of the Senate bills, but I am sure one of them, S. 831, has passed the Senate.

Mr. CAMPBELL of Kansas. Does the gentleman from Arkansas think it fair to bring up the question of consideration of those bills just at this time?

Mr. WINGO. The gentleman is not fair to me. I have been demanding consideration of these bills for three weeks, as the Record will show. The House Committee on Banking and Currency by unanimous vote directed the chairman to get a rule and do all things necessary to pass both of these bills, and inasmuch as the law expired on October 31 on one of them, that bill should have been passed before that date. Nothing but inefficiency and neglect and incompetency is responsible for it.

Mr. CAMPBELL of Kansas. Now that the gentleman has delivered himself of that, against whom does he make the charge?

Mr. WINGO. Against the responsible leaders of this House, the leaders of the Republican Party here, who have charge of the legislation in this House.

Mr. CAMPBELL of Kansas. Now is he satisfied?

Mr. WINGO. No. I will say to him that he will not do any business to-day without a quorum until he either passes these bills or those in authority on the Republican side give assurance they will be passed. Now does the gentleman understand?

Mr. CAMPBELL of Kansas. Oh, yes.

Mr. STEVENSON. Will the gentleman yield to me for a minute?

Mr. WINGO. Mr. Speaker, I object.

Mr. GREENE of Vermont. Let him object. We have had enough of political grandstanding, and now let us do a little public business.

Mr. WINGO. The gentleman's remarks are unworthy of him, and he would not use them elsewhere.

Mr. GREENE of Vermont. That is only a threat.

Mr. WINGO. No; it is not a threat; but the gentleman's remark displays neither character nor courage. I make the point of no quorum.

The SPEAKER pro tempore. The gentleman from Arkansas makes the point of order that there is no quorum present. The Chair will count. [After counting.] Ninety-four gentlemen are present, not a quorum.

Mr. CAMPBELL of Kansas. Mr. Speaker, I move a call of the House.

The motion was agreed to.

The roll was called, and the following Members failed to answer to their names:

Anderson	Fitzgerald	Kitchin	Reed, W. Va.
Anthony	Flood	Knight	Riddick
Bacharach	Fordney	Kopp	Rodenberg
Bankhead	Freeman	Kreider	Rogers
Beedy	French	Lampert	Rose
Bell	Fuller	Lee, N. Y.	Rossdale
Blakeney	Funk	Lehlbach	Rucker
Bland, Ind.	Gahn	Lowrey	Ryan
Blanton	Gallivan	Lyon	Sabath
Boies	Garrett, Tex.	McCormick	Scott, Mich.
Brand	Glynn	McFadden	Sears
Brinson	Goldsborough	McSwain	Shelton
Britten	Gould	MacGregor	Siegel
Browne, Wis.	Graham, Ill.	Maloney	Sisson
Bulwinkle	Graham, Pa.	Mann	Slemp
Burdick	Greene, Mass.	Mansfield	Smith, Mich.
Butler	Griest	Merritt	Snyder
Cannon	Harrison	Mills	Stafford
Cantrill	Hays	Montague	Stiness
Carter	Herrick	Moore, Ill.	Stoll
Chandler, N. Y.	Hogan	Mott	Strong, Pa.
Chandler, Okla.	Hooker	Murphy	Tague
Christopherson	Hukriede	Nelson, J. M.	Taylor, Colo.
Clark, Fla.	Humphreys	Newton, Minn.	Taylor, N. J.
Classon	Husted	Nolan	Thompson
Cockran	Ireland	Norton	Tincher
Connell	Jeffers, Nebr.	Oliver	Tyson
Connolly, Pa.	Jeffers, Ala.	Paige	Underhill
Copley	Johnson, Ky.	Parker, N. Y.	Upshaw
Davis, Minn.	Johnson, Miss.	Parks	Vare
Deal	Johnson, S. Dak.	Patterson, N. J.	Ward, N. Y.
Drane	Jones, Pa.	Perkins	Wason
Drewry	Kahn	Perlman	Wilson
Dyer	Kendall	Peters	Winslow
Ellis	Kennedy	Petersen	Wood, Ind.
Elston	Ketcham	Rainey, Ala.	Wright
Fenn	Kless	Reavis	
Fish	Kindred	Reed, N. Y.	

The SPEAKER pro tempore. On this call 282 Members have answered to their names—a quorum.

Mr. LONGWORTH. Mr. Speaker, I move to dispense with further proceedings under the call.

The motion was agreed to.

The SPEAKER pro tempore. The Doorkeeper will open the doors.

## STANDARD MEASURES FOR FRUITS AND VEGETABLES.

Mr. VESTAL rose.

The SPEAKER pro tempore. For what purpose does the gentleman from Indiana rise?

Mr. VESTAL. To call up unfinished business. I move that the House resolve itself into the Committee of the Whole House



on the state of the Union for the further consideration of the bill H. R. 7102.

The SPEAKER pro tempore. The gentleman from Indiana moves that the House resolve itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill H. R. 7102, which the Clerk will report by title.

The Clerk read as follows:

A bill (H. R. 7102) to fix standards for hampers, round stave baskets, and splint baskets for fruits and vegetables, and for other purposes.

The SPEAKER pro tempore. The question is on the motion of the gentleman from Indiana [Mr. VESTAL].

Mr. LONGWORTH. Mr. Speaker, I ask for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 226, nays 35, answered "present" 2, not voting 169, as follows:

#### YEAS—226.

Ackerman	Fairchild	Lazaro	Ricketts
Almon	Fairfield	Lea, Calif.	Riddick
Andrew, Mass.	Faust	Leatherwood	Roach
Andrews, Nebr.	Favrot	Lee, Ga.	Robertson
Ansorge	Fess	Lineberger	Robson
Appleby	Fields	Linthicum	Rodenberg
Arentz	Focht	London	Rosenbloom
Atkeson	Foster	Longworth	Ryan
Barbour	Fear	Luce	Sanders, Ind.
Beck	French	Luhning	Sanders, N. Y.
Begg	Fulmer	Lyon	Sandlin
Bendham	Garrett, Tenn.	McArthur	Schall
Bird	Gensman	McClintic	Scott, Tenn.
Bixler	Gerner	McKenzie	Shaw
Black	Gilbert	McLaughlin, Nebr.	Shreve
Bond	Goodykoontz	McLaughlin, Pa.	Sinclair
Bowers	Green, Iowa	Madden	Sinnot
Box	Greene, Vt.	Magee	Smith, Idaho
Brennan	Griffin	Mapes	Smith, Mich.
Briggs	Hammer	Martin	Snell
Brooks, Ill.	Hardy, Colo.	Mead	Speaks
Brooks, Pa.	Hardy, Tex.	Michaelson	Sproul
Brown, Tenn.	Haugen	Michener	Stegall
Burke	Hayley	Miller	Stedman
Burroughs	Hayden	Millsbaugh	Steenerson
Burness	Hersey	Mondell	Stephens
Burton	Hickey	Montoya	Strong, Kans.
Byrnes, Tenn.	Hicks	Moore, Ohio	Swank
Cable	Hill	Moore, Va.	Sweet
Campbell, Kans.	Himes	Moores, Ind.	Swing
Cantrill	Houghton	Morgan	Temple
Chalmers	Huddleston	Morin	Thompson
Chandler, N. Y.	Hull	Mudd	Tilman
Chindblom	Hutchinson	Nelson, A. P.	Tilson
Clague	Jacoway	Newton, Mo.	Timberlake
Clarke, N. Y.	James	O'Brien	Towner
Clouse	Jeffers, Nebr.	O'Connor	Valle
Cole, Iowa	Johnson, Wash.	Ogden	Vestal
Cole, Ohio	Kearns	O'dfield	Vinson
Colton	Keller	Opp	Volk
Cooper, Ohio	Kelly, Pa.	Osborne	Volstead
Cooper, Wis.	Kendall	Overstreet	Walters
Coughlin	King	Padgett	Watson
Crago	Kinkaid	Parker, N. J.	Webster
Cramton	Kirkpatrick	Parish	Wheeler
Crowther	Kissel	Patterson, Mo.	White, Kans.
Curry	Klecza	Porter	White, Me.
Dale	Kline, N. Y.	Pou	Williams
Dallinger	Kline, Pa.	Pringey	Woodruff
Darrow	Knutson	Purnell	Woods, Va.
Davis, Tenn.	Kraus	Radcliffe	Woodward
Denison	Kunz	Rainey, Ill.	Wright
Dickinson	Langley	Raker	Wurzbach
Dowell	Lankford	Ramseyer	Wyant
Driver	Larsen, Ga.	Rankin	Zihlman
Dunbar	Larson, Minn.	Ransley	
Echols	Lawrence	Reece	

#### NAYS—35.

Aswell	Cullen	Kincheloe	Sanders, Tex.
Barkley	Dominick	Lanham	Smithwick
Bland, Va.	Doughton	McDuffie	Stevenson
Bowling	Dupré	McPherson	Summers, Tex.
Buchanan	Fisher	Park, Ga.	Thomas
Carew	Garner	Quin	Ward, N. C.
Collier	Harrison	Rayburn	Weaver
Collins	Hudspeth	Rhodes	Wilson
Crisp	Jones, Tex.	Rouse	

#### ANSWERED "PRESENT"—2.

Ten Eyck Wingo

#### NOT VOTING—169.

Anderson	Cannon	Edmonds	Goldsborough
Anthony	Carter	Elliott	Gorman
Bacharach	Chandler, Okla.	Ellis	Gould
Bankhead	Christopherson	Elston	Graham, Ill.
Beedy	Clark, Fla.	Evans	Graham, Pa.
Bell	Classon	Fenn	Greene, Mass.
Blakeney	Cockran	Fish	Griest
Bland, Ind.	Codd	Fitzgerald	Hadley
Blanton	Connally, Tex.	Flood	Hawes
Boies	Connell	Fordney	Hays
Brand	Connolly, Pa.	Free	Herrick
Brinson	Copley	Freeman	Hoch
Britten	Davis, Minn.	Frothingham	Hogan
Browne, Wis.	Deal	Fuller	Hooker
Bulwinkle	Dempsey	Funk	Hukriede
Burdick	Drane	Gahn	Humphreys
Butler	Drewry	Gallivan	Husted
Byrnes, S. C.	Dunn	Garrett, Tex.	Ireland
Campbell, Pa.	Dyer	Glynn	Jeffers, Ala.

Johnson, Ky.	McSwain	Rainey, Ala.	Tague
Johnson, Miss.	MacGregor	Reavis	Taylor, Ark.
Johnson, S. Dak.	Maloney	Reber	Taylor, Colo.
Jones, Pa.	Mann	Reed, N. Y.	Taylor, N. J.
Kahn	Mansfield	Reed, W. Va.	Taylor, Tenn.
Kelley, Mich.	Merritt	Riordan	Tincher
Kennedy	Mills	Rogers	Tinkham
Ketcham	Montague	Rose	Treadway
Kiess	Moore, Ill.	Rossdale	Tyson
Kindred	Mott	Rucker	Underhill
Kitchin	Murphy	Sabath	Upshaw
Knight	Nelson, J. M.	Scott, Mich.	Vare
Kopp	Newton, Minn.	Sears	Voigt
Kreider	Nolan	Shelton	Ward, N. Y.
Lampert	Norton	Siegel	Wason
Layton	Oliver	Sisson	Williamson
Lee, N. Y.	Paige	Slemp	Winslow
Lehlbach	Parker, N. Y.	Snyder	Wise
Little	Parks, Ark.	Stafford	Wood, Ind.
Logan	Patterson, N. J.	Stiness	Yates
Lowrey	Perkins	Stoll	Young
McCormick	Perlman	Strong, Pa.	
McFadden	Peters	Sullivan	
McLaughlin, Mich.	Petersen	Summers, Wash.	

So the motion was agreed to.

The Clerk announced the following pairs:

Until further notice:

Mr. IRELAND with Mr. KITCHIN.  
 Mr. GRIEST with Mr. TYSON.  
 Mr. KIESS with Mr. RIORDAN.  
 Mr. GORMAN with Mr. BELL.  
 Mr. CANNON with Mr. COCKRAN.  
 Mr. REBER with Mr. FLOOD.  
 Mr. FITZGERALD with Mr. SISSON.  
 Mr. CONNELL with Mr. WISE.  
 Mr. BUTLER with Mr. JOHNSON of Kentucky.  
 Mr. PERKINS with Mr. GOLDSBOROUGH.  
 Mr. SNYDER with Mr. DRANE.  
 Mr. MOTT with Mr. PARKS of Arkansas.  
 Mr. DUNN with Mr. OLIVER.  
 Mr. BLAKENEY with Mr. BYRNES of South Carolina.  
 Mr. VARE with Mr. MCSWAIN.  
 Mr. WINSLOW with Mr. HOOKER.  
 Mr. GRAHAM of Pennsylvania with Mr. CARTER.  
 Mr. TINCHER with Mr. SULLIVAN.  
 Mr. MOORE of Illinois with Mr. TAYLOR of Arkansas.  
 Mr. LEHLBACH with Mr. GARRETT of Texas.  
 Mr. REED of New York with Mr. CONNALLY of Texas.  
 Mr. CHANDLER of Oklahoma with Mr. TEN EYCK.  
 Mr. HUKRIEDE with Mr. HAWES.  
 Mr. LEE of New York with Mr. BLANTON.  
 Mr. PATTERSON of New Jersey with Mr. LOWREY.  
 Mr. SCOTT of Michigan with Mr. SEARS.  
 Mr. ROSE with Mr. UPSHAW.  
 Mr. SHELTON with Mr. RUCKER.  
 Mr. KENNEDY with Mr. TAGUE.  
 Mr. EDMONDS with Mr. DEAL.  
 Mr. PAIGE with Mr. GALLIVAN.  
 Mr. TAYLOR of New Jersey with Mr. DREWRY.  
 Mr. TREADWAY with Mr. CLARK of Florida.  
 Mr. KREIDER with Mr. HUMPHREYS.  
 Mr. FREE with Mr. LOGAN.  
 Mr. ANDERSON with Mr. STOLL.  
 Mr. DAVIS of Minnesota with Mr. BRAND.  
 Mr. GREENE of Massachusetts with Mr. BRINSON.  
 Mr. YATES with Mr. JOHNSON of Mississippi.  
 Mr. BLAND of Indiana with Mr. KINDRED.  
 Mr. JOHNSON of South Dakota with Mr. BANKHEAD.  
 Mr. KAHN with Mr. TAYLOR of Colorado.  
 Mr. FENN with Mr. SABATH.  
 Mr. FORDNEY with Mr. MONTAGUE.  
 Mr. BACHARACH with Mr. LYON.  
 Mr. FROTHINGHAM with Mr. RAINEY of Alabama.  
 Mr. ELLIOTT with Mr. MANSFIELD.  
 Mr. GAHN with Mr. BULWINKLE.  
 Mr. FREEMAN with Mr. CAMPBELL of Pennsylvania.  
 Mr. HOGAN with Mr. JEFFERS of Alabama.

Mr. KETCHAM. Mr. Speaker, I desire to vote "aye."  
 The SPEAKER pro tempore. Was the gentleman present and listening when his name was called?

Mr. KETCHAM. No.

The SPEAKER pro tempore. The gentleman does not qualify.

Mr. McLAUGHLIN of Michigan. Mr. Speaker, I desire to vote "aye."

The SPEAKER pro tempore. Was the gentleman present and listening when his name was called?

Mr. McLAUGHLIN of Michigan. I was in the gallery.

The SPEAKER pro tempore. The gentleman does not qualify.

Mr. CAMPBELL of Pennsylvania. Mr. Speaker, I desire to vote "aye."

The SPEAKER pro tempore. Was the gentleman present and listening when his name was called?

Mr. CAMPBELL of Pennsylvania. I was not present.

The SPEAKER pro tempore. The gentleman does not qualify.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The House resolves itself into Committee of the Whole House on the state of the Union for the further consideration of the bill H. R. 7102. The gentleman from Ohio [Mr. LONGWORTH] will please assume the chair.

Thereupon the House resolved itself into Committee of the Whole House on the state of the Union for the further consideration of the bill (H. R. 7102) to fix standards for hampers, round stave baskets, and splint baskets for fruits and vegetables, and for other purposes, with Mr. LONGWORTH in the chair.

The CHAIRMAN. The House is in Committee of the Whole House on the state of the Union for the further consideration of the bill H. R. 7102, which the Clerk will report by title.

The Clerk read as follows:

A bill (H. R. 7102) to fix standards for hampers, round stave baskets, and splint baskets for fruits and vegetables, and for other purposes.

The CHAIRMAN. The gentleman from Indiana [Mr. VESTAL] is recognized.

Mr. WINGO. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. WINGO. What is the status of time?

The CHAIRMAN. The gentleman from Arkansas has 40 minutes remaining and the gentleman from Indiana [Mr. VESTAL] has 5 minutes.

Mr. WINGO. Mr. Chairman, I yield 10 minutes to the gentleman from Iowa [Mr. RAMSEYER].

The CHAIRMAN. The gentleman from Iowa is recognized for 10 minutes.

Mr. RAMSEYER. Mr. Chairman and gentlemen of the committee, in the time allotted to me I shall not address myself to the bill under consideration. I have asked for time in order to correct certain misstatements made day before yesterday on the floor of this House by gentlemen who spoke in opposition to the motion to recommit the tax bill with instructions to concur in Senate amendment 582, increasing the estates tax rates by four new brackets.

For a number of years I have given considerable study to estate and inheritance taxes. I think I know what was involved in the Senate amendment. I am not taking the floor for the purpose of finding fault with the attitude of those who differ with me on the question of levying higher estate taxes, but rather for the purpose of preserving the CONGRESSIONAL RECORD as an encyclopedia of accurate information.

A MEMBER. You have some job.

Mr. WOODRUFF. You had better get more time.

Mr. RAMSEYER. The gentleman from Ohio [Mr. LONGWORTH] made two statements that I tried to correct at the time, but the gentleman's time being limited, I could not secure the floor to correct the statements made by him. Other statements which I consider incorrect were made by other gentlemen, but they have not yet been printed in the RECORD. I am, therefore, directing my attention to the statements of the gentleman from Ohio [Mr. LONGWORTH], not because of any desire on my part to single him out especially, but because his remarks have been printed in the RECORD, while the remarks of the other gentlemen have been withheld, and I hope will be corrected before they are printed in the RECORD.

I call your attention to the CONGRESSIONAL RECORD of November 21 to the remarks of the gentleman from Ohio [Mr. LONGWORTH] on page 8081. You will find this statement: "He (that is, the gentleman from Texas [Mr. GARNER]) wants you to vote to double the present inheritance tax." What are the facts? The present Federal estate tax, commonly referred to as the "inheritance tax," begins with a 1 per cent rate on net estates over \$50,000, and the rates are graduated upward until we reach 25 per cent on net estates over \$10,000,000. Senate amendment No. 582 did not change a single rate up to \$10,000,000. That amendment simply limited the operation of the 25 per cent rate on net estates between \$10,000,000 and \$15,000,000 and then added four new brackets to apply on net estates over \$15,000,000 as follows: Thirty per cent on net estates between \$15,000,000 and \$25,000,000; 35 per cent on net estates between \$25,000,000 and \$50,000,000; 40 per cent on net estates between \$50,000,000 and \$100,000,000; and 50 per cent on net estates over \$100,000,000. That in no sense doubles the

present inheritance tax. It doubles the rate only on net estates over \$100,000,000. So much for that statement of the gentleman from Ohio [Mr. LONGWORTH].

Before I proceed to refer to another incorrect statement, permit me to divert for an observation in regard to the 50 per cent rate on estates over \$100,000,000. For all practical purposes, judging from our past experience, the rate on estates over \$100,000,000 might as well be 100 per cent or 1 per cent. From the date when the present estates tax law was enacted in 1916 to this time no net estate amounting to \$100,000,000 or more has gone through the Treasury Department. Up until July 1 of this year the Treasury Department kept no record of the number and size of estates. Since the 1st of July this year that department is keeping such a record. The Treasury Department, however, has a record of the 15 largest net estates that have gone through that department since the Federal estates tax law was enacted in 1916. That record shows no net estate over \$100,000,000; three net estates between \$50,000,000 and \$100,000,000 as follows, to wit: Eighty-nine million dollars, \$79,000,000, and \$53,000,000; and the remaining 12 of these 15 estates were between \$30,000,000 and \$40,000,000 net.

Mr. HARDY of Texas. Will the gentleman yield?

Mr. RAMSEYER. Certainly.

Mr. HARDY of Texas. Does the percentage that the gentleman refers to depend upon the amount received by the heir or the total amount bequeathed by the deceased?

Mr. RAMSEYER. It depends upon the total net amount left by the deceased.

Mr. HARDY of Texas. So that the 50 per cent would be taken first and the division made afterwards?

Mr. RAMSEYER. Certainly, but remember that the 50 per cent rate in the Senate amendment only applies to net estates over \$100,000,000. If our experience in the future shall be like that in the past we will have no such estates. Up to date there has been no estate amounting to more than \$100,000,000 net. In view of our past experience, to place an inheritance tax of 50 per cent on net estates over \$100,000,000 is a mere farce. If we really want to impose a 50 per cent rate on swollen fortunes and realize something therefrom, the 50 per cent rate must be made to apply to a sum very much less than \$100,000,000. Men of large wealth have learned to break up or to distribute their estates before they die, and undoubtedly in the future there will be even more of that than there has been in the past.

The other statement from the gentleman from Ohio [Mr. LONGWORTH] to which I wish to call your attention is as follows:

There are a number of States which tax inheritances 30 to 35 per cent. So the consequence would be that instead of having a 50 per cent tax you would have an 85 per cent tax. You would leave but 15 per cent of the estate after it got in the hands of the devisees, and no man \* \* \* would advocate the taking of 85 per cent away from those inheriting estates.

When that statement was challenged by me the gentleman from Ohio [Mr. LONGWORTH] referred to the State of Arkansas and other States, without naming them, where the combined Federal and State inheritance taxes would have that effect. I hold in my hand Newcomb's Inheritance Tax Charts, compiled in November, 1920, giving the inheritance tax rates of every State in the Union that has an inheritance tax law. In nearly every State in the Union where inheritance taxes are imposed the rates fixed are dependent on the size of the estate and the degree of relationship of the beneficiary to the deceased. Usually the tax rates on estates that go to near relatives are low while the tax rates on estates that go to collateral heirs and strangers are higher. The higher inheritance tax rates imposed by any State on collateral heirs and strangers are those imposed by the State of Arkansas. The next highest are those imposed by the State of California. Arkansas imposes a maximum tax rate of 32 per cent on estates, or on parts of estates which go to distant relatives and strangers, and the State of California imposes a maximum rate of 30 per cent on the same class of beneficiaries.

Mr. WINGO. Will the gentleman yield?

Mr. RAMSEYER. Let me first restate that the inheritance-tax rates of the States are determined by the size of the estate and the degree of relationship that the beneficiary bears to the deceased.

Mr. WINGO. Not only that, but the rate is graduated. The 32 per cent applies only to a certain excess above a certain amount. It starts at 1 per cent and goes on up 2 per cent, and so on, and then after you reach a certain high amount, on the certain excess that high rate applies.

Mr. RAMSEYER. In Arkansas on estates going to near relatives the rates are graduated from 1 to 8 per cent. The 8 per cent is the maximum and applies to estates over \$1,000,000.



Mr. GARNER. And all these taxes in very nearly all the States are collateral taxes, and do not apply to near relatives.

Mr. RAMSEYER. That is true with reference to the high rates to which the gentleman from Ohio [Mr. LONGWORTH] referred. The 32 per cent maximum rate in Arkansas applies only to estates going to beneficiaries distantly related or not related at all. Evidently in Arkansas they realize as little from this high rate as the Federal Government would realize from a 50 per cent rate on estates over \$100,000,000. During the last fiscal year the total inheritance taxes collected by the State of Arkansas were only \$85,376.11. Large estates of men without any near relatives are very few indeed. Therefore, such high rates will rarely, if ever, apply to any estate. As Arkansas has been called into this discussion by the gentleman from Ohio [Mr. LONGWORTH] as a horrible example of the effect of the Senate amendment, I call your attention to the rates in Arkansas. First are the group 1 beneficiaries, including a father, mother, husband, wife, child, brother, sister, wife or widow of son, husband of daughter, adopted children or mutually acknowledged child. The rates are as follows: One per cent between \$3,000 and \$5,000, 2 per cent between \$5,000 and \$10,000, 3 per cent between \$10,000 and \$30,000, 4 per cent between \$30,000 and \$50,000, 5 per cent between \$50,000 and \$100,000, 6 per cent between \$100,000 and \$500,000, 7 per cent between \$500,000 and \$1,000,000, and 8 per cent on all over \$1,000,000. Beneficiaries in group 2 under the Arkansas law are any other person or corporation. The rates in this group are as follows: Four per cent between \$500 and \$5,000, 8 per cent between \$5,000 and \$10,000, 12 per cent between \$10,000 and \$30,000, 16 per cent between \$30,000 and \$50,000, 20 per cent between \$50,000 and \$100,000, 24 per cent between \$100,000 and \$500,000, 28 per cent between \$500,000 and \$1,000,000, and 32 per cent on all over \$1,000,000.

The highest maximum rate imposed by any State on near relatives is by California, where the tax rates are from 1 per cent over the exemption to \$25,000 to 15 per cent on estates over \$1,000,000. The maximum rates in other States on estates going to near relatives either by inheritance or by bequest are much lower, ranging from 2 to 4 per cent in most States, 7 per cent in Illinois, 6 per cent in Massachusetts, 4 per cent in New York, 10 per cent in Oregon, 2 per cent in Pennsylvania, and total exemption in Texas.

Now, is there any foundation for the statement of the gentleman from Ohio [Mr. LONGWORTH] that "you would leave but 15 per cent of the estate after it got in the hands of the devisees"? Under existing Federal law the net estate of \$1,000,000 pays a tax of \$51,500, or a little more than 5 per cent. An estate of \$10,000,000 pays \$1,681,500, or about 16 per cent. An estate of \$50,000,000 under the Senate amendment would have paid \$14,681,500, or a little more than 29 per cent. Although there is no use for practical purposes to figure estates over \$50,000,000, because they are very rare, I will nevertheless give you the Federal tax on a net estate of \$100,000,000, which would be \$34,681,500 with the Senate amendment, or a little less than 35 per cent.

Members of Congress making appropriations are accustomed to deal with sums amounting to hundreds of millions and billions of dollars. It ought not to be necessary to call your attention to the fact that an estate of \$1,000,000 is a large estate, that estates of \$10,000,000 are unusually large, and estates of over \$50,000,000 are very, very rare. I am dealing with large estates only to demonstrate that the statements of the gentleman from Ohio [Mr. LONGWORTH] are utterly impossible.

Take the extreme case of the State of Arkansas, referred to by the gentleman from Ohio [Mr. LONGWORTH], and the inheritance tax rates which apply only to distant relatives and strangers, the combined Federal and State inheritance taxes in Arkansas on a net estate of \$1,000,000 would be but \$303,700, leaving more than 69 per cent of the estate for the devisees or heirs. On an estate of \$10,000,000 in the State of Arkansas the combined taxes would be \$4,813,700, leaving nearly 52 per cent of the estate for the devisees or heirs. A net estate of \$50,000,000 in Arkansas would pay combined taxes with the Senate amendment of \$30,613,700, leaving nearly 40 per cent of the estate for the heirs or devisees, and on a net estate of \$100,000,000 the combined taxes would be \$66,613,700, leaving about 33 per cent of the estate for the devisees or heirs.

The CONGRESSIONAL RECORD ought to be an encyclopedia of accurate information. That it is not is very regrettable, indeed. Especially should gentlemen having charge of a bill weigh carefully every statement that they insert in the RECORD. I doubt very much the existence of estates where the combined Federal and State inheritance taxes, even with the Senate amendment, which was defeated by the House, would take as

much as 50 per cent of such estate. I am sure such estates do not exist in Arkansas, and I do not believe that they exist in any State when the time for administration is reached.

In order to get down to something practical and tangible and to bring this controversy to a head, I challenge the gentleman from Ohio, or any other gentleman, to cite a single estate that has been administered on since 1916, or any single fortune in existence where the Federal estate tax rates, with Senate amendment 582, combined with the State inheritance tax rates of the State or States in which such estate or fortune is located, would leave less than 50 per cent of such net estate or fortune for distribution among the heirs or devisees.

Mr. VESTAL. Mr. Chairman, I move that the committee do now rise.

The motion was agreed to.

Accordingly the committee rose; and the Speaker pro tempore having resumed the chair, Mr. LONGWORTH, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee having had under consideration the bill (H. R. 7102) to fix standards for hampers, round stove baskets, and splint baskets for fruits and vegetables, and for other purposes, had come to no resolution thereon.

#### GENERAL DEBATE.

Mr. MONDELL. Mr. Speaker, I ask unanimous consent that we may have one hour of general debate, one-half to be controlled by myself and one-half by the gentleman from Tennessee [Mr. GARRETT].

The SPEAKER pro tempore. The gentleman from Wyoming asks unanimous consent that there may be one hour of general debate, one-half to be controlled by himself and one-half by the gentleman from Tennessee [Mr. GARRETT]. Is there objection?

There was no objection.

The SPEAKER pro tempore. The gentleman from Wyoming is recognized for 30 minutes.

Mr. MONDELL. Mr. Speaker, when the House adjourns to-day, a little more than seven months shall have elapsed since our meeting on April 11. As the Congress stood in recess from the 24th of August to the 21st of September, and the House did not meet for the transaction of business until the 3d day of October, the actual session of the House has been practically six months. During that period 136 bills and resolutions have been considered by both Houses, and have become laws, in addition to which 135 bills and resolutions have passed the House and are now before the Senate. This is a total of 271 bills and resolutions considered by the House, or almost 2 per day.

When the gavel falls to-day on the final adjournment of the first session of the Sixty-seventh Congress the House of Representatives shall have considered and passed upon all of the measures for the consideration of which the Congress was convened in extraordinary session. In addition to this, all of the measures of primary importance that have been brought to our attention or considered to a conclusion by our committees have been considered and disposed of by the House except the bill for the reclassification of Federal employees, which is unfinished business to be disposed of early in the December session; the matter of congressional apportionment which, twice considered, has not been finally disposed of by the House; and the so-called antilynching bill, which is on the calendar and scheduled for early consideration in December.

Judged either by the volume of the business transacted or the highly important character of the questions and problems considered and passed upon, this six months' session, so far at least as the House of Representatives is concerned, may be properly classed as one of the most diligent and important sessions in the history of the American Congress. [Applause.] In no Congress in our history has better progress been made in the consideration of the important questions of taxation and revenue. In no Congress has the House of Representatives in the same period of time considered and passed so much legislation of commanding importance. [Applause.]

#### WORK OF THE SPECIAL SESSION.

The President convened the Congress in extraordinary session primarily for the purpose of the enactment of legislation revising the tariff and the tax laws, and this has been the most important work of the session. The tax revision, a most difficult and trying work, has been completed, and the American people will find a real and substantial cause for thanksgiving in the fact that they are relieved for the present calendar year of Federal tax burdens in the sum of \$70,000,000—a relief, all of which is lifted from the shoulders of heads of families of modest and moderate means and income. There ought to be

and will be additional enjoyment of the Thanksgiving holiday by reason of the fact that under the new tax law, and beginning January 1, there will be a further lifting of the Federal tax burden in a sum estimated at \$835,000,000 for the calendar year. [Applause.]

#### BURDEN LIFTED EQUITABLY.

This lifting is distributed equitably among the people of the country. The Federal tax gatherer will no longer collect taxes on ice-cream cones, soda water, pills and lotions, or parcel post, nor exact tribute on transportation or on the purchase of wearing apparel. The man of moderate means, and particularly such a man with a family, has his income tax burdens appreciably lightened, while those classes of taxation which are most successfully passed on to the consuming public or which most hamper and retard business transactions and discourage or prevent the growth and development of productive enterprise, like the excess-profits tax and the higher brackets of the surtax, are either repealed or reduced.

#### REASON FOR THANKSGIVING.

The Thanksgiving dinner, whether plain or elaborate, will be more palatable, in view of the fact that this tax bill when in full operation will relieve the American people of almost a billion of the tax burdens they now bear, and this relief, it should be remembered, is a relief to all of the people, for whoever may primarily pay the tax, eventually it is borne by all consumers.

There has been considerable impatience and criticism voiced in the country because the tax revision bill has not been sooner placed upon the statute books. This impatience, this criticism is quite natural and to be expected. Tax burdens of the war were heavy and many of them of the most exasperating and inequitable character. It was natural that people should clamor for early relief. This criticism could not and did not take into consideration the very difficult, trying, and complicated character and infinite variety of the questions and problems presented in the revision of a law so voluminous and complex as the war revenue act. The fact is that with the signing of this bill its consideration will have covered less time than the consideration of any general revision of tax legislation in many years.

#### THE FORDNEY TARIFF.

The House passed the Fordney tariff bill, providing a general revision of tariff schedules, on July 21, and the measure is now before the Senate committee, and we entertain the hope and have the assurance that this legislation, so essential to the establishment of a sound and dependable basis and foundation for trade and industry, will be reported to the Senate and considered at a reasonably early date in the regular session, which begins December 5. There is always ground for honest difference of opinion with regard to the details of schedules even among those who believe in the principle and policy of protection, and no tariff ever has been or ever will be in all of its details and in all of its thousands of items and provisions ideally perfect or wholly and completely satisfactory.

Mr. GARNER. Will the gentleman yield?

Mr. MONDELL. I prefer not to yield just now.

Notwithstanding the inevitable difference of opinion with regard to provisions and schedules of a tariff bill, the fact remains that the tariff bill as passed by the House met less criticism, not only from the standpoint of those who believe in the principle of protection but from others who endeavor to analyze a tariff measure from the viewpoint of its effect on the business, industry, and production of the country, than any like measure that has passed the House in many years. There are sharp differences of opinion with regard to some of the more important features of the bill, like the new provision for American values.

Mr. LONGWORTH. Will the gentleman yield?

Mr. MONDELL. Yes.

Mr. LONGWORTH. In regard to the American valuation, I do not know whether Members are aware of it, but Great Britain has within the last month passed a tariff bill providing for home valuation, which is the same proposition that we have.

Mr. MONDELL. I thank the gentleman for that information.

All these matters will be considered by the Senate and in conference, and we may confidently expect a measure the very best that can be enacted at this time of varying costs and unsettled currencies.

#### THE MORE IMPORTANT MEASURES THAT HAVE BECOME LAWS.

I shall hope in the time allotted to me to refer in some little detail to the more important bills that have become laws in

this session. Lest I shall omit some of them in my discussion I shall refer to them first only by title. They are as follows:

The revenue act of 1921.  
The budget act.  
The emergency resolution.  
The peace resolution.  
The Veterans' Bureau act.  
The immigration restriction act.  
The Volstead Antibeer Act.  
The \$25,000,000 farm loan act.  
1922 Naval appropriation act.  
1922 Army appropriation act.  
The grain futures act.  
The packers' act.  
The war finance agricultural loan act.  
The Federal highway act.  
The maternity act.  
Act for the apportionment of waters of the Colorado River.  
Legislation and appropriation for the Shipping Board.  
The Edge Export Act.  
The cable control act.  
The Indian Bureau act.

Mr. Speaker, we will now discuss briefly, if the time allows, though not in the order in which I have named them, these more important laws.

#### THE ANTIBEER ACT.

The so-called Volstead antibeer bill became necessary as a result of an eleventh-hour decision by Attorney General Palmer the day before the close of the Wilson administration. While there has been much sharp difference of opinion with regard to the provisions of the measure, it is believed that the bill is a fair compromise, maintaining the national faith in the enforcement of the prohibition act, while guarding against the possibilities of abuses of power and authority.

#### THE BUDGET ACT.

The bill providing for a budget system brought to a realization the hopes of those who have been laboring for a generation or more for a more businesslike, scientific, economy-urging system of estimates, appropriations, and expenditures. We have already experienced great benefits through the establishment of a budget system in the checks which have come through that system upon the expenditures of the executive departments. The influence and agencies of the budget system, under the direction of the President as the head of that system, brought the decisions relative to economy in expenditure which made possible the lifting of so large a portion of the Federal taxes in the tax reduction bill. The budget law has already justified the highest expectations of its friends and framers, and there is every reason to believe that it will prove to be what has been claimed for it—the greatest reform in governmental procedure in half a century.

The energetic and splendid administration of this act by Gen. Dawes, with the full support of the President, loyally given, and extended at all times at every point, has led to a reduction of the expenditures of the Government in terms of tens if not hundreds of millions of dollars. [Applause.] Never in American history has a law been placed on the statute books that took so long and so helpful a step toward the establishment of proper business conditions in the affairs of the Government and toward the establishment of true, proper economy. [Applause.]

#### THE PEACE RESOLUTION.

The peace resolution declared the end of a state of war, the existence of which was proclaimed by the war declaration. It placed us in a position of official peace with Germany and Austria, and paved the way for the negotiations since entered into for the reestablishment of normal peace relations with our late enemies.

#### VETERANS' BUREAU ACT.

The so-called Sweet bill, establishing a Veterans' Bureau and consolidating all of the agencies charged with care and responsibility on behalf of the ex-service men, is the fulfillment of a national obligation to provide an organization which, so far as it is possible to do so, will cure the delays which have been complained of in meeting our obligations to our national defenders. Under this bureau it is hoped that there will be little cause for complaint, and that the appropriations of Congress, which will total approximately one-half billion dollars for this fiscal year, may be utilized to the best possible advantage for the benefit of the soldiers of the late World War. [Applause.]

#### THE FARM PRODUCTS WAR FINANCE ACT.

The bill amending the War Finance Corporation act, to provide relief for producers of and dealers in agricultural products, is expected to afford a very large measure of relief in its provisions, under which the War Finance Corporation may issue and utilize its securities in a sum not to exceed a billion dollars to aid in the carrying and exportation of agricultural products and in providing credit for agricultural purposes, including the breeding, raising, fattening, and marketing of live



stock. The measure will, it is believed, have a most beneficial effect in providing markets for our surplus of agricultural products and in relieving the strain on agricultural credits during the period necessary for the development and preparation of these products for the market.

We inherited from the war a condition which might easily have brought industrial disaster and bankruptcy to the country. The passage of this act and other legislation of this session has enabled the cotton grower and the corn grower, the wheat grower, and the cattle grower, from Texas to Montana, and agriculturists in all parts of the country, laboring under the heavy load of a tremendously depressed market and prices far below the cost of production, to weather the storm. They have afforded the farmer protection from disaster and thus insured a continued supply of the essential products of agriculture for the American people.

#### THE FEDERAL HIGHWAY ACT.

The Federal highway act, which became a law November 9 as an amendment to the Federal aid act, carried out the President's recommendations with regard to needed and essential changes in the Federal road aid act, particularly with a view to centralizing authority in the States and insuring the upkeep of Federal aid roads. The act made an appropriation of \$75,000,000 for Federal aid in road building for the fiscal year ending June 30, 1922, and of \$5,000,000 for forest roads and trails for the same fiscal year, and \$10,000,000 for the same purposes for the fiscal year ending June 30, 1923. This is a measure of the highest importance. It provides much needed amendments to the Federal road aid act, insures the continuance of Federal aid and participation in road building throughout the country, will insure the continuation of this highly important work, and will aid in giving employment to many thousands of persons.

#### MATERNITY AND INFANCY ACT.

The Republican platform declared "the supreme duty of the Nation is the conservation of human resources through an enlightened measure of social and industrial justice." The President, having in mind this party declaration of national duty, in his message to Congress at the beginning of the session, said:

I assume that the maternity bill, already strongly approved, will be enacted promptly, thus adding to our manifestation of human interest.

There has been considerable difference of opinion with regard to this measure, in the Congress and in the country, both as to the policy it invoked and with regard to its provisions. The newly enfranchised women voters, so far as their views were expressed, were almost unanimously favorable to the measure. It appealed to the conscience and sympathy of all as a measure asserting national leadership for the purpose of stimulating the States and communities in the tremendously important work of the protection of maternity and infancy. The bill provides for cooperation between the National Government and the several States and authorizes an appropriation of approximately \$1,500,000 for the current fiscal year, which may be increased in the sum of \$1,000,000 a year for five years.

The measure as reported by the committee and passed by the House differed quite materially from the bill as it passed the Senate, and the bill as thus amended was promptly adopted by the Senate. The enactment of this measure is not only creditable to the Congress as "adding to our manifestation of human interest," as stated by the President in his message, but as a prompt fulfillment of our platform pledges. Both parties in the last campaign made promises to the new voters, the better half of mankind newly invited into participation in Government. Those promises have been kept at least partially, and so far as they were definitely made in platforms and in presidential statements by the passage of this act under which we encourage the States and cooperate with them in the highly important splendid and humanitarian work of the protection of maternity and infancy. [Applause.]

#### EMERGENCY TARIFF.

The emergency tariff on agricultural products is a measure, the enactment of which, checked, to a certain extent at least, the threatened flooding of our markets at a time when the reaction from high war prices had brought many of the agricultural products of the country to a price far below the cost of production. Conditions which no legislation could change or modify have continued their depressing effect on many staple agricultural products, and yet the emergency tariff, promptly passed and recently extended, has undoubtedly so steadied the markets as to prevent wide fluctuations and further low levels of prices which, while infinitely harmful to the producer, would have brought but little, if any, benefit to the ultimate consumer. The recent extension of this act will carry its benefits to the time when permanent provision may be made in the enactment of the Fordney tariff bill.

#### IMMIGRATION RESTRICTION ACT.

The immigration restriction act provides in a practical and workable way for the staying of the great volume of the tide of immigration threatened as an after effect of the war. While America regrets even partially to close her gates against those who in good faith and with good intentions seek our shores, this measure was necessary as a means of preventing a flood tide of immigration, not all of a desirable character, and beyond our capacity to speedily assimilate.

The doors of free America have always swung open for the oppressed of all lands, for those seeking to better their conditions, and we desire to keep them open, provided, however, that we shall not allow this flood to come more rapidly than we can assimilate the newcomers to the ideas and ideals of true Americanism, the principles of liberty under law; and so for the time being we have restricted the coming immigrants, welcoming as many as we believe to be safe for America, and we stand ready again to widen the door when conditions have arrived under which we may be able thoroughly to Americanize a larger number of the well-intentioned people who may seek a home and haven here.

#### THE PACKERS' ACT.

The so-called packers' bill, to regulate interstate and foreign commerce in live-stock and dairy products, poultry, and eggs, is a wise, sound, and sensible measure, bringing to a close a long-drawn-out controversy relative to legislation affecting the meat-packing and allied and associated industries and activities which, while avoiding the radical and dangerous experiments which had been urged, does place in the hands of the Secretary of Agriculture authority to regulate these industries in the public interest.

#### ANTIGAMBLING IN GRAIN FUTURES ACT.

The bill preventing gambling in grain futures, while permitting those dealings in grain which are believed to be legitimate and useful, if not essential, to the maintenance of proper market conditions, condemns and penalizes those operations which are purely speculative and harmful in their nature.

#### NAVAL APPROPRIATION ACT.

The Naval appropriation bill, bequeathed to this special session from a former Congress, became a law with a reduction and saving of \$86,000,000 below the sum carried by the same bill in the closing days of the last Congress.

#### ARMY APPROPRIATION ACT.

The Army appropriation bill, which also came over to us from the former Congress, as it became a law reduced the Army to 150,000 men and the appropriation \$15,000,000 below what the bill carried when pocket vetoed by President Wilson, because he then considered it too low.

#### FUNDS FOR FARM LOAN BOARD.

The bill making provision for an additional Treasury deposit of \$25,000,000 for the Farm Loan Board makes available for that important farm-loan agency a total working capital of \$50,000,000, and places the Farm Loan Board and banks for the first time since their organization in position to function continuously in the making of loans to the farmers of the Nation.

#### FACILITATING EXPORTS.

The amendment to the Edge bill, providing for the promotion of export trade by facilitating the organization of corporations, was intended to and has very greatly aided, assisted, and facilitated the organization and the operation of those useful agencies.

#### TELEPHONE ACT.

The bill providing for a much-needed consolidation of independent telephone companies rendered possible the reorganization whereby the losses through unwise duplication have been eliminated or greatly reduced, under which more satisfactory systems and more favorable rates should be secured.

#### CABLE ACT.

The bill under which the President is authorized to provide for the orderly and controlled landing of submarine cables remedied a situation which had greatly embarrassed the former administration and established a policy under which proper national control of these important agencies of communication is established.

#### SHIPPING BOARD APPROPRIATION.

The bill appropriating \$48,000,000 for the Shipping Board is an unpleasant reminder not only of the enormous expenditures of over \$3,500,000,000 in the building up of a merchant marine during the war; the almost unbelievable waste and extravagance which characterized that expenditure and development, but of the utterly indefensible methods that have been pursued in the handling of the fleet since its construction. Congress was called upon either to make a further contribution to this stupendous enterprise or to see the entire project ship-

wrecked in bankruptcy. The failure to appropriate to keep the enterprise going during the period of rehabilitation would have simply deferred the day of expenditure, added enormously to the ultimate outlay, and threatened the entire project. It is believed that under the new management order may be brought out of chaos and a reasonably satisfactory condition finally established.

#### INDIAN BUREAU ACT.

The act broadening the organic law of the Indian Bureau in a manner to make in order the ordinary and usual items on the Indian appropriation bill is an important measure made necessary by the adoption of the budget system and the modification of the rules of the House in connection therewith. The passage of this bill calls attention to the highly important reform which came as an incident of the adoption of the budget under which Senate amendments, which were offered in the House, would be subject to a point of order, can not be accepted by House conferees but must be presented to the House and receive an affirmative vote before being accepted. This is a highly important reform, largely curing the evil of legislative riders and appropriations not specifically authorized by law.

#### COLORADO RIVER BILL.

The bill providing for an agreement among the Western States for the disposition and apportionment of the waters of the Colorado River is an important measure, marking a new and beneficial policy in the settlement of the vexed questions arising out of the use of the waters of interstate streams for the purpose of irrigation. The famous Kansas-Colorado case is the most important of the suits that have been before the courts testing the question of the relative rights of the various States in the arid region where irrigation is practiced, to the waters of an interstate stream. It is much better, where it is possible, to have an adjustment and settlement of these questions in advance of the appropriation and use of the waters than to wait until rival claims have been established, and then settle the vexed questions, frequently at great loss to those who have expended money in irrigation enterprises.

#### ACT PROVIDING FOR COMPLETION OF ALASKAN RAILWAY.

This Congress was called upon to determine the question as to whether, having made large expenditures in the building of the Alaskan Railway, we should continue that work to completion. The final estimate of the former administration that the road could be completed for approximately \$52,000,000 was found entirely inadequate, and it became necessary either to authorize the appropriation at the proper time of the sum necessary to complete the road or leave it in an incomplete and unsatisfactory condition and of little use or benefit.

After careful consideration the House authorized an appropriation of \$4,000,000 for the completion of the road. The expenditure of this sum will undoubtedly be extended over several years, as the Appropriations Committee will only make appropriations in the sums that seem necessary to carry on the work in a most economical way. With the completion of this line it is hoped that the development of Alaska, at least that section which has been tapped by the road, will be greatly aided and will continue steadily.

#### AMENDMENT OF WAR MINERALS RELIEF ACT.

The act for the relief of those who had responded to the call of the Government departments for the production of war minerals and who were subject to losses by the sudden termination of the war was so narrowly construed by the commission authorized to adjudicate claims under it that it became necessary to broaden somewhat the provisions of the act, or, rather, to enact in more definite language what was the intention of Congress in the first instance. The passage of this act will relieve many worthy claimants of small means who responded patriotically to the request of the Government for the production of war minerals.

In addition to the bills I have mentioned, the following bills have become laws, in addition to private, pension, and bridge bills, which I shall not take the time to enumerate:

H. R. 6573. Reclassifying and readjusting compensation of employees in Postal Service.

H. R. 6300. Deficiency appropriation bill, first for 1921.

H. R. 3707. Appropriation for expenses incident to first session Sixty-seventh Congress.

H. R. 5756. Limiting indebtedness of government of Philippine Islands.

H. R. 4586. Providing punishment for handling personal property on contract of sale with intent to defraud.

S. 594. Relief to ex-service men for defeated rights of entry on North Platte irrigation project.

S. 1019. Providing transportation for destitute discharged soldiers and sailors in Europe.

S. J. Res. 30. Authorizing President to appoint member of Committee on Reorganization.

S. 1881. Defining act creating Hawaiian homes commission.

H. R. 2499. Providing for acquisition by United States of fishing rights in Pearl Harbor, Hawaii.

H. J. Res. 148. Relief of Colorado flood sufferers.

H. R. 2428. Granting lands to Converse County, Wyo., for park purposes.

H. J. Res. 52. Authorizing Secretary of Interior to furnish water to entrymen in arrears on public lands.

H. R. 8107. Extending for six months from August 24 the act controlling importations of dyes and chemicals.

H. R. 8298. Amending Revised Statutes relating to criminal cases.

H. J. Res. 153. Permitting admission of certain aliens who sailed from foreign ports on or before June 8, 1921.

H. J. Res. 138. Repealing portion of act providing for sale of Camp Eustis.

H. R. 1475. Providing lands for biological station in State of Washington.

H. R. 4813. Changing period for doing annual assessment work on mining claims to fiscal year.

H. R. 5621. Disposing of certain public lands in Fort Madison and Bellevue, Iowa.

H. R. 7255. Providing for congressional medal of honor and distinguished service cross to be awarded unknown American soldier buried in Arlington Cemetery.

H. R. 5223. Exempting from cancellation certain desert-land entries in California.

H. R. 5622. Appraisal and sale of Vashon Island Military Reservation.

H. R. 2422. Relief of settlers and entrymen on Baca Float No. 3, Arizona.

H. R. 2466. Making Fort Worth, Tex., port of entry.

H. R. 2421. Granting lands to Phoenix, Ariz., for municipal purposes.

H. J. Res. 82. Ratifying establishment of boundary line between the States of Pennsylvania and Delaware.

H. R. 2185. Cancellation stamp, pageant of progress exposition, for use in Chicago post office.

H. R. 3018. Authorizing dike across Mud Slough on Isthmus Inlet, Oreg.

H. J. Res. 31. Directing the Treasury to allow credit to the disbursing clerk of the Bureau of War Risk.

H. J. Res. 173. Ratifying and confirming naval appropriations as of July 21, 1921.

S. 530. Bill to quiet title to certain lands in the city of Walters, Okla.

S. J. Res. 20. Making immediately available appropriation for diversion dam on the Crow Indian Reservation, Mont.

S. J. Res. 34. Authorizing President to appoint commission to attend first centennial of the Republic of Peru.

S. J. Res. 72. Extending relief to States in cotton belt through efforts to eradicate the pink bollworm.

S. J. Res. 122. For the bestowing of the congressional medal of honor upon an unknown and unidentified Italian soldier, to be buried in the national monument to Victor Emmanuel II, in Rome, Italy.

S. J. Res. 123. Providing for expenditure not to exceed \$50,000 in connection with the burial of an unknown soldier at Arlington.

S. J. Res. 115. To authorize the loan to the Grand Army of the Republic of tents and cots to be used at their grand encampment at Indianapolis, Ind.

S. J. Res. 117. To authorize the loan of tents and cots for the use of the United Confederate Veterans at their encampment at Chattanooga, Tenn.

H. R. 7578. For a special "Visit the Dunes" canceling stamp by the post office at Michigan City, Ind.

H. R. 8365. For a special "Public Health Exposition" canceling stamp for the post office at Cincinnati, Ohio.

S. 2359. For a special "Aero Congress" canceling stamp to be used by the post office at Omaha, Nebr.

S. 2504. For the readmission of certain midshipmen to the United States Naval Academy.

S. 71. For the consolidation of the offices of register and receiver of land offices in certain cases.

#### BILLS PASSED BY THE HOUSE.

##### FORDNEY TARIFF BILL.

I have already referred to the tariff bill which has passed the House and is now before the Senate. Hearings have been held by the Senate committee on many of the schedules, and it is hoped the bill will be considered by and pass the Senate at a reasonably early period in the December session. It is highly



important that this general revision become a law at an early date. It is true, as has been suggested, that these are difficult times in which to enact a permanent tariff law. Entirely accurate estimates of foreign costs are impossible. Fluctuating currencies of a number of the great industrial nations of the world present most serious difficulties in connection with tariff adjustment, and yet notwithstanding these conditions it is highly important—it is, in fact, essential to the restoration and preservation of sound business conditions in America—that our manufacturers and producers and their employees shall know definitely what the tariff schedules are to be for the immediate future at least, and that these schedules shall give the benefit of the doubt to the employer of American labor rather than to the foreigner or the importer.

#### THE RAILROAD BILL.

The bill for the amendment of the transportation act of 1920 to enable the War Finance Corporation to handle the securities placed in the hands of the Government by the railroads in connection with the funding, as provided by the transportation act, of a portion of the sums due the Government from the railroads on account of expenditures for betterments and equipment during the period of Federal control, is one of the most useful and helpful measures which has been considered by the Congress.

Under this bill railroad securities, that would otherwise lie in the Treasury unproductive, except for the interest rate they carry, would be placed in the hands of the investing public, and the money thus secured could be utilized for the purpose of meeting Federal obligations to the railroads and otherwise. Those who have studied the questions involved in this legislation are of the opinion that the funding of a considerable portion of the sum due the Government by the railroads, on account of betterments and equipment, and the sale by the War Finance Corporation of the securities thus placed in the hands of the Government, will greatly improve the business situation throughout the country by relieving the railroads from the necessity of making large payments on capital account out of current revenues, and thus leave them in a position to pay other bills for supplies and equipment, many of which are now overdue.

The relief of the situation thus provided will also place the railroads in a financial condition in which it will be possible to bring about a reduction in freight and passenger rates much more speedily than otherwise would be possible. It is to be hoped that we are nearing conditions where a reduction of rates would within a reasonable time be followed by an increase of business that would more than make up for the losses that would result from the rate reduction. It is true, however, that the roads could not weather even a temporary period of reduced revenues if they are to be compelled to meet and pay immediately out of earnings their obligations to the Government for expenditures which are properly chargeable to capital account. It is important, therefore, that the relief this bill proposes be provided in the interests of all the people who are anxious for rate reduction.

If the operations which the bill authorizes the War Finance Corporation to undertake prove successful, the measure will be highly beneficial to the railroads and through them to those from whom they buy supplies, and it will also prove a boon by increasing the available cash in the Treasury.

#### THE FOREIGN DEBT REFUNDING COMMISSION BILL.

This Congress has had no more important question before it than that of providing for a commission to treat with our foreign debtors and to arrange with them as to the terms of payment of the principal and interest of the foreign debt, amounting to more than \$11,000,000,000, which they owe us. Had the former administration proceeded in full conformity with the law, these obligations would have all been funded and time and terms of payment agreed upon, and nothing further would have been necessary. While the Secretaries of the Treasury of the Wilson administration may not have acted contrary to law, they certainly did not carry out the directions and provisions of the law in full, and, on the contrary, did enter into an agreement with our foreign debtors whereby all interest payments were delayed for a period of three years, and the only obligations taken were mere I O U's, with no definite stipulation as to conditions of payment.

In this state of affairs it became necessary to legislate a grant of authority for the handling of this tremendously important matter, involving not only the vast sum of more than \$11,000,000,000, but affecting our relations with Armenia, Austria, Belgium, Cuba, Czechoslovakia, Estonia, Finland, France, Great Britain, Greece, Hungary, Italy, Latvia, Liberia, Lithuania, Poland, Rumania, Russia, and Serbia—all of whom owe us sums ranging from a few thousand dollars to hundreds of millions of dollars.

The legislation creates a commission of five members, with the Secretary of the Treasury as chairman, the others to be appointed by the President, who, subject to the approval of the President, are authorized to refund or convert and extend the time of payment of the principal or interest, or both, of the obligations of foreign Governments owing to the United States. This is one of the most important pieces of legislation which has been passed by the House.

#### THE FIRST DEFICIENCY APPROPRIATION FOR 1922.

This bill appropriates \$103,000,000 for various governmental services, the larger items of which were \$40,000,000 for vocational training and \$25,000,000 for the hospitalization of World War veterans, the remainder being for claims and expenditures of the Post Office Department and other civil branches of the Government. [Applause.]

In addition to the bills heretofore enumerated, the following is a list of the more important bills that have passed the House:

- H. R. 12. Revision of the laws; first since 1878.
- H. R. 6754. Regulations for promoting the welfare of American seamen in merchant marine on vessels on the Great Lakes.
- H. R. 4810. Authorizing incorporation of companies to promote trade with China.
- H. R. 4981. Preventing manufacture of adulterated or misbranded foods and drugs.
- H. R. 2373. To authorize associations of producers of agricultural products.
- H. R. 70. Allowing credit to widows of soldiers and sailors in making homestead entries for their husbands' military service.
- H. R. 7153. Appropriation for completion of the acquisition of real estate for the Military Establishment.
- H. R. 2376. Competency of witnesses to testify in criminal actions.
- H. R. 5585. Permitting execution of pension papers in foreign countries.
- H. J. Res. 7. Authorizing Secretary of Navy to open radio stations for use of public.
- H. R. 5013. Authorizing Secretary of Navy to sanction certain titles or memorials.
- H. R. 6673. Granting franchise for gas and electricity for certain districts of Hawaii.
- H. R. 77. Consolidation of lands in Selway National Forest.
- H. R. 244. Granting abandoned rights of way to railroad companies.
- H. R. 2205. Adding certain lands to the Shoshone National Forest.
- H. R. 2232. Establishing national military park on plains of Chalmette, below city of New Orleans.
- H. R. 4596. Disposal of drainage water from Rio Grande project.
- H. R. 6259. Providing for consolidation of lands in Colorado National Forest.
- H. R. 6262. Adding lands to Mount McKinley National Park, Alaska.
- H. R. 7204. Providing a water system for Fort Monroe Military Reservation.
- H. J. Res. 81. Providing for the erection in the District of Columbia of a memorial to the dead of the First Division, A. E. F., of the World War.
- H. J. Res. 30. Granting preferred right of homestead entries to soldiers, sailors, and marines.
- H. R. 216. Incorporating the Association of Disabled American Veterans of the World War.
- H. R. 6508. Providing for the exclusion of fraudulent devices from the mails.
- H. R. 6864. Exchange of lands in Rainier National Forest, Washington.
- H. R. 7161. Authorizing World War veterans to make final homestead proof without further reclamation or payment.
- H. R. 6679. Amending the laws relating to the judiciary.
- H. R. 6998. Amending the bankruptcy act.
- H. R. 8119. Relief of persons who relinquished lands within national forests.
- H. R. 6863. Granting preference right to purchase unappropriated lands in Arkansas.
- H. R. 2349. Authorizing exchange of forest lands in Colorado.
- H. R. 2914. Adding lands to Minidoka National Forest.
- H. R. 6053. Amending Revised Statutes to include jurisdiction in cases of revivor.
- H. R. 8842. Providing for agricultural entries for coal lands in Alaska.
- H. R. 6429. Providing for consolidation of forest lands in Colorado.
- H. R. 7428. Amending act incorporating Gonzaga College.
- H. R. 2908. Incorporating the Grand Army of the Republic.
- H. R. 2866. Authorizing the sale of lands in Louisiana.

H. R. 6961. Granting lands in Alabama for use of Searcy Hospital.

Mr. Speaker, I regret I have not time to discuss at greater length the important measures that have become laws or been considered by the House. Fortunately no long speeches are necessary to emphasize or eulogize the work of the session now closing. That record will stand and speak for itself in eloquence that will not be denied long after the words we utter here to-day are forgotten. This splendid record, none better ever made by a legislative body since time began, will grow brighter and be more appreciated as time passes, as the ground fogs and the dust of conflict that always becloud the day of action clear away and this record shall be read in the unobscured and unprejudiced light of history. [Loud applause on the Republican side.]

The SPEAKER pro tempore. The gentleman from Tennessee [Mr. GARRETT] is recognized for 30 minutes. [Applause.]

Mr. GARRETT of Tennessee. Mr. Speaker, I smile at the situation of the gentleman from Wyoming because it really is very funny. It has long been the custom as a session of Congress draws to its close for the majority leader to arise and have something to say by way of congratulations to his party upon what has been accomplished during the session. But in all good faith I wish to say that up until a few moments ago I had supposed that that would be omitted on this occasion. [Applause on the Democratic side.] However, the gentleman from Wyoming [Mr. MONDELL] evidently feels that there should at least be a plea of confession and avoidance, and so he has directed attention to some legislation and to more of effort.

The most of those things which he has specifically mentioned as having been accomplished are matters wholly nonpartisan and with the origination of which the party in power had no more to do than did the minority.

#### THE BUDGET ACT.

I might mention, for instance, the Budget Act. That was one of the first acts passed, and the gentleman from Wyoming complacently claims credit for his party. Of course, all persons in the United States familiar at all with its history are aware of the fact that the serious consideration of budget legislation began wholly as a nonpartisan proposition and was conducted as a nonpartisan proposition and was finally enacted into law by what was practically a unanimous vote. The majority did not originate nor are they any more responsible for its enactment than the minority, save only as they happened at the time to have more votes. So far as its administration is concerned that has not progressed to a point which enables us to speak with any degree of assurance as to what its real effects are. One of the outstanding things, however, has been that with the estimates so far sent down—and I ask some gentleman to correct me if I am in error—with the estimates so far sent down from the Director of the Budget, who has been widely advertised and who was so greatly praised by the gentleman from Wyoming, the Congress has found it necessary to do precisely what it has done for long years past under all administrations when estimates were sent in, namely, cut those estimates by millions and millions of dollars.

An illustration in point is the last emergency appropriation for the Shipping Board. With the approval of the Director of the Budget the Shipping Board had asked for \$125,000,000 and Congress cut the amount, as I now recall, to \$48,500,000.

The value of the budget legislation will be determined by its administration. It is interesting to read in the press every few days where "Gen. Dawes, Director of the Budget, has saved this \$25,000,000 and that \$50,000,000" by cutting out items included in estimates forwarded to him from this department or that. Some papers seem to keep standing headlines about "Dawes savings."

In very truth there is a considerable degree of piffle about these stories. Good advertising? Ah to be sure; creating an impression upon a tax-burdened people that savings are being made. But the people who are better informed than some seem to think will not be long misled by these psychological promulgations. Gen. Dawes deals with the department's estimates and then Congress will have to deal with his, and the final story—the denouement, the plot of the tale will not be unfolded until we strike the balance sheet at the end, and the majority will not convince the people that they have saved unless the people find the saving reflected in lower taxes, and this it does not now seem the majority expect to be able to show.

Estimates were sent in here, as has been pointed out—and it has already been placed in the RECORD, but I ask permission to reinsert them—estimates have been sent down by the Director of the Budget and have been granted by the Con-

gress, for an amount of money for the Shipping Board that has enabled the Director of the Shipping Board to place upon the pay rolls more men at high salaries than were ever placed upon the pay rolls at any one time in all the history of this country. [Applause on the Democratic side.] The list which I have in mind I take from the testimony of Mr. Schlesinger in the hearings before the Appropriations Committee on the Shipping Board deficiency. It contains those who had been employed as attorneys at that time the latter part of July, 1921.

NAMES AND SALARIES OF ATTORNEYS MENTIONED BY GENERAL COUNSEL IN BOARD MEETING JULY 21, 1921, AS BEING EMPLOYED FOR AND ON BOARD ROLL.

E. Cateby Jones, chief of admiralty section; offered \$25,000 per annum; to advise general counsel as to acceptance.

Norman Beecher, admiralty advisor to general counsel, \$10,000.

Chauncey Parker, \$20,000 per annum; retained for chief of litigation and investigation section.

Freund will be paid \$25,000 per annum as head of opinion and contracts section, if he accepts.

Sutherland (ex-Senator), retained at \$5,000 per annum to give opinions to general counsel or board whenever desired.

Marshall Bullock, assistant to general counsel, \$25,000 per annum.

Fletcher Dobbins, trial lawyer, \$15,000 per annum.

Smythe, executive assistant to general counsel, \$15,000 per annum.

Greif, opinion and contract section, \$10,000 per annum.

V. J. Laws, \$10,000; assignment not noted.

Hallett, opinion and contracts section, \$7,500 per annum.

J. Goldsmith, opinion and contracts section, \$7,500 per annum.

Allison, special assignments, \$15,000 per annum.

Aron, no assignment noted, \$10,000 per annum.

Jones, litigation section, \$7,500 per annum.

Colvin, collection and claims section, \$7,500 per annum.

Lloyd, opinion and general section, \$7,500 per annum.

Fetzer, collection and claims section, \$7,500 per annum.

Fairbanks, head of claims section, \$15,000 per annum.

Jos. H. Gaines, assistant counsel, legislation, \$9,500 per annum.

Aron, \$12,000.

#### ROAD LEGISLATION.

Another matter to which the gentleman referred was the road bill. Now, as a matter of fact there was absolutely no necessity whatsoever for the legislation which passed this session of Congress amending the former road act. When the President of the United States came before Congress and delivered his first address, the only address that he has here delivered, he demonstrated that he knew nothing about the language that was in the act that was originally passed—passed not as a partisan measure but by general votes upon both sides of the House—on the necessity of requiring State maintenance. The former law was as clear and as plain and as positive as is the present law upon that subject. And the only reason for having any amendment to it was simply in order to enable the majority party to say that they had amended a former law.

All that was really needed was the appropriation. This was withheld and delayed until some States which had formed their laws to meet the Federal acts and were dependent upon the Federal appropriation to let their contracts suffered in their organizations. Counties and other subdivisions were paying interest on money which they had borrowed to cooperate with State and Federal Governments—moneys which were lying idle in time of stress, all because the majority party chose to dilly-dally along under pretense of some additional legislation being necessary, when in truth the basic act of the Democratic administration was all sufficient, and an appropriation only was necessary.

In fact the bill enacted injured rather than helped the road legislation, in the opinion of many, and rumor has it that there is now a question being made as to whether the Department of Agriculture has not been stripped of its jurisdiction of the road law, and the same conferred upon either the Department of Commerce or the Interior Department, a thing the people never expected or desired.

#### ALASKAN RAILWAY.

Another matter referred to by the gentleman from Wyoming was the Alaskan railroad. Well, I suppose the country surely understands that what the majority have done at this session is simply to continue and provide for the completion of that work begun under the previous Democratic administration.

#### WAR VETERANS' ACT.

Again, the gentleman from Wyoming touches upon the War Veterans' Act. That passed by a unanimous vote. It originated in a nonpolitical committee. It was not the product of the brain of the majority party, but was the common work of both parties—a work of love and justice.

The troubles under that act grow out of the present policy in regard to its administration and for that the majority party are responsible. The gentleman from Illinois [Mr. MADDEN], the chairman of the Committee on Appropriations, told you yesterday that out of every \$100 being appropriated supposedly for the benefit of the disabled soldiers of the country \$10.68 is going to pay for the administration of the act. [Applause on the



Democratic side.] That is indefensible. When the organization of the bureau was being built up confusion was unavoidable, but the time has come when that excuse no longer justifies the delays and the overwhelming administration charge pointed out by the gentleman from Illinois.

#### WAR FINANCE BILL.

The war finance bill—simply a revival, without a single change in the letter of the law, as I remember it, of the act which was passed during the Democratic administration.

#### IMMIGRATION.

The gentleman has referred also to the immigration restriction act. That, too, was a nonpartisan measure. The principle fight on it, such as it was, came from the Republican side, being led by Mr. SIEGEL, of New York. That act was not satisfactory; it was not fundamental; it was a compromise makeshift, not going to the roots of our immigration problem. The minority were helpless in their efforts to go further.

#### PACKERS' BILL.

The packers' act is listed for praise by the gentleman. We may well be very cautious in our praise of this bit of legislation until we discover just how far the reactionary influences in the Republican party succeeded in their efforts to hamstring the Federal Trade Commission.

#### ANTIBEER BILL.

The antibeer act, like all prohibition acts, at no time took on any partisan tinge. It is, however, noticeable that the gentleman from Wyoming speaks of it as being made necessary by "an eleventh-hour decision by Attorney General Palmer."

The idea intended to be conveyed by that expression is obvious. Frank statesmanship, untinged by partisan ambition, it would seem, would have in dealing with the great nonpartisan question been just enough to have stated that the official opinion of the Attorney General as to whether under the Volstead law beer might be prescribed as a medicine was not asked until almost at the end of his term. He could not have given it earlier. The correctness of that decision has not, so far as I am aware, been questioned by the present Attorney General, by any responsible authority of this administration, or by the leaders of the prohibition organizations of the country. Only a few politicians have made insinuations about it.

#### THE PEACE RESOLUTION.

The peace resolution is "pointed to with pride." How ridiculous! Not a step was ever taken under that peace resolution. No proclamation was issued by the Executive based upon it. That poor performance did nothing but make a bad precedent. All action has been taken under the treaty negotiated and ratified. It would be well for the Republican Party if they could expunge that resolution and everything connected with it from their record for all time to come.

There is no need to pursue the matters item by item. All that was good was nonpartisan, presented as such, discussed as such, and passed as such.

#### FAILURE UPON VITAL THINGS.

Upon those matters vital to the country, upon those supreme matters concerning which the party now in power promised (in so far as that colorless, evasive document known as the Chicago platform promised anything) relief to the people of the country, there has been a disgraceful, a distressing, and, what is destined to be to that party, a disastrous failure. [Applause on the Democratic side.]

The gentleman from Wyoming has referred to the revenue act in terms of praise. Let me quote from another authority, who spoke of the revenue act. These are the words of one Mr. BOISE PENROSE, eminent in the councils of his party, long experienced in political activity. He said:

The revenue act of 1921 is a transitory or temporary measure. It does not place the tax system on a stable or a scientific basis.

He was quoted in the press as saying that it was a "make-shift."

In the legislative branches of the Government the party now in power has been in power for practically three years. At the very beginning of the last Congress, although invited by the Executive authority then to enter upon a revision of the tax laws of the country, the majority in the legislative branch dawdled in idleness while feeding upon passion, and did absolutely nothing.

#### SOME HISTORY.

The majority here may have forgotten a little very recent history. I am sure they would like the people to forget it. It is so interesting, however, that it must not be forgotten, and I take the liberty of refreshing the memories of men in regard to it.

When the Sixty-fifth Congress convened for its final session upon the first Monday in December, 1918, immediately following the elections of November that year in which the Republicans had elected a clear majority of the House and by the shameful occurrence in Michigan felt assured of their ability to organize the Senate, it began quite early to be noised abroad that in order to assure that President Wilson would call the Sixty-sixth Congress in extraordinary session, the Sixty-fifth would not be permitted to perform its constitutional functions and duties by passing the supply bills for the fiscal year 1919-20.

The failure of any one of the appropriation bills at the expiration of March 4, 1919, meant that an extra session of the Sixty-sixth Congress would have to be convened in time to pass it by June 30.

The President of the United States was at that time engaged in as arduous a task as ever confronted a statesman. He was trying to negotiate a treaty of peace at the end of the greatest holocaust of war ever experienced by mankind. It was known that he was shortly to return to France to continue in these negotiations; it was equally as well known that it was his intention so soon as his labor was completed to call the Congress or at least the Senate in extraordinary session and lay the results before that body for its action under the Constitution.

But notwithstanding these known facts; notwithstanding the issues of history and destiny that were at stake a group of Republican politicians swayed by partisan prejudice and personal hatred toward the President, deliberately determined that he should not have the time for undivided attention to the vast things of the world and his and their country.

Accordingly in the latter part of February, 1919, the most disgraceful filibuster in the history of this country began in the Senate of the United States and certain of the supply bills failed.

There was no effort at concealment of the fact of the filibuster though with cunning hypocrisy the real motive was never openly avowed. Instead it was insisted that the people had spoken; that the Republican Party had been given a commission (think of the gift of Michigan!) to legislate; that orderly processes could not be waited upon; that the regular constitutional date even for ordinary business must be advanced, tax questions must be tackled and revolutions consummated.

They had their way; they poisoned the public mind, they threw every embarrassment which passion-maddened ingenuity, selfish ambition, and insane jealousy could conceive upon a great man as he struggled for his country and all mankind amid uncongenial surroundings that were but poorly understood here, in what might have been—what may yet prove to be—the greatest gathering ever held by statesmen.

They sowed the wind and in misery the world is reaping the whirlwind. That they who sowed are reaping a share evokes no pity for them, but for their sins men and women everywhere, children hungry and starving, babes suckling at withered breasts—all are paying in torture and toil and tears.

The extra session was called. President Wilson was still abroad confronting the problems produced by the centuries of selfishness and greed in Europe and constantly shot at from the responsible party in the Congress of his own country.

He addressed to that Congress, the enemy of whose majority he well knew, a dignified message outlining certain suggestions and specifying certain fiscal and economic matters regarded as most pressing. At the forefront of these was that of the revision of internal-revenue taxation. This matter had not then become in any sense partisan. His message was a simple challenge to patriotism framed in a way that became a patriot.

His observations were seconded by the Treasury Department; were pleaded for by the business world. The opportunity for service lay then—such opportunity as a party has had but infrequently in history.

What resulted? Oh the shameful, sordid failure is too well known! It has taken time to realize it but people are realizing it now. In the heat of discussion over the peace treaty the responsible majority succeeded not only in evading but in concealing their responsibility and in creating the feeling that the Executive was responsible when in truth it was their own dereliction due perhaps in part to incapacity but more to cunning politics and unconscionable hatred.

All the committees of House and Senate were under Republican control throughout the Sixty-sixth Congress, yet no offer to revise the tax system was made. The only gestures made by the majority toward anything were made with doubled fists toward the White House.

They passed the appropriation bills pretty much as they had been prepared by the Democratic committees of the Sixty-fifth Congress; spent several hundred thousand dollars in investigations that have not resulted in a single constructive act of legislation, and finally quit on March 4, 1921, still so busy cursing Wilson as that they found little time to applaud Harding, or perhaps—but we will pass that.

The only excuse given during those years for not tackling the tax problem was "we must have full power; wait until we have all branches of the Government."

Come to think of it I guess that excuse was valid. If the revenue bill—the "makeshift," if I may quote, which will be presently signed was the majority's idea—nay, more, if that bill as it passed the House and as it was reported to the Senate with its lowering of taxes upon those most able to pay, with its loss of revenues, its complexities, and jokers—if that was the dream of the majority they acted with wisdom in waiting. No Democratic President would have attached his signature to that.

Your experts have been at work for months—aye, for years; the Treasury was open to the committees for the purpose of making whatever investigations were necessary. You passed an act under whip and spur, refusing to throw it open to general amendment here in the House. It went to the other body, passed there, and went to conference, and the conferees have worked out a proposition which it is supposed within the next few hours will be the law. And one of the most eminent authorities in the Republican Party says of it, on the very eve of its passage, after all the promises made, after all of the boasts of the superiority and statecraft of the Republican Party, that in the making of a tax bill here in times of peace they could not bring forth an act that was permanent or was destined to be permanent, but that the act is a transitory or temporary measure; that it does not place the tax system on a stable or scientific basis.

Not only have you enacted what you call a temporary measure but in the process of making what my friend from Texas [Mr. GARNER] denominated this "monstrosity" the Republican Party succeeded in splitting itself in twain, not only in the other branch of the legislative body, not only in this body, but you brought here, figuratively speaking, the President of the United States himself and deliberately placed him in the condition of Bret Harte's scientific gentleman who was hit in the front central portion of his anatomy with a piece of red sandstone, "and the subsequent proceedings interested him no more." [Applause on the Democratic side.]

It will not escape public notice, I take it, that the tax bill was not called a temporary measure and a makeshift by the distinguished gentleman who presides over the Senate committee which framed it until it had been generally condemned by the press and the people. Before that it was heralded, even as I fear the gentleman from Wyoming [Mr. MONDELL] would herald it now, if he dared, as a great piece of constructive permanent legislation in keeping with Republican policies and promises.

But let me ask this serious question of serious men here and everywhere: If with more than two-thirds of this House and almost as great a majority in the Senate after years of responsibility and long months of travail you can give the people nothing but a makeshift, a temporary, transitory measure, when, pray, may we expect a different one?

When will "time unfold what plaited cunning hides"? How long must people suffer while the Republican Party is developing capacity?

Let me suggest another thought for men and women who have been betrayed by this failure to ponder over during these long winter nights as they plan means for meeting next year's Federal taxes:

In their clamor for an extra session in 1919 for the alleged purpose of tax revision; in their delay of two years and eight months in attempting such revision, in the crassness and bungling apparent in the making of the thing just passed, the Republican Party is confronted by these alternatives:

If their clamor for the extra session of 1919, and their failure after having it to take action, was in order that the people might become resentful and rebellious under the war-tax burden and so vote for a change in executive administration, then the party stands convicted of resorting to methods violative of all the ethics of statesmanship and they should be turned from power.

If on the other hand they have done their best; if they have believed themselves to be honest and conscientious; if they have really tried to provide a tax measure which will give relief to business and industry and to distribute taxation equitably, then they stand convicted of stupidity and utter incompetency.

Neither horn of the dilemma is a pleasant one to seize. If they take the first it must be immediately cut off lest it gore them; if the second, then "boring for the simples" is inevitable. I leave them to their choice.

The gentleman from Wyoming said, if I understood him correctly, that when we adjourn this afternoon we would have passed all that the Congress was called in extra session to pass. Well, it was my information, it was certainly my thought, and I believe the thought of every person in this country, that when the Congress assembled it would deal in some way with the customs duties.

Mr. MONDELL. Will the gentleman yield?

Mr. GARRETT of Tennessee. I will.

Mr. MONDELL. The gentleman misunderstood me as stating that Congress enacted all of the legislation which we were expected to take up in this session. I said the House had passed the laws, and so far as the House is concerned, the program had been carried out to the letter and to the finish.

Mr. GARRETT of Tennessee. I accept the gentleman's statement that he was referring to the House, but the great difficulty about that is that everybody who walks the streets, who reads the newspapers, who understands anything of public affairs whatsoever, is perfectly aware of the fact that the tariff bill which passed the House was not designed by its promoters to become the law, and it was never expected that it would become the law. [Applause on the Democratic side.] If all that the House has to do is merely to pass an enacting clause in these revenue matters, then the House has performed its duty.

Mr. MONDELL. Mr. Speaker, will the gentleman allow me an interruption?

Mr. GARRETT of Tennessee. I yield to the gentleman.

Mr. MONDELL. That is a rather broad statement that the gentleman has made, and it might be misleading if some one reading it should imagine that it was a statement of an exact fact as he understands it. Will the gentleman allow me to say that, so far as I know the view of the men who framed that bill and as far as my own opinion and the opinion of this side is concerned, we did expect this bill to become a law substantially as it passed the House, as most of the bills that we have considered at this session have? [Applause on the Republican side.]

Mr. GARRETT of Tennessee. Mr. Speaker, the trusting confidence of my friend from Wyoming is such as to evoke pity, but not admiration. [Applause on the Democratic side.]

Mr. GARNER. Mr. Speaker, will the gentleman yield?

Mr. GARRETT of Tennessee. Certainly.

Mr. GARNER. If one may judge by the present revenue bill and by the tariff bill, as constructed by the Senate and the latter finally agreed to in conference, judging from the number of amendments adopted by the Senate and yielded to by the House, it must be a Senate measure.

While I am on my feet let me suggest to the gentleman from Tennessee if this is not the fact, that as I understand it the American people believed that when Congress came together its paramount duty was to pass a tariff measure and a revenue measure? The tariff bill is still pending, and the revenue measure, as stated by the gentleman from Tennessee, is a makeshift and a piece of instability from the standpoint of political science. [Applause on the Democratic side.]

Mr. MONDELL. If the gentleman will yield, I understand the gentleman who made that statement takes that view of the matter because an amendment reported by the other side was unfortunately adopted.

Mr. GARRETT of Tennessee. In view of that statement, it is rather interesting to note just what has been done on this matter of legislation. Both the tariff and tax bill had amendments offered on "the other side," to which the gentleman from Wyoming has referred. When we had the tariff bill up upon every substantial proposition that you permitted this House to vote on by way of amendment the Republican organization was whipped from end to end. [Applause on the Democratic side.]

Gentlemen of the majority might possibly get some good legislation if they would stop gagging the House, and when these important bills come before it for consideration permit the minority to at least offer the benefit of its wisdom. The results so far attained whenever that opportunity has been presented, both on the tax bill and the tariff bill, have been such as to be somewhat encouraging.

Let me repeat from Holy Writ a quotation which I ventured to make a few days ago:

"O Jerusalem, Jerusalem, which killest the prophets and stonest them that are sent unto thee; how often would I have



gathered thy children together, as a hen doth gather her brood under her wings, and ye would not!"

But the gentleman from Wyoming reminds us that to-morrow is Thanksgiving and cites some things for which he hopes the people may be thankful.

Mr. Speaker, I presume the papers of this afternoon will carry to all sections of the United States the news that this Congress is certain to adjourn some time before midnight to-night, and I have a pretty firm belief that to-morrow in a million homes in America praise will go up in which the thought will be expressed, "We thank Thee, O Lord, for at last putting into the hearts of the leadership of that Republican Congress the thought that it should adjourn sine die." [Applause on the Democratic side.]

Mr. MONDELL. Mr. Speaker, I yield the balance of my time to the gentleman from Ohio [Mr. FESS].

The SPEAKER pro tempore. The gentleman from Ohio is recognized for four minutes.

Mr. GARRETT of Tennessee. Mr. Speaker, I reserve whatever remains of my time.

The SPEAKER pro tempore. The gentleman from Ohio [Mr. FESS] is recognized for four minutes.

Mr. FESS. Mr. Speaker, Congress has been in actual session for about six months, during which it has made a record in response to the call of the inexorable exigencies following the war that I think will command the admiration of all the country, including our opponents in the House, especially those who are free from partisan bias.

The evil results of the war were first felt by the farming interests of the Nation. Agricultural conditions liquidated immediately and the price of farm products went below prewar conditions. Corn that sold for \$1.90 per bushel is now selling in parts of the West for less than 20 cents per bushel. The Congress took up the program of agricultural relief, and in at least five specific measures attempted to assist in the rehabilitation of that great industry.

We also found the entire industrial system as the result of the greatest convulsion the world ever saw in the most dislocated situation of our history which extended to the whole world. The world's credits were deranged, its exchanges were broken down, and its trade totally disordered. In order to cure it a temporary tariff measure was passed on behalf of the American farmer to bridge up to such a time as the permanent tariff measure could be passed. This measure, first limited in time, has been extended until displaced by the permanent bill. Its value to the farmer is especially noted in the case of wheat and wool.

The hopeless condition of industrial Europe is felt here in our own country. Our surplus product of the farm heretofore marketed in Europe is left unsold. Europe has not the money with which to buy and is also under the necessity to avoid all purchases which can be produced by themselves owing to the heavy debt. Many suggestions have been made on our ability to assist Europe. It has been suggested that we exempt American capital from taxation that invests in the rehabilitation of the industries of Europe. This proposal has not met with favor with either branch of Congress. It has also been suggested that American capital be encouraged to invest in European industrial securities. This is a matter of financial concern and not of Government function.

We have authorized the War Finance Corporation to loan upon approved securities a specified sum to European houses or businesses upon condition that money be expended for American agricultural products. This is the agricultural aid bill.

To better the farm condition at home we have enacted some remedial legislation.

(1) The packers' bill.

(2) The antigambling grain bill.

We have also increased the credit facilities for the farm by two amendments to the farm loan act. All these are now law. The House passed a bill to permit the well-established principle of collective bargaining to be employed by farmers. Action on this is not yet had in the Senate. All this was done to help to relieve the farmer from a most disastrous condition produced by the war which entailed a period of extravagance and waste never before observed.

In addition to this work of agricultural rehabilitation Congress took early steps to end the war by congressional resolution, after which the President took all necessary steps to complete the work by effecting treaties of peace with the Central Powers which cleared the way for the resumption of both trade and diplomatic relations.

Knowing the commanding necessity for governmental economy, Congress renewed its efforts for a national budget system, which had been vetoed by President Wilson, and en-

acted such a measure, which was signed by President Harding and which became operative with the beginning of the present fiscal year, July 1, 1921. This ends all pork-barrel legislation for time to come. The operation of this law is now displayed by the enforcement of the provision of the law for punishment of bureau heads who ignore the law by creating deficiencies. This one statute will go further to place the Government's business upon a sound and economic basis than any piece of legislation in our time, and will be one of the outstanding accomplishments of legislation.

Congress, alive to the hopeless European situation, took proper steps against the inevitable flood of immigration, which would further complicate our industrial problem and enlarge our unemployment to the great detriment of our own labor. At an early hour of the special session it passed the immigration law further limiting it to 3 per cent of the nationals already here.

Congress also corrected the weaknesses in the treatment of our disabled veterans by the creation of the Veterans' Bureau, by concentrating all agencies for this work under one responsible head. Instead of the necessity of applying to three distinct agencies, all separate, the soldier now applies to one person who acts at once. For this work the current year there has been disbursed nearly one-half billion dollars, something over \$490,000,000, the measure of appreciation the Government shows to the maimed soldiers.

In addition to these measures Congress corrected the unfortunate condition to follow the decision of Attorney General Palmer which permitted the prescription of beer. While the framers of the original law never intended such construction, the decision made necessary further regulation to prevent the violation of the temperance legislation on the eighteenth amendment. This measure will be appreciated by the millions of our people who earnestly hope for an end to the evil of the liquor habit among our people.

In addition to all this, one measure urgently requested by the women of the country, the protection of maternity and infancy, has become a law.

The special session was called to enact a tariff and tax law. Both of these measures require time, and both come from the same committee. The tariff question was taken up first and was passed through the House by the latter half of July. Measured by other tariff bills, especially when it is noted that this bill contains at least 1,000 items not included in any previous tariff bill, the time consumed by the House was not too long. This measure is still in the Senate committee.

The tax bill was taken up by the House immediately upon the passage through that body of the tariff bill. It was sent to the Senate in August and becomes a law to-day.

The House also passed the railroad securities refunding bill, one of the most important measures of legislation. This is still in the Senate.

The House also enacted the foreign debt funding act, another widely important measure both for us and Europe. This is also awaiting action in the Senate.

These are the more important measures of a session which challenges the history of legislation for a better record of achievement.

The program was planned from a constructive basis to insure remedial legislation made necessary by a war that uprooted the economic principles throughout the world. It looked to rigid economy which respected the wishes of those responsible for this administration—

1. To cut every appropriation to the bone.

2. Defer all legislation that is not emergent if it carries additional appropriations.

3. Insure economy by rigid application of the budget principle.

It made especial effort to readjust the agricultural situation by the enactment of five specific measures looking to the relief of our first and greatest industry.

The House put through in record time four great industrial rehabilitation acts which look to the readjustment of industrial America in the interest of labor and capital—

1. Permanent tariff.

2. Tax revision.

3. Rail securities refunding act.

4. Funding foreign loan act.

Three of these await Senate action, which will be completed in regular session.

This session also responded to the needs of the thousands of our disabled soldiers. It responded to the wishes and welfare of millions of temperance men and women. It also respected that great body of mothers in America upon behalf of their pleas for a better state for maternity and infancy. It also

answered the demand not to further congest the labor market by indiscriminate immigration. The House of Representatives was in actual session 139 days. During that time there were 9,775 bills and resolutions introduced. Of this number, 415 were considered by committees and reported to the House; 152 of these became law. I want now to raise the question whether we can find a finer type of leadership when measured by results achieved than we have seen displayed here on this side of the aisle during this session of Congress. [Applause on the Republican side.]

I challenge the record of the Congresses that have ever met in our history to show such a complete program of achievement on the part of at least one branch of Congress as this House has consummated, and I believe the Members on both sides of the aisle will recognize that leadership and ability in the person of the gentleman from Wyoming [Mr. MONDELL], under whose guiding hand this program has been carried to completion. [Applause on the Republican side.]

Mr. Speaker, the country, fully alive to the most unusual problems of readjustment, is applauding the efforts of the administration. It does not minimize the seriousness of the situation. Harding in less than nine months of the presidency has reached a level of general good will and approval not reached by any of his predecessors. His genius to command the maximum ability of the Nation is well recognized and unreservedly approved by all classes. His ability for final and correct decision is now well understood and widely applauded. His well-known sympathy for the unfortunate, and his deep desire to forward such remedial measures as will meet with the approval of sound policy, his keen comprehension of economic law as it affects industrial problems, have marked him with general approval.

No one better understood the necessity of international composure nor more fully sensed the wisdom of selecting a sound diplomat for this work. In these months we have seen our international relations, sorely interrupted by the war, rapidly cleared with honor to ourselves and justice to all concerned. The treatment of the Panama-Costa Rica dispute, the Yap episode, the Mesopotamia embroglio, the Mexican problem, and the Russian proposal has marked Mr. Hughes as among the greatest of our country's diplomats, past or present. This reflects credit upon the man responsible for Mr. Hughes and his Cabinet.

While Congress was at work on readjustment to relieve unemployment, the President summoned to Washington the best talent on the subject, organized the machinery, and put it in motion to reduce this problem to the minimum. In the meantime, peace negotiations were conducted to enable us to resume proper diplomatic relations and thereby insure the most rapid readjustment of abnormal conditions to a more normal basis.

During these months the President was at work to complete the plans for a world conference in the interest of peace in the world. This conference has now been in session for about two weeks. Already such progress has been made as to thrill the entire civilized world. The President's was the "commanding voice of a conscious civilization" speaking for our 100,000,000 people demanding "less of armament and none of war." Mr. Hughes was the spokesman of the President's plan, and in 40 minutes of time he disclosed what appeared the most audacious program of limitation of armament ever conceived by a responsible head. During that 40 minutes while the Secretary of State, "speaking for the American delegation, acting under the direction of the President of the United States," this Nation grew more than it had ever grown in any 25 years of its history. It reached a level no one living could have believed he would see it reach.

In my judgment the conference can not fail now. No nation would dare to throw herself athwart the open way of so great a cause for humanity. Already all the nations have shown a most favorable attitude toward the magnanimous proposal of our country on behalf of lifting the war burdens. These burdens for Army and Navy in appropriations in 1916 were about \$250,000,000. In the present fiscal year they are about \$747,000,000. Our problem is to save at least \$400,000,000 on these items alone, a tangible result of the conference if it succeeds, as it will succeed.

When we bring ourselves as Members of Congress to the position that we can view accomplishment with eyes undimmed by blind party prejudice, the cheap and puerile demagogic attack upon this administration by the minority will give way to a frank recognition of a program, broad in its scope, sound in its principles, effective in its remedies, world-wide in its reach, and put into operation in such brief time as to challenge the ap-

proval of all alike, both friend and foe. This will be the verdict of the country.

The SPEAKER pro tempore. The time of the gentleman from Ohio has expired.

#### PRINTING COPIES OF THE REVENUE ACT.

Mr. LONGWORTH. Mr. Speaker, I ask unanimous consent for the present consideration of the following resolution, which I send to the Clerk's desk.

The SPEAKER pro tempore. The Clerk will report the resolution.

The Clerk read as follows:

#### House resolution 234.

*Resolved*, That as many additional copies of the pamphlet law of the revenue act of 1921 as can be printed for \$500 be printed for the use of the House, to be distributed through the folding room, 1,000 copies of which shall be for the use of the Committee on Ways and Means.

The SPEAKER pro tempore. Is there objection?

Mr. WINGO. Reserving the right to object, Mr. Speaker, can the gentleman give us any idea of when it is intended to adjourn to-day?

Mr. LONGWORTH. Oh, yes; very shortly.

Mr. WINGO. You intend to adjourn very shortly?

Mr. LONGWORTH. Yes.

Mr. WINGO. Can the gentleman give us any idea of the hour?

Mr. LONGWORTH. The gentleman would hardly like to predict the exact hour, but he can assure the gentleman from Arkansas that we shall adjourn.

Mr. WINGO. Has the Senate concurred in the conference report?

Mr. LONGWORTH. Not so far as I know.

Mr. WINGO. My understanding was that this resolution would be withheld for the present and be passed later on.

Mr. LONGWORTH. Oh, the gentleman from Ohio feels so confident that adjournment will be had to-day that he thinks this resolution ought to be passed at once, as there will be a great demand for copies of the law.

Mr. GARRETT of Tennessee. Mr. Speaker, will the gentleman yield?

Mr. LONGWORTH. Certainly.

Mr. GARRETT of Tennessee. The gentleman from Iowa [Mr. GREEN] spoke to me this morning about the passage of a similar resolution. I told him I thought there would be no objection. The gentleman from Arkansas [Mr. WINGO] was making some objections at that time along some other lines. I spoke to the gentleman from Arkansas briefly about it, and after consulting with him I suggested to the gentleman from Iowa [Mr. GREEN] that it be deferred for a time. I did not mention any particular time.

Mr. LONGWORTH. The gentleman from Iowa [Mr. GREEN] was compelled to be absent this afternoon and he requested that I bring it up as soon as possible. This, I may say, will provide for the printing of between 13,000 and 14,000 copies. It is estimated that 10,000 copies can be printed for \$383, and that it will cost \$38 for each additional thousand copies, so that this will furnish between 13,000 and 14,000 copies.

Mr. DOWELL. Does the gentleman believe that will be sufficient?

Mr. LONGWORTH. I think so, for the time being.

Mr. JOHNSON of Washington. It is all we can order by a House resolution—\$500 worth.

The SPEAKER pro tempore. Is there objection to the present consideration of this resolution?

There was no objection.

The resolution was agreed to.

#### LEAVE TO EXTEND REMARKS.

Mr. GARRETT of Tennessee. Mr. Speaker, when I concluded my remarks a few minutes ago I forgot to ask permission to extend my remarks in the Record. I now ask unanimous consent to extend my remarks in the Record in order to continue my praise of the achievements of this Congress. [Laughter.]

The SPEAKER pro tempore. The gentleman from Tennessee asks unanimous consent to extend his remarks in the Record. Is there objection?

There was no objection.

Mr. MONDELL. I make a like request.

Mr. FESS. I make a similar request.

The SPEAKER pro tempore. The gentleman from Wyoming [Mr. MONDELL] and the gentleman from Ohio [Mr. FESS] make the same request. Is there objection?

There was no objection.



## WORLD'S DAIRY CONGRESS.

The SPEAKER pro tempore laid before the House the following message from the President of the United States, which, with the accompanying report of the Secretary of State, was read, as follows:

To the Senate and House of Representatives:

I transmit herewith a report by the Secretary of State communicating the desire of the Secretary of Agriculture for the postponement until 1923 of the world's dairy congress, invitations to which were authorized by the act making appropriations for the Department of Agriculture approved March 3, 1921.

Inasmuch as it appears that adequate preparations for the world's dairy congress can not be completed in time to permit it to be held in 1922, I ask that the recommendation for postponement until 1923 receive favorable consideration.

WARREN G. HARDING.

THE WHITE HOUSE,

Washington, November 23, 1921.

The message and report were ordered to be printed and referred to the Committee on Foreign Affairs.

## STANDARD MEASURES FOR FRUITS AND VEGETABLES.

On motion of Mr. VESTAL, the House resolved itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill (H. R. 7102) to fix standards for hampers, round-stave baskets, and splint baskets for fruits and vegetables, and for other purposes, with Mr. LONGWORTH in the chair.

Mr. VESTAL. I yield five minutes to the gentleman from Washington [Mr. JOHNSON].

Mr. JOHNSON of Washington. Mr. Chairman and gentlemen, a few days ago I discussed on this floor the case of Mark Glanvill, an immigrant alien, who refused to submit to our immigration laws, left Ellis Island in a huff, and made a vigorous protest to the British Government, which made his complaint an international matter. I have here the signed statement Glanvill made to the British Government. In it he describes his arrival on the good ship *Orduna*, going to Ellis Island, whose buildings he characterizes as prisonlike, and, among other things, he declares:

Presently we reached a wide passage, completely blocked by a seething mass of humanity, fifty in the extreme—Europe's worst; the very dregs of humanity—pushing, yelling, and cursing, men and women alike—

And so forth.

Mr. Chairman, that is the statement of the main reason why a South African subject of the British Empire refused to submit to the hasty inspection and examination provided by our immigration laws for all aliens entering this country. If the people of the United States fully realized that much of the present immigration, even though restricted, is of the character described by Mark Glanvill, they would demand the percentage be reduced from the present 3 per cent, with all its exceptions, to 1 per cent or even to no per cent. [Applause.] I was of that opinion one year ago, and I am to-day more firmly of that opinion. I am about to introduce a bill limiting alien immigration to near blood relatives of persons lawfully in this country—that is to say, to fathers and mothers, husbands or wives, and children. That is enough.

As I said, a great hue and cry was raised over Glanvill's failure to gain admission without submission to our immigration laws. The Church Union took it up. Even Great Britain protested until she learned the facts. There was much mawkish sentimentality—and continually is—as a result of the distorted facts and sensational stories told by those who would tear down what protective laws we have against undesirable and excessive immigration. Fortunately, however, there are high-class publications and patriotic, fearless editors that place America first and whose first thought and sympathy and sentiment are for America and Americans, our institutions, standards, and ideals. The Saturday Evening Post for this week contains a splendid editorial telling the truth about all these sensational Ellis Island stories, entitled "Ellis Island sob stuff," as follows:

## ELLIS ISLAND SOB STUFF.

Though Congress has lately given some attention to the amendment of our naturalization laws, pressing legislation of one sort and another has held in abeyance consideration of a new immigration code. The Dillingham Act, which restricts the admission of aliens in any one year to 3 per cent of the number here, reckoned nationally by nationality, as shown by the census of 1910, automatically becomes inoperative on the 30th day of next June. In the meantime it will be the duty of Congress to frame, debate, and pass a new set of permanent restrictive measures of such a character that they may be relied upon to afford the country adequate protection in the unprecedented emergency that will confront it next summer.

Every day it becomes more apparent that the problem Congress has to face has changed from one of immigration to one of migration. Before the war emigration was an overflow from the thickly populated countries of Europe. During the next few years, unless drastic measures are taken to prevent it, the overflow will become a deluge, and whole peoples will sweep in, bags and baggage, rags and coffies, in such numbers that all previous immigration records will be dwarfed into littleness. That is precisely what various racial groups are hoping for and working for, with the assistance of such foreign-owned ocean-transport companies as regard the United States about as a contractor regards a public dump.

Opposition to restriction of immigration is unceasing and untiring. President Harding's signature on the Dillingham Act was scarcely dry before the enemies of the new law set to work to discredit it. Ocean liners raced across the Atlantic to land their human cargoes before monthly quotas should have been exceeded. Summoned to Washington, the representatives of offending lines promised to be good; but old habits are hard to break off and time-set methods are not suddenly abandoned.

Scarcely a week passes that the metropolitan newspapers of the Atlantic States do not print harrowing stories of the hardships wrought by the Dillingham law. One week the tender victim is a penniless but beautiful young girl who must be deported because her country's monthly quota has been exhausted; the next, it is a rich and gifted young student who must be excluded for the same reason, or some apple-cheeked old peasant woman whose plight would melt a heart of ice.

These moving tales are keened with the tremolo stop pulled all the way out, and constitute striking examples of what is known in newspaper offices as sob stuff. They are often followed by verbatim reports of the letter of protest addressed by the indignant victim of our barbarous law to his own Government.

There is no more doubt that the Dillingham law has caused occasional hardship to worthy aliens than there is that it has proved a protective measure of the highest importance, justified a hundredfold by the conditions that required its adoption. It should be remembered, however, that any immigration code worth the parchment upon which it is engrossed is bound to bear heavily and harshly in sporadic cases unless it contains provisions whereby official discretion is permitted to soften its rigors. In the past, official discretion has often been so grossly abused that the House Committee on Immigration will do well to be exceedingly chary of incorporating any but the narrowest of such powers in the legislation that it is now framing.

Unfortunately, a single case of beauty in distress skillfully played up in the newspapers makes a deeper impression upon many minds than the most authoritative recital of the disastrous effects upon our race and Nation that will inevitably take place unless we speedily reverse our old policies based upon the melting-pot myth and control immigration by rational restrictions. It takes a more vigorous mind to envision the dilution and the breeding out of our old Nordic stock fifty or a hundred years hence than it does to think concretely in terms of pretty penniless girls, sweet old peasant women, and earnest young students denied admission to our country. This is the psychological basis upon which rests the untiring press work of the antirestrictionists.

The Post then quotes from the paper of Mr. Madison Grant, author of *The Passing of the Great Race*, which paper I presented to the Members of the House a few days ago. Mr. Grant says:

The menace is not immigration in the old sense of the word, but is true migration of peoples on a scale never before known.

The Post carries another editorial, entitled "Melting-pot moonshine," and which reads in part:

The opposition to sane restriction of immigration was never so well organized as now. The Dillingham Act has frightened it into solidarity and its minutemen are ready for duty at an instant's notice. Chief of these are the representatives of the ocean transport companies. These men act as if they had vested rights in the United States as a dumping ground for their human cargoes. Such is the volume of false propaganda they have been circulating in Europe to stimulate emigration, already pressing hard upon the limits set by the Dillingham Act, that on the 5th of last August the emigration commission of the League of Nations, sitting at Geneva, unanimously adopted a resolution demanding its repression.

Shoulder to shoulder with the shipping men stand the racial groups, least blameworthy of all the enemies of immigration restriction. Then come those cheap Americans who demand foreign labor so cheap that it is dear at any price; and on the outskirts of the throng cluster those kindly, overcredulous souls who are still the bondslaves of a few outworn phrases, flimsy sophistries, and exploded beliefs.

Prof. Robert De C. Ward, of Harvard, hits the nail squarely on the head in a recent statement, in which he says:

Such a situation has never before confronted us. This is not "normal" immigration. It is a frenzy, a panic, a stampede, a mob, without calculation, without sound judgment; a seething mass of humanity with but one idea—America.

Dr. Henry Fairfield Osborn, the great authority on evolution, lately in an address to the International Eugenics Congress said:

We are slowly awakening to the consciousness that education and environment do not fundamentally alter racial values. We are engaged in a serious struggle to maintain our historic republican institutions through barring the entrance of those who are unfit to share the duties and responsibilities of our well-founded Government. The true spirit of American democracy, that all men are born with equal rights and duties, has been confused with the political sophistry that all men are born with equal character and ability to govern themselves and others, and with the educational sophistry that education and environment will offset the handicap of ancestry.

Prof. Osborn went on to say that there is no form of matter so stable as the germ plasm on which heredity depends, and that this accounts for the stubborn permanence of types and for

the survival of their original qualities in admixtures. He added:

In the matter of racial virtues my opinion is that from biological principles there is little promise in the melting-pot theory. Put three races together and you are as likely to unite the vices of all three as the virtues.

Mr. Chairman, after having studied the workings of the 3 per cent immigration restriction law during the six months it has been in operation, I have decided to introduce a bill suspending for three years all immigration excepting only husbands, wives, and children of naturalized citizens or of aliens who have domiciled in the United States for three years and who have filed declarations of intention to become citizens, and to press such a bill for action. I believe such a bill will cure the defects of the present 3 per cent law. Travelers and visitors will be permitted to arrive with passports, but must not come as immigrants.

The United States can not afford to sit by idly and permit certain countries to give passports to those of their nationals whom these countries desire to get rid of. I have knowledge that one country at least has been giving passports bearing in words the warning that the bearer is barred from returning to the country of his nativity.

In several countries of central and eastern Europe subagents of steamship companies are reported by our consuls and others to be selling tickets on a commission basis, and in one or more countries emigration "delegates" are assiduously at work urging persons to hurry to the United States before quotas become exhausted.

The high cost of travel to the United States seems to be no barrier. Passage and expense money is provided from somewhere.

Henry Morgenthau, former ambassador to Turkey, is quoted as saying that 3,000,000 persons in the lands back of Constantinople would get to the United States if they could. I believe the statement is not exaggerated.

It is contended that the 3 per cent law has created unnecessary confusion at Ellis Island, even though the number admitted under its provisions from June 1 to November 30 has reached only the modest figure of 195,509. It is charged the law has put a premium on organization in the handling and documenting of prospective immigrants.

Suspension will cause the United States to forego the reception of many who might be welcomed, but it will also end misery and misunderstanding both here and abroad, and inasmuch as 3 per cent, 50 per cent, or any other per cent can not relieve a fraction of the distress, starvation, and death that must come to refugees and destitute and migratory bankrupt peoples for the next year, we are justified in undertaking a complete suspension except for immediate relatives.

Mr. WINGO. Mr. Chairman, I yield 10 minutes to the gentleman from Mississippi [Mr. QUIN].

Mr. QUIN. Mr. Chairman, they have talked about everything this morning, but now we have the basket bill up for consideration, and that is another effort of the Federal Government to tell the producers how they shall fix up their produce for the consumers. The bill has a very dangerous feature in it, according to my conception. It delegates to the Secretary of Agriculture of the United States the authority, privilege, and right to say what kind of a basket or hamper the producers shall ship their products in.

Mr. KING. Mr. Chairman, as I understand, the gentleman is talking about the bill: is that permitted under the general rules of the House? [Laughter.]

Mr. QUIN. Mr. Chairman, this bill, if gentlemen will stop and think about it, is presumed to safeguard the buyer of farm products, but in this very bill they make what they call a 1-bushel hamper of 32 quarts really a hamper of 33 quarts. You are endeavoring through the bill to force the producer of apples or potatoes and all classes of vegetables and fruits to give to the consumer 32.9 quarts for a bushel. You are fixing to rob the producer of vegetables in this country nine-tenths of a quart out of every bushel by making him give that much more for a bushel. The experts have passed upon this bushel hamper and have found that to be true. I can not say whether or not you have made the same mistake running down through all the others, but I know that is true of your 1-bushel hamper.

Mr. VESTAL. Will the gentleman yield?

Mr. QUIN. I have only 10 minutes.

Mr. VESTAL. I will give the gentleman some additional time; I think the gentleman wants to be fair.

Mr. QUIN. I do.

Mr. VESTAL. Does the gentleman understand that the manufacturer with whom he talked about the bushel-basket measurement, about its holding more than 32 quarts—has the gentle-

man talked with him since that manufacturer talked with the Bureau of Markets and the Bureau of Standards?

Mr. QUIN. No.

Mr. VESTAL. I want to say that since the gentleman talked with the manufacturer, the manufacturer has talked with the Bureau of Markets and the Bureau of Standards and acknowledges that he was wrong, and that the measurements set out in the bill are absolutely correct; that the basket holds a bushel and no more, and that the trouble was in his own factory.

Mr. QUIN. I say that this proposition has been passed upon by the experts, and I have the typewritten figures to show that the measurements had in this bill are nine-tenths of a quart more than a bushel. That was shown me by the head of a large manufacturer of hampers in Copiah County, Miss. In other words, it lacks only one-tenth of a quart of being a 33-quart measure, and yet the gentleman does not dispute the figures. The fact is we give power to the Secretary of Agriculture to say what these measures shall be, what kind of material they shall be made of, whether the splint shall run straight up and down or in a circular way. It seems to me that the United States has poked its nose into the business of the people long enough and far enough. [Laughter.] During the war perhaps it was necessary to have such legislation, but that was a hardship on the people, and now there is no necessity for it, for we are at peace. I reckon that the President of the United States has issued the proclamation of peace, and if we are at peace are we to continue this type of paternalistic legislation with reference to the vital institutions of our country? Under this bill the farmer can not make his own baskets to ship his stuff to the market; he can not take it to town in a sack; but he must have a basket or hamper made of a certain type of material. Why, the Secretary of Agriculture could under this bill say that you can not have a basket made out of anything except spruce pine. You would have to go to Michigan or Oregon to get the material, pay the freight rate down to Mississippi or Texas, where they produce the bulk of vegetables of this country, in order that the people could have baskets and hampers to ship the products of the farm.

If this bill passes as it now is you vest the power and authority in the Secretary of Agriculture to do all these things when one section of the country has one growth of wood and another section another. It could not be made a universal standard of basket so far as the timber is concerned.

Oh, you say the Secretary of Agriculture will not do anything unreasonable. I know they have done unreasonable things in the past, and we must judge the future by the past. I know that the Secretary of Agriculture is not always a practicable man, and we must legislate with that in view.

The CHAIRMAN. The time of the gentleman from Mississippi has expired.

Mr. VESTAL. I yield to the gentleman an extra minute because I took some of his time.

Mr. QUIN. I thank the gentleman. The measure that is presented to the House at this time is changed to some extent from what it was before, but you destroy what little benefit you put into it by giving all the power to the Secretary of Agriculture to say what changes shall be made, what type of hamper the farmers of the country shall in the future ship their stuff in.

Mr. BEGG. Will the gentleman yield?

Mr. QUIN. Yes; I yield.

Mr. BEGG. The gentleman seems to be very much worried about surrendering the control and authority to the Secretary of Agriculture, but he voted for the bill that gave him absolute control over building highways.

Mr. QUIN. Oh, it is not that way; no, sir. I voted for the Jones amendment. After you Republicans killed that amendment, of course, I voted for the bill to get the money for our roads. We did not want to let him or any other Federal officer say where the roads should be, or what the specifications should be. Of course, we wanted the money, but we did not propose to give up all our rights like you did and deprive the districts, counties, and the State of their rights. You fellows are putting this bill through. Surely you do not in your hearts propose to make the farmer bow to the Secretary and let him say what sort of a basket he shall put his fruit and vegetables in. [Applause.]

The CHAIRMAN. The time of the gentleman has again expired.

Mr. STEVENSON. Mr. Chairman, this is a very important question, and I do not think there is any quorum here. I make the point of order that there is no quorum present.

The CHAIRMAN. Does the gentleman from South Carolina make the point of order?

Mr. STEVENSON. Yes, sir; I make that point of order. Mr. Chairman, I withdraw it for the present.



Mr. WINGO. Mr. Chairman, I presume that the Members present understand that the House is simply marking time waiting for the Senate to act on the conference report on the tax bill which must be agreed to before we adjourn. For the information of those who are interested in final adjournment I will state that I have just been informed that they are now calling the roll in the Senate on the conference report, and it is hoped that at the expiration of the time I have left me for general debate that measure will be ready for the signature of the Speaker and the House will then be able to adjourn sine die.

You know, gentlemen, that I have a sense of humor and, of course, must appreciate the fact that this sense of humor was appealed to very strongly a little while ago by the valedictory addresses delivered by our Republican friends and especially by the gentleman from Ohio [Mr. Fess], chairman of the Republican congressional committee, or rather he was the last time I heard of that committee, but I understand it is drifting and disorganized just like the leadership of the Republican Party in this House. [Laughter on the Democratic side.] The gentleman said something about "liquidating" the farmer and how this Congress had "rehabilitated" him. I knew that there was something radically wrong with the condition of the American farmer, and I knew that the ill effects of the war on him had been accentuated, and now we have the explanation. The Republican Party, which has been in complete control of both branches of Congress for nearly three years, has been "liquidating" and "rehabilitating" him. The Republicans claim credit for the changed condition of the American farmer since they got control of Congress nearly three years ago. No wonder wheat has gone down to 80 cents. That is the effect of the "liquidation" and the "rehabilitation" which the Republican Congress has indulged in. You give to the farmer a little more "rehabilitation," as the gentleman from Ohio [Mr. Fess] says you have given him, and the American farmer will not have anything left.

The gentleman from Ohio [Mr. Fess] said something about the revival of the War Finance Corporation, did he not? I do not recall, but I think he included that as one of the achievements of the Republican Party. Well, I had something to do with that measure, and I remember very well how we revived the War Finance Corporation and the forces we had to combat. We did it over the protest of the Republican leaders of this House, including the gentleman from Ohio [Mr. Fess], and the Record will prove it. We not only brought it out of the Committee on Banking and Currency over the protest of the Republican leaders but we brought that measure out of the committee over the protest and vote of the majority of the Republican members of the committee, including the Republican chairman himself. The minority of the Republican members of that committee, led by the very able gentleman from Kansas [Mr. Skonec], joined the solid Democratic members of that committee, who can always be depended upon to see that agriculture in both the West and South is given fair treatment in Congress, and by their combined vote brought the bill out of the committee and up for consideration in the House.

Mr. DUNBAR. Will the gentleman yield?

Mr. WINGO. With pleasure.

Mr. DUNBAR. The gentleman stated we revived the War Finance Corporation over the protest of the majority Republican leaders. I want to ask if we did not also revive it over the protest and veto of President Wilson?

Mr. WINGO. Well, the gentleman is about as accurate in his premises as he is in his facts. I did not say over the majority Republican leaders but a majority of the Republican leaders. A majority of the Republican leaders were with President Wilson, but an almost solid Democratic membership of the House joined a few Republicans from the agricultural States and put over that measure in spite of the Republican leaders and the veto. When I speak of Republican leaders I mean the constituted leaders of the Republican organization of the House. The real leaders on the Republican side are a few men from the agricultural States in the West who have their eyes open and are not under any pledge to the great financial interests in the East for their election. They have refused to follow the self-constituted Republican leaders on this floor but have joined the Democrats and thus have made it possible for the Democrats, even though a minority, to get through some relief for the farmers. I have the roll call before—

Mr. DUNBAR rose.

Mr. WINGO. I can not yield any more. I have only 20 minutes time in all, and—

Mr. DUNBAR. I would like the gentleman to answer the question regarding the President's veto.

Mr. WINGO. Well, you know some Republican Members still go on berating a man—

Mr. DUNBAR. I am not berating the man.

Mr. WINGO. Who has passed out of public life and who, when the tumult and the shouting shall have died, the passions and hatreds of the hour have passed away, and the bitter prejudices and partisan falsehoods shall have exhausted themselves, will stand forth in history as one of the greatest men of his day, who, whatever may have been his faults and mistakes, passionately loved his country and broke himself physically by applying all of his talents and energies to the point of nervous exhaustion to serve the country and mankind, and his achievements and unselfish labor for country and Christian civilization will be recalled with pride and admiration by every patriotic, honest American a long time after his petty, narrow, partisan, lying traducers shall have been forgotten by all save those who out of idle curiosity search the records and roll calls of the last Republican Congress. [Applause on the Democratic side.]

Mr. DUNBAR. Will the gentleman yield?

Mr. WINGO. No; I want to finish.

I was talking about the Republican leaders and their record on the revival of the War Finance Corporation as the best evidence of their position on that measure to which to-day those same leaders refer with pride as proof of their achievements for which they claim credit. Turn to page 543 of the CONGRESSIONAL RECORD of December 18, 1920, and you will find the roll call on the passage of the resolution for the revival of the War Finance Corporation; and lo and behold, of the men who fought that resolution, which now is admitted has done so much for agriculture, and who voted against that relief, the name of the gentleman from Ohio [Mr. Fess], chairman of the Republican congressional committee, like that of Abou ben Adhem, leads all the rest, and yet he to-day has the affrontery to stand up here as a leader of the Republican Party and claim credit for having "rehabilitated" American agriculture, and cites this act, which he opposed and against which he voted, as one of the measures that did it. [Applause on the Democratic side.]

On that roll call voting against this measure of relief for the American farmer I noticed the name of Mr. McFADDEN, of Pennsylvania, chairman of the committee that reported the measure to the House. I also note as voting against the resolution the name of the gentleman from Illinois [Mr. Madden]. I could, if time permitted, call the names of the other Republican leaders who voted against the farmer that day, including the name of that distinguished, brilliant, versatile, dashing leader, of whom I am very fond, the gentleman from Massachusetts [Mr. Walsh].

Oh, yes, gentlemen, you remember what was said then about the Democrats and the Republican Members from the West who were trying to do something for the American farmer. We were denounced then as political grandstand players and demagogues, and they and their followers in the press talked in tones of derision and simulated fear of the "agricultural bloc," and yet to-day these same Republican leaders come forward and claim credit for their party and this Congress for the passage of those measures which they derided then and which were passed through this House by the Democratic membership, joined by a sufficient number of Republican Members from the agricultural States in the West, who were even derided by their party leaders and denounced for joining the Democrats.

The only difference in the minds of some gentlemen between a statesman and a demagogue is that the statesman, according to those gentlemen, is one who wants to open the Treasury to the railroads of the country and then give them rates that will guarantee a fixed profit and exempt the big financial interests of the country from a just proportion of the burden of taxation, and that a demagogue is one who recognizes the elemental truth that the cotton grower of the South and the wheat grower of the West ought to be given equality of treatment in the distribution of credits and in the enactment of laws that affect their economic welfare. Whenever a few Republican Members join the Democrats for this laudable purpose they are referred to sneeringly as an "agricultural bloc" and are told they are about to wreck the Republican Party. Notwithstanding the protest and declamation of these Republican leaders, to-day the Members of this House know that during the last two and a half years since Republicans have been in the control of Congress the only way the American farmer has gotten any consideration has been by the rolling of the Republican leaders of this House. And the printed record shows it. [Applause on the Democratic side.]

What about the act passed in this Congress which increased the agricultural credit facilities of the War Finance Corporation? The same old story. The leaders of the Republican Party, while professing sympathy for the farmer, sought by subterfuge and by substitution to defeat it. The administration leaders had worked a flank movement in the Senate on the

distinguished Senator from Nebraska, Mr. Norris, and tried to pass a makeshift. When the measure reached the House Banking and Currency Committee the solid Democratic membership of that committee were joined by enough Republicans to report the measure out to the House, and here on the floor you know that the Democrats, joined by those brave, loyal Republicans from the West who put country above party, such as Strong of Kansas and two other members of the committee, rolled the Republican leaders again and passed the measure over their opposition. It is true that while they were really opposed to the measure they made "discretion the better part of valor" and voted for the measure on the final roll call, but it was a fact understood by all of us that we had the silent, stubborn opposition of a majority of the Republican leaders, who, while voting for the measure, did so on the theory that the case was hopeless and that it was wisdom "to join what they could not beat." In spite of that well-known fact, the gentleman from Ohio now tries to show that as an achievement of the Republican Party when the record shows to the contrary.

Now, what else was done? Explain why the Federal land banks can not meet the demands of the farmers of the West and the South for \$1,000, \$2,000, or \$3,000 loans? It was a recognized fact that these banks on account of conditions growing out of the war and their suspension while the case attacking their constitutionality was pending in the Supreme Court and not on account of any unsoundness of the system were left with an insufficient working capital to make them independent and enable them to stand alone. The Democrats solidly supported every effort to go to their relief, but the Republican leaders had their way and cut down the relief and after, first, by an arbitrary rule limiting their activities to a total of \$200,000,000 a year that same leadership has now cut down the limit to \$150,000,000 a year. The roll calls of this and the last Congress show that the Democrats were united for every practical proposal to grant adequate relief, and their efforts were defeated by the Republican leadership who grudgingly permitted measures to pass only granting partial relief.

What about transportation rates? At the very hour the Republican Party was trying to open the Treasury to the special interests of this country the railroads in the public press were announcing that they were going to make some small reductions in freight rates, some of these same railroads were filing notices of increases, and the shippers of my own State were put to the expense of combating these efforts and sending their attorneys and representatives here to Washington within the last few months. We saw the markets of the farmers of the West and the South restricted and in some instances destroyed by prohibitive, nonrevenue-producing freight rates while this Republican Congress was busy playing politics and seeking to relieve the great financial interests of a just proportion of the burden of taxation, and unless this Republican Congress does more to relieve that situation in the next session than it has in this, truck growing and some other farm activities in the West and South will be absolutely destroyed because even with the proposed slight reduction just announced transportation rates in many cases will remain so prohibitive that the farmers will not be able to get some of their products to market.

Mr. DENISON. Will the gentleman yield?

Mr. WINGO. For a question.

Mr. DENISON. I would like the gentleman to state what Congress could do right now.

Mr. WINGO. I will tell you.

Mr. DENISON. Wait a moment. I wanted to ask a question.

Mr. WINGO. You asked a question. You asked me what Congress could do, and I will tell you: You could do what this Republican Congress has failed to do. A Republican Congress enacted the transportation act which contains a provision that is practically in its effect mandatory on the Interstate Commerce Commission, and so admitted on this floor, to increase freight rates. If it was sound policy for Congress to say when freight rates should be raised, then, in the name of reason, why is it not sound policy for this Republican Congress to recognize that the increased freight rates are not only unfair and unreasonable from the shipper's standpoint but are non-revenue producing from the railroad standpoint, and say that the rates shall be reduced to a basis that is both fair and reasonable and also revenue producing. That is the answer to your question. [Applause.]

Mr. DENISON. Will the gentleman yield to a question?

Mr. WINGO. I yield for a question.

Mr. DENISON. I want the gentleman now to answer the question I asked of him first. What is it that he would have Congress do to reduce freight rates?

Mr. WINGO. I have just told you.

Mr. DENISON. I did not understand.

Mr. WINGO. You could do the same thing that you did to increase freight rates. This Republican Congress boasts, and you are boasting now, that you passed a law that you know was intended to increase freight rates. If this Congress should direct the Interstate Commerce Commission to reduce transportation rates to a fair and reasonable revenue-producing basis, then freight rates will be reduced.

The gentleman says he did not understand, and I do not want to leave the gentleman's mind in the dark. I have a great respect for the gentleman, although I do not always agree with him. Of course, he does not want to admit that this Congress has not done anything to relieve the country of prohibitive freight rates. What he says implies by inference that it is powerless, but you have not the excuse now that you had in the last Congress, because now you have a President at the other end of the Avenue, as well as both branches of Congress under your control. Your excuse in the last Congress was that notwithstanding you had absolute control in both branches, yet there was a sick Democratic President in the White House, and this broken man in the White House scared you so that you did not do anything. You said then, "Just let us be given full power in both the executive as well as the legislative branches and we will do something." That was your answer in the last campaign to the farmers when they complained of prohibitive freight rates.

Now, in this Congress what is your alibi? Your alibi now is that the Democratic minority, small though it is, is so pestiferous, ingenious, resourceful, and active that it will not permit the Republican Congress to function. The fact is that you are in overwhelming control of every branch of the Government and you have it in your power to bring about a reduction of transportation rates. You have authority and power to pass a resolution that will be recognized by the Interstate Commerce Commission and it will require them to immediately reduce transportation rates so that they will be fair and just and reasonable, with due regard to the service rendered as well as a regard for the right of the owners for a fair return on their money invested. They should not only be fair and reasonable from the standpoint of the farmer, who now in some instances has to lose his products on account of prohibitive rates, but fair and reasonable to the railroads, because every sensible man knows, and the gentleman knows, that the present freight-rate structure in the United States is not only nonuniform and discriminatory but in many instances they are not even revenue producing, because they make it impossible for many commodities to move and thus commodities perish on the farm, so that not only does the farmer lose his market but the consumer loses the supplies much needed and in turn the railroads lose the revenue. The railroad executives recognize that this is true, because they have recently announced that they intend to make certain small reductions, and they set up the claim that there have been a great many reductions, but they overlook the increases that have been made in many instances, both directly and by reclassifications, and the efforts that are being made in some sections of the country to make other increases.

Mr. HUDSPETH. Mr. Chairman, will the gentleman yield?

Mr. WINGO. Yes.

Mr. HUDSPETH. On cattle, now, the freight rates are just one-third of what the animal will bring.

Mr. WINGO. Yes; and it is more than that on some commodities. I want to be fair to the railroads, because I recognize that an efficient, stable, transportation system is an economic necessity. The trouble with the viewpoint of the Republican leaders is that in the enactment of the transportation act you had but one purpose in view, which purpose was very plainly stated a few days ago before the Interstate Commerce Committee of the Senate by Edgar E. Clark, formerly chairman of the Interstate Commerce Commission, who, among other things, stated that the purpose was to give some stability to railroad securities and railroad finances and to allay apprehensions that were extant as to the future of railroad credit. "The purpose of it was to build up railroad credit," he said.

You consider nothing but the alleged rights of the railroads and neglect entirely the rights of the public. I regard the rights of the public as being just as fundamental and elementary as the rights of the railroads and more so, because the rights and privileges of the railroads are based upon, and grew out of, public necessity for transportation. The granting of certain privileges to railroad corporations—for instance, the right of eminent domain—was based not upon any inherent right flowing from capital investment but solely on the grounds of public policy for the benefit of the public, the right being the exercise of a sovereign power through a designated agency not for private but for public good. I repeat, I want to be fair to the



railroads and am willing to give them a just and reasonable charge for the service they render, but I do not want the rights of the shipper ignored and subordinated to their rights. In other words, I want all legislation to be bottomed on the prime consideration of public good and a guaranty to it of efficient transportation service at reasonable rates and not solely upon a tender solicitude for the railroad stock market. I submit that the rights of both the shippers and the railroad owners can be safeguarded by proper rates. As a matter of fact, I earnestly believe that a reduction of rates in a great many instances will increase instead of decrease the revenue of the railroads because in many instances the present rates are prohibitive, so that commodities do not move, whereas if a more reasonable rate were fixed the commodities would move and the railroads would get the revenue which now they do not receive.

I can not understand how it is "statesmanship" to in effect guarantee a fixed return by a mandatory direction to increase rates and "demagoguery" if you provide adequate machinery to give to the American farmer at least a fair and reasonable return on his toil.

Mr. VESTAL. Mr. Chairman, I yield the remainder of my time to the gentleman from Wyoming [Mr. MONDELL].

The CHAIRMAN. The gentleman from Wyoming is recognized for two minutes.

Mr. MONDELL. Mr. Chairman, it is a little difficult to form an opinion as to the reason, or lack of reason, for the sort of speech that the gentleman from Arkansas [Mr. WINGO] has just made. Just what the gentleman wants I do not know. I doubt if he knows himself. He complains of high freight rates. So do we all. He wants them reduced. So do we all, and we have been working faithfully in that direction. But, unfortunately for the gentleman, he is apparently misinformed upon some things. He talks about a guaranty to the railroads. There is no guaranty to the railroads. Everybody knows that who knows anything about the transportation act. We guaranteed 6 per cent to the railroads for six months. Those six months expired over a year ago. There is now no sort of guaranty to the railroads. The gentleman knows it. Why does he keep talking about a guaranty when there is none in the law? Is it for the purpose of misleading people who do not have the opportunity to read the law and who do not know?

We are hoping for a reduction of freight rates. A 10 per cent reduction has just been announced. I hope there will be more. But this Congress has set up a tribunal whose duty it is to fix freight rates on a just, fair, and equitable basis, and the freight rates fixed by that tribunal, notwithstanding they are higher than we wish they were, are not returning to the railroads 3 per cent on the value of their property as fixed by the Interstate Commerce Commission.

Now, I would be very glad indeed if the widows and orphans and other people owning railroad securities could get along with less than 3 per cent on their investment. I think rates should be placed just as low as they can be, but the gentleman knows, and everybody knows, that the railroads can not carry the business of the country at a loss. On this side we want to do everything that can be done to reduce the cost of transportation and have been working to that end.

Every reduction of wages and every reduction of cost must be reflected in a reduction of rates, but so long as the roads are receiving only from 2 to 3 per cent of return, why does the gentleman talk about the Congress having been derelict in its duty in not proceeding to do what the gentleman himself would not vote to have the Congress do, arbitrarily fix a freight rate without any regard at all to the cost of the service. I do not think that what the gentleman has said really needs any answer; but lest some one unfamiliar with the facts should pick up the last page of the CONGRESSIONAL RECORD and say, "Here is a challenge that has not been answered," I take occasion to remark that we join with the gentleman from Arkansas [Mr. WINGO] in his desire, if he has the desire, for the reduction of freight rates, and we will use every practical means to accomplish that reduction; but we know that no one can carry freight or perform any other service for less than its costs, and we believe that the Interstate Commerce Commission, performing its duty under the law, will insist upon a reduction of rates corresponding with all reductions of costs. [Applause.]

The CHAIRMAN. The time of the gentleman has expired. All time has expired. The Clerk will read the bill for amendment.

Mr. VESTAL. Mr. Chairman, I move that the committee do now rise.

The motion was agreed to.

Accordingly the committee rose; and Mr. WALSH having resumed the chair as Speaker pro tempore, Mr. LONGWORTH, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee having had under consideration the bill (H. R. 7102) to fix standards for hampers, round-stave baskets, and splint baskets for fruits and vegetables, and for other purposes, had come to no resolution thereon.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. Craven, its Chief Clerk, announced that the Senate had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate on the bill (H. R. 8245) to reduce and equalize taxation, to amend and simplify the revenue act of 1918, and for other purposes.

The message also announced that the Senate had passed without amendment joint resolution (H. J. Res. 81) authorizing the erection on public grounds in the city of Washington, D. C., of a memorial to the dead of the First Division, American Expeditionary Forces, in the World War.

The message also announced that the Senate had passed the following resolution:

#### Senate resolution 178.

*Resolved*, That a committee of two Senators be appointed by the Vice President, to join a similar committee appointed by the House of Representatives, to notify the President of the United States that the two Houses having completed the business of the present session are ready to adjourn, unless the President has some other communication to make to them.

#### ENROLLED BILLS AND RESOLUTION SIGNED.

Mr. RICKETTS, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills of the following titles, when the Speaker pro tempore (Mr. WALSH) signed the same:

H. R. 7428. An act to amend section 1 of an act entitled "An act to incorporate Gonzaga College, in the city of Washington and District of Columbia";

H. R. 6053. An act to amend section 955 of the Revised Statutes by extending the jurisdiction of courts in cases of revivor;

H. R. 8245. An act to reduce and equalize taxation, to provide revenue, and for other purposes; and

H. J. Res. 210. Joint resolution for the appointment of one member of the Board of Managers of the National Home for Disabled Volunteer Soldiers.

The SPEAKER pro tempore announced his signature to an enrolled joint resolution of the following title:

S. J. Res. 33. Joint resolution permitting certain Chinese to register under certain provisions and conditions.

#### ENROLLED BILLS AND JOINT RESOLUTIONS PRESENTED TO THE PRESIDENT.

Mr. RICKETTS, from the Committee on Enrolled Bills, reported that November 22 they had presented to the President of the United States, for his approval, the following bills and joint resolutions:

H. R. 7394. An act to extend the time for the construction of a bridge across the Tombigbee River at or near Ironwood Bluff, in the county of Itawamba, Miss.;

H. R. 8346. An act granting the consent of Congress to the board of supervisors of Whiteside County, Ill., to construct a bridge across Rock River;

H. R. 8347. An act to authorize the New York Central Railroad Co. to construct a bridge across the Grand Calumet River within the corporate limits of the town of Gary, Ind.;

H. J. Res. 225. Joint resolution authorizing payment of the salaries of officers and employees of Congress for November, 1921, on the 23d day of said month;

H. J. Res. 210. Joint resolution for the appointment of one member of the Board of Managers of the National Home for Disabled Volunteer Soldiers;

H. R. 6053. An act to amend section 955 of the Revised Statutes by extending the jurisdiction of courts in cases of revivor;

H. R. 7428. An act to amend section 1 of an act entitled "An act to incorporate Gonzaga College, in the city of Washington and District of Columbia"; and

H. R. 8245. An act to reduce and equalize taxation, to provide revenue, and for other purposes.

#### BILLS APPROVED BY THE PRESIDENT.

A message from the President of the United States, by Mr. Latta, one of his secretaries, announced that on November 22 the President approved the following bills and joint resolution:

H. R. 7394. An act to extend the time for the construction of a bridge across the Tombigbee River at or near Ironwood Bluff, in the county of Itawamba, Miss.;

H. R. 8346. An act granting the consent of Congress to the board of supervisors of Whiteside County, Ill., to construct a bridge across Rock River;

H. R. 8347. An act to authorize the New York Central Railroad Co. to construct a bridge across the Grand Calumet River within the corporate limits of the town of Gary, Ind.;

H. R. 6053. An act to amend section 955 of the Revised Statutes by extending the jurisdiction of courts in cases of revivor;

H. R. 7428. An act to amend section 1 of an act entitled "An act to incorporate Gonzaga College, in the city of Washington and District of Columbia";

H. R. 8245. An act to reduce and equalize taxation, to provide revenue, and for other purposes; and

H. J. Res. 210. Joint resolution for the appointment of one member of the Board of Managers of the National Home for Disabled Volunteer Soldiers.

#### ADJOURNMENT OF THE SESSION.

Mr. MONDELL. Mr. Speaker, I call up the adjournment resolution.

The SPEAKER pro tempore. The gentleman from Wyoming calls up a Senate concurrent resolution, which the Clerk will report.

The Clerk read as follows:

Senate concurrent resolution 15.

*Resolved by the Senate (the House of Representatives concurring), That the two Houses of Congress shall adjourn on Wednesday, the 23d day of November, 1921, and that when they adjourn on said day they stand adjourned sine die.*

The concurrent resolution was agreed to.

#### NOTIFICATION OF THE PRESIDENT.

Mr. MONDELL. Mr. Speaker, I offer the following resolution, and ask for its immediate consideration.

The SPEAKER pro tempore. The gentleman from Wyoming offers a resolution, which the Clerk will report.

The Clerk read as follows:

House resolution 235.

*Resolved, That a committee of three Members be appointed by the Chair to join a similar committee appointed by the Senate to wait upon the President of the United States and inform him that the two Houses have completed the business of the present session and are ready to adjourn unless the President has some other communication to make to them.*

The resolution was agreed to; and the Speaker pro tempore appointed as the committee on the part of the House Mr. MONDELL, Mr. GARRETT of Tennessee, and Mr. GREENE of Vermont.

#### RECESS.

Mr. MONDELL. Mr. Speaker, it will be necessary for the House to remain in session until the President has signed the tax bill and the other bills that have been passed by the two bodies. I imagine that will be accomplished within 30 minutes, and if the Members will be good enough to remain in session and continue the consideration of the basket bill until that time we can then adjourn.

Mr. GARRETT of Tennessee. Mr. Speaker, will the gentleman yield?

Mr. MONDELL. Or I am perfectly willing that the House stand in recess.

Mr. GARRETT of Tennessee. I have an amendment that I think is of some importance to offer to that basket bill.

Mr. MONDELL. Is it to the first section?

Mr. GARRETT of Tennessee. I do not know whether it is to the first section or not.

Mr. MONDELL. We will not complete the consideration of the basket bill, and I assume that we will not pass the first section.

Mr. GARRETT of Tennessee. Then why not stand in recess?

Mr. MONDELL. I ask unanimous consent that the House stand in recess subject to the call of the Chair.

Mr. FESS. I suggest to the gentleman that he make it 30 minutes.

Mr. WINGO. I think it ought to be made a definite time.

Mr. MONDELL. I ask unanimous consent that the House stand in recess for 30 minutes.

The SPEAKER pro tempore. The gentleman from Wyoming asks unanimous consent that the House stand in recess for 30 minutes, which will be until 3:50 o'clock. Is there objection?

There was no objection; accordingly (at 3 o'clock and 20 minutes p. m.) the House stood in recess until 3 o'clock and 50 minutes p. m.

#### AFTER THE RECESS.

The recess having expired, the House was called to order by the Speaker pro tempore, Mr. WALSH.

#### RECESS.

Mr. LONGWORTH. Mr. Speaker, I ask unanimous consent that the House stand in further recess until 4 o'clock p. m.

The SPEAKER pro tempore. The gentleman from Ohio asks unanimous consent that the House stand in recess until 4 o'clock. Is there objection?

There was no objection.

Accordingly, at 3 o'clock and 42 minutes the House stood in recess until 4 o'clock p. m.

#### AFTER THE RECESS.

The recess having expired, at 4 o'clock p. m. the House was called to order by the Speaker pro tempore, Mr. WALSH.

#### REPORT OF COMMITTEE TO NOTIFY THE PRESIDENT.

Mr. MONDELL. Mr. Speaker, the committee appointed on the part of the House to wait on the President and notify him that the House was about to adjourn and ask him if he had any further communication to make to Congress has performed that duty, and the President has notified us of the signing of the bills that passed the Congress, and states that he has no further communication to make.

Mr. Speaker, in accordance with the terms of the concurrent resolution adopted by the two Houses, I move that the House do now adjourn.

#### ADJOURNMENT.

The motion was agreed to; accordingly, at 4 o'clock and 2 minutes p. m., the House adjourned sine die.

#### REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills and resolutions were severally reported from committees, delivered to the Clerk, and referred to the several calendars therein named, as follows:

Mr. WEBSTER, from the Committee on Interstate and Foreign Commerce, to which was referred the bill (H. R. 8785) granting the consent of Congress to the Mobridge Bridge Co., of Mobridge, S. Dak., to construct a pontoon bridge across the Missouri River, reported the same without amendment, accompanied by a report (No. 491), which said bill and report were referred to the House Calendar.

He also, from the same committee, to which was referred the bill (S. 2588) extending the time for the construction of a bridge by the Chicago, Milwaukee & St. Paul Railway Co. across the Missouri River at Chamberlain, S. Dak., reported the same without amendment, accompanied by a report (No. 492), which said bill and report were referred to the House Calendar.

Mr. KAHN, from the Committee on Military Affairs, to which was referred the bill (H. R. 8475) to relieve enlisted men affected thereby from certain hardship incident to the operation of the proviso of section 4b of the national defense act of June 3, 1916, as amended by the act of June 4, 1920, and to protect disbursing officers in connection therewith, reported the same without amendment, accompanied by a report (No. 495), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

#### REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, private bills and resolutions were severally reported from committees, delivered to the Clerk, and referred to the Committee of the Whole House, as follows:

Mr. UNDERHILL, from the Committee on Claims, to which was referred the bill (H. R. 7272) for the relief of Monroe B. Shenly, reported the same with an amendment, accompanied by a report (No. 493), which said bill and report were referred to the Private Calendar.

Mr. GLYNN, from the Committee on Claims, to which was referred the bill (H. R. 5251) for the relief of Ruperto Vilche, reported the same with amendments, accompanied by a report (No. 494), which said bill and report were referred to the Private Calendar.

#### PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. TOWNER: A bill (H. R. 9270) to confer upon the Territorial courts of Porto Rico concurrent jurisdiction with



the United States courts of that district of all offenses under the national prohibition act and all acts amendatory thereof or supplementary thereto; to the Committee on Insular Affairs.

By Mr. TINKHAM: Concurrent resolution (H. Con. Res. 31) relating to limitation of naval armaments; to the Committee on Foreign Affairs.

By Mr. CAMPBELL of Kansas: Joint resolution (H. J. Res. 226) proposing an amendment to the Constitution of the United States; to the Committee on the Judiciary.

#### PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. DENISON: A bill (H. R. 9271) granting a pension to Letetia Wood Savage; to the Committee on Invalid Pensions.

By Mr. FRENCH: A bill (H. R. 9272) for the relief of Henry McGuire; to the Committee on Agriculture.

Also, a bill (H. R. 9273) for the relief of William A. Glasson; to the Committee on Military Affairs.

Also, a bill (H. R. 9274) for the relief of O. H. Lipps; to the Committee on Claims.

Also, a bill (H. R. 9275) for the relief of Frances Kelly; to the Committee on the Public Lands.

By Mr. FOSTER: A bill (H. R. 9276) granting a pension to Clara Prater; to the Committee on Pensions.

By Mr. KEARNS: A bill (H. R. 9277) granting an increase of pension to Sarah D. Wood; to the Committee on Invalid Pensions.

By Mr. KELLY of Pennsylvania: A bill (H. R. 9278) granting a pension to Mary C. Agnew; to the Committee on Invalid Pensions.

By Mr. KING: A bill (H. R. 9279) granting a pension to John Kircher; to the Committee on Invalid Pensions.

By Mr. MOTT: A bill (H. R. 9280) granting a pension to Lydia A. Anderson; to the Committee on Invalid Pensions.

By Mr. OGDEN: A bill (H. R. 9281) granting a pension to Jacob Dossenback; to the Committee on Pensions.

By Mr. OLDFIELD: A bill (H. R. 9282) granting a pension to Harry A. Rhea; to the Committee on Pensions.

By Mr. PARRISH: A bill (H. R. 9283) for the relief of the Sewell Grain & Fuel Co.; to the Committee on Claims.

#### PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

3179. By Mr. ANSORGE: Petition of Seeman Bros. (Inc.), of New York City, relative to the litigations with the Chicago packers by the Government through its several agencies; to the Committee on the Judiciary.

3180. Also, petition of Margaret J. Morris and other citizens, residents of New York City, N. Y., opposing the passage of H. R. 4388, the compulsory Sunday observance bill; to the Committee on the District of Columbia.

3181. Also, petition of Lillian Wells, of 285 St. Nicholas Avenue, New York City, relative to the tariff duty on Cuban sugar; to the Committee on Ways and Means.

3182. By Mr. ATKESON: Petition of citizens of St. Clair County, Mo., urging the limitation of armament; to the Committee on Foreign Affairs.

3183. By Mr. DOWELL: Petition of citizens of Des Moines and vicinity, Iowa, favoring the recognition of the Irish republic; to the Committee on Foreign Affairs.

3184. By Mr. KING: Petition of Mrs. W. H. Lange and 34 other citizens of Quincy, Ill., protesting against the passage of the Penrose funding bill; to the Committee on Ways and Means.

3185. By Mr. KIRKPATRICK: Resolution of Columbia Council, No. 11, Sons and Daughters of Liberty, Easton, Pa., favoring disarmament; to the Committee on Foreign Affairs.

3186. By Mr. KISSEL: Petition of the American Legion, Washington, D. C.; to the Committee on Ways and Means.

3187. By Mr. RYAN: Resolutions condemning Polish atrocities in Vilna, Lithuania, adopted at a mass meeting of American-Lithuanian organizations of Greater New York, held at Cooper Union Hall, November 13, 1921; to the Committee on Foreign Affairs.

3188. By Mr. SNYDER: Petition of Methodist Episcopal churches at McConnellsville and Vienna, N. Y., opposing the manufacture and sale of 2.75 per cent beer, and in opposition to the Stanley amendment; to the Committee on the Judiciary.

3189. By Mr. STEENERSON: Petition of residents of Beltrami, Minn., for the reduction of armaments; to the Committee on Foreign Affairs.

3190. By Mr. WATSON: Resolution passed by the Bedminster Union Sunday school, favoring appropriations for the Armenians; to the Committee on Foreign Affairs.